

Recommendation Report for Planning Permission

REF NO: BN/25/18/PL

LOCATION: Land to east of Parsonage Farm
Yapton Road
Barnham
PO22 0BD

PROPOSAL: Change of use of land for dog training and exercising.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

As above. The change of use has already occurred albeit that the application now proposes to relocate the use south and west to encompass a slightly different area away from the adjoining residential dwelling. The application site includes the use of two small shed type buildings used for storage/ancillary facilities.

The use of the land involves the following elements:

(1) The Dog Garden; and

This is used by (a) owners walking their dogs 'off the lead'; (b) by Yappy Days Doggy Daycare for dog exercise; (c) hired out once a month to a local 'Pug Club' who hire it on a Sunday between 2 & 4pm; and (d) by the applicant to run her own dogs. It is used only during daylight hours from 8am and only hired to quiet dogs during evenings.

(2) The Training Paddock.

A secure environment used for dog training classes both group (max of 10 dogs, average of 5) and individual sessions.

The proposed hours of opening are 8am to 6pm on Monday to Sunday and Bank Holidays but there is also a reference to an occasional behavioural class held in the Training Paddock on Thursdays between 6 and 7pm,

The applicant has also stated that whistles are discouraged and that individual sessions are arranged on a case-by-case basis depending on the noisiness of the dog.

SITE AREA

Approx. 0.28 hectares.

TOPOGRAPHY

Predominantly flat.

TREES

None affected by the proposed development.

BOUNDARY TREATMENT

The existing site has 2m timber fence to the eastern boundary.

Post & wire fence with 4-5m high hedging beyond to the north. Timber ranch style fencing with 2 high willow screening to the western boundary. Low post & wire fencing to the south. The amended site encompasses a new area to the west of one of the two existing areas which is presently open to all boundaries other than the south which only has post & wire fencing.

SITE CHARACTERISTICS

The existing site encompasses two small grassed fields separated by a timber ranch style fence with additional chicken wire type fencing and a gate between the two fields. There is a small shed in each area. Existing dog obstacle course in the northern field and then additional fenced storage areas in the southern. It is understood that the northern field is used for dog day care whilst training takes place in the other area. The amended proposal seeks to shunt the use south and west and thus proposes to use an existing open grassed field instead of the northernmost field. Parking is shared with the shopping village on the west side.

CHARACTER OF LOCALITY

The site is located on the edge of (but forms part of) the Windmill Shopping Village. However, it is considered that this is a semi-rural location. There is hardstanding parking and then retail/business units to the west with residential dwellings & gardens to the north and east. There are open agricultural fields to the south. The presence of landscaping on the northern boundary screens the site from view of adjacent houses.

The site forms part of a retail 'village' which itself has an extensive planning history. However, none of those applications relate to the application site.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Barnham Parish Council

Barnham Parish Council

PARISH COUNCIL:

Barnham Parish Council initially wrote to object with the following comment:

"The made Barnham and Eastergate Neighbourhood Plan policy EE1 - Support for Business states that 'Proposals to upgrade or extend existing employment sites will be supported provided that the impact on the amenities of surrounding properties is acceptable. The Council feel that the application as submitted should be withdrawn and resubmitted following the undertaking of an independent noise pollution survey as there are concerns over the noise levels emanating from use of the site. Other issues that could also be addressed in a resubmitted application would be the hours of operation which are currently seen as excessive being 7 days a week and several hours a day. As our policy states we support new business opportunities but are concerned that this business has grown without the necessary permissions (even though we understand the leaseholder believed the permissions were in place) and the necessary conditions to ensure the surrounding properties are protected from unacceptable levels of nuisance."

However, following the amendment to the proposed site area, the Parish Council resolved to raise no objection.

RESIDENTS/INTERESTED PERSONS:

268 letters of "support" have been received. The comments include:

- (1) No other enclosed places to take dog too;
- (2) Very few dedicated dog places;
- (3) Much needed service;
- (4) Clix n Trix make every effort to appease neighbours;
- (5) Customers also visit other shops & businesses whilst there so benefit the local economy;
- (6) Trained dogs are better dogs;
- (7) Can't place all noise blame on Clix n Trix;
- (8) Dogs no noisier than the main road;
- (9) Noise from slamming of car doors;
- (10) Noise from a Cockerel on nearby field;
- (11) Can't hear noise from within the Shopping Village;
- (12) Trees & fencing absorb some of the noise;
- (13) Ample parking - never been a shortage;
- (14) Benefits to dogs with behavioural issues (shy/scared/over reactive dogs);
- (15) Clean, tidy & well maintained site;
- (16) Neighbours only use bottom part of their garden for keeping of Alpacas and Chickens;
- (17) Safe place for dogs and owners;
- (18) Disabled user friendly site;
- (19) Excellent dog trainer; and
- (20) Only building is a wooden storage shed.

In addition, there are three online comments which are marked 'objection' but for which the comments are actually in support. Comments as follows:

- (1) No other enclosed spaces nearby for dogs to run around in;
- (2) No noise nuisance;
- (3) Economic benefits;
- (4) Safe and well run place;
- (5) Combine trip there with visits to pet shop, tattoo parlour & hairdressers;
- (6) All businesses at the village complement each other and the loss of Clix n Trix would impact on other businesses;
- (7) The shopping village has never run out of parking; and
- (8) Residents park their cars on the entrance driveway sometimes.

10 letters of "no objection" with the following comments:

- (1) Well organised & professional facility;
- (2) Owner is very considerate of neighbours;
- (3) Lovely place for dogs to be exercised/trained & owners educated;
- (4) No obvious noise nuisance;
- (5) No other enclosed spaces nearby for dogs to run around in;
- (6) Ample parking on Sundays; and
- (7) Great resource for the local community.

6 letters of "objection" raising the following concerns:

- (1) Noise nuisance to adjacent residential properties (including Mill House & Field House) from dogs barking and shouting by trainers/owners;
- (2) Noise Abatement Orders have been served thus demonstrating that noise is a problem;
- (3) Moving the site will not materially affect the potential for noise nuisance;
- (4) The application still seeks permission for operating 0800-18.00 seven days a week including Sundays and Bank Holidays with Thursday evening classes up to 7pm;
- (5) Proposed unsupervised use of the dog garden;
- (6) Not possible to mitigate noise with acoustic fencing;
- (7) Noise from dogs in cars in the parking areas;
- (8) Asking owners to actively prevent dogs from continuous barking is not enforceable;
- (9) There are no conditions that could be imposed to control the noise to make it acceptable and which meet the 6 condition tests;
- (10) No Noise report submitted;
- (11) Adverse visual impact on the appearance of the Shopping Village & loss of previously open areas of the village;
- (12) Adverse impact on roads from increased traffic/parking particularly when dog shows held;
- (13) Site used in the summer for private recreational purposes by the tenant with adults and children present but no dogs present;
- (14) A large cage has also been constructed;
- (15) Poultry is kept on site; and
- (16) No real employment benefits as only 1 FTE staff.

COMMENTS ON REPRESENTATIONS RECEIVED:

The Parish Council support is noted.

All of the support comments are noted other than the following:

- (1) & (2) Noted. However there are no details given as to where the next nearest facilities are;
- (5) Noted. Economic benefits will be discussed in the report's conclusions;
- (7) This is accepted;
- (12) Advice from the Council's Environmental Health Officer is that fencing will not achieve mitigation as these generally only work well for steady state noises and are much less useful for impact and unpredictable noise; and
- (13) Parking is discussed in the report's conclusions.

The following comments are made in respect of the three objection letters that actually read as support:

- (1) Noted. However there are no details given as to where the next nearest facilities are;
- (2) Noise will be discussed in the report's conclusions;
- (3) Economic benefits will be discussed in the report's conclusions;
- (4) Noted;
- (5) - (6) Noted. Economic benefits will be discussed in the report's conclusions;
- (7) Noted. However, photographs have been submitted that illustrate the parking concerns on dog show days; and
- (8) Noted.

The following comments are made in respect of the letters of "no objection":

- (1) - (3) Noted;
- (4) Noise will be discussed in the report's conclusions;

(5) Noted. However, the application gives no details as to where the nearest enclosed space/dog training facilities are therefore only limited weight can be given to this comment;

(6) Noted; and

(7) Noted. Community benefits will be discussed in the report's conclusions;

All of the objection comments are noted other than the following:

(1) The noise impacts of the use on adjacent residential properties will be considered within the report's conclusions;

(2) Noted. This has been confirmed by the Council's Environmental Health Officer;

(6) Noted, The Council's Environmental Health Officer has stated that: "Acoustic barriers / fences - these generally only work well for steady state noises - such as road traffic noise and are much less useful for impact noises and unpredictable noises such as noise from a sports pitch, dogs barking, motorracing or noise from skate parks. They also are much more effective when close to either the source of the noise or the premises they are aiming to protect."

(7) Noted. However, regard should be had to the fact that there is a pet shop offering dog day care & dog grooming business elsewhere in the shopping village. Furthermore, it would not be unreasonable for members of the public to walk to the shopping village site with a dog on a lead and leave the dog tethered up outside a shop or to leave a dog in a car for a short time whilst visiting other businesses;

(8) It is accepted that it would be difficult to enforce such a condition and therefore it would fail the condition tests;

(9) Noted however without specifics, it is difficult to agree with this statement;

(10) This was subsequently rectified by the applicant;

(11) Visual impact will be considered in the report's conclusions;

(12) Highway related issues will be considered in the report's conclusions;

(13) It is not considered unreasonable in planning terms for a tenant of land to access and spend time on that land for private purposes. It is also unlikely that the frequency of such activity would mean that there had been a further material change in the use of the land; and

(15) The keeping of poultry is not considered to require planning permission as it is a form of agriculture and all land is capable of reverting to agriculture without planning permission.

In addition, the applicant has provided a letter in response to the concerns raised and this is summarised below:

- Only 1 complaint has been made against me since I opened 18 months ago;
- Applicant was initially told that planning permission was not needed;
- Applicant was only told to apply after a complaint was made;
- Applicant works to manage noise nuisance by checking all bookings in particular in respect of dog behaviour;
- The bookings for the Dog Garden are not back to back;
- Puppy Play sessions are organised sessions run by the applicant in order to manage the dogs carefully and is done on Monday daytimes;
- Classes are run by the applicant with the help of some volunteers;
- Currently no evening classes planned and instead operate on a weekend during the day;
- No limit as to how many parking spaces used in the car park;
- Stating there are only 4 parking spaces available was done in error by the planning agent;
- Dog Show brings lots of business to the local area and to the other shop holders in the Windmill Shopping Village;
- Parking is at a premium on Dog Show days but its only once a year;
- Neighbouring properties use the car park to park their cars at day and night;
- Applicant was not aware next door field was residential garden, thought it was a farm due to livestock being present including Alpacas;

- No constant barking for 10 hours a day from dogs;
- Concerned why applicant and her family being there is a problem; and
- Use brings business to other parts of the Shopping Village.

CONSULTATIONS

Engineering Services Manager

Engineers (Drainage)

Southern Water Planning

Environmental Health

Economic Regeneration

Environmental Health

CONSULTATION RESPONSES RECEIVED:

SOUTHERN WATER: No objections.

ADC ENVIRONMENTAL HEALTH: Three separate comments have been received as summarised below:

05/07/18

Recommends refusal. Notes that ADC Environmental Health (EH) has received numerous noise complaints relating to this use dating back to 07/03/2017. EH officers have also visited the premises and have directly spoken to the applicant, verbal & written advice/warnings have been issued. EH officers have also witnessed nuisance from dog barking and raised voices of dog trainers during training sessions. No efforts have been made to mitigate the disturbances following advisory visits by EH officers. Consider that:

(1) Noise from dogs barking/raised voices will cause 'an unacceptable adverse effect', as defined within the Planning Practice Guidance. The noise exposure will cause extensive and sustained changes in behaviour without an ability to mitigate the effect of noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be prevented from occurring. It is considered very likely that should permission be granted for the development proposal a 'statutory' nuisance as defined under the Environmental Protection Act 1990 will likely occur/reoccur; and

(2) The application proposes to introduce commercial activity into an area with noise sensitive receptors. Noise from dogs barking in open fields adjacent noise sensitive receptors will adversely impact the amenity of existing occupiers in the area. No information on noise control measures is provided within the application and therefore it is considered that the application contains insufficient detail to be properly determined. In order to ensure any adverse noise impacts are appropriately mitigated, a noise impact assessment is required which characterises the current prevailing noise environment and identifies any potentially significant sources of noise from the proposed development. Noise mitigation measures would also need to be proposed by a competent acoustician and considered by the Planning Authority.

Also advised that acoustic barriers/fences will not achieve mitigation as these generally only work well for steady state noises and are much less useful for impact and unpredictable noise.

31/07/18

Detailed advice given in respect of the Noise assessment submitted by the applicant (set out in full on the Councils website). Considers that the report does not contain sufficient information to assist decision makers and falls short of a robust assessment for multiple reasons. Therefore, recommends that the report be redressed by means of a competent acoustician before resubmission.

27/09/18

State no change to previous position. Consider that the relocation of the dog garden/training field to an adjacent field is irrelevant in terms of the statutory nuisance that has been witnessed. It is the 'control of noise' that is key in this case. State that have yet to see a comprehensive noise assessment carried out by a competent acoustician and that no satisfactory mitigation measures have been proposed for the abatement/control of noise nuisance.

ADC DRAINAGE ENGINEERS: Have no comment due to no increase in impermeable surfacing on the land.

ADC ECONOMIC REGENERATION: No response received.

COMMENTS ON CONSULTATION RESPONSES:

All comments noted.

It is important to note that the EH officer was aware that there is a pet shop on site which also offers ancillary dog grooming and dog day care services. It should also be noted that since the application was registered, a Noise Abatement Order has been served on the use which remains in effect and is enforceable.

POLICY CONTEXT

Designations applicable to site:

Outside the Built Up Area Boundary;
Lidsey Treatment Catchment Area;
Class B Road;
Area of Special Advertisement Control; and
Public Sewer on Site.

DEVELOPMENT PLAN POLICES

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
SDSP1	SD SP1 Sustainable Development
QESP1	QE SP1 Quality of the Environment
QEDM1	QE DM1 Noise Pollution
TSP1	T SP1 Transport and Development

[Barnham & Eastergate Neighbourhood Plan 2014](#)
[POLICY EE7](#)

Support and promote recreational and tourism activities

Barnham & Eastergate Neighbourhood Plan 2014
POLICY GA4

Parking and new development

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011-31, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

The relevant policies within the Barnham and Eastergate Neighbourhood Development Plan have been considered in the preparation of this report.

It should be noted that section 38 (5) of the Planning and Compulsory Purchase Act 2004, states that: "If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document". Therefore, any conflict between the Yapton Neighbourhood Development Plan and the Arun Local Plan 2011-31, should be resolved in favour of the latter.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to conflict with Development Plan policies in that the proposal results in a materially adverse effect on the amenities of adjoining residential properties.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PRINCIPLE:

The application site is situated outside of the built up area boundary where as according to Arun Local

Plan policy C SP1, the principle of development is not permitted unless it is for a specific type of development including (b) for quiet, informal recreation; or (d) for the diversification of the rural economy. Although clearly a recreational use, it is not considered that the proposal is quiet in nature. However, it does represent a diversification of the rural economy and therefore accords with policy C SP1 on that basis".

It is also noted that paragraph 83 of the National Planning Policy Framework (NPPF) states that "planning policies and decisions should enable: (d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship."

Furthermore, Barnham and Eastergate Neighbourhood Development Plan (BENDP) policy EE7 sets out support for recreational activities subject to a consideration of siting, scale and design.

APPLICATION BENEFITS:

It is clear from the level of support for this application that the dog training facility is highly valued by its customers, many of whom live in the local area. Although there is no substantive evidence of the likely economic impact of the proposal, it is clear from the representations made that the facility attracts people into the shopping village and thus helps to support the other businesses that are on the site. For this reason, it is of no real consequence that the facility only employs one person as there are other economic benefits to the use. This is an important material consideration in the determination of this application.

NOISE:

Arun Local Plan policy D DM1 requires that the Council have regard to certain aspects when considering new development including: (3) Impact - "Have minimal impact to users and occupiers of nearby property and land."

ALP policy QE SP1 is also relevant and states that: "The Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity". In addition, policy QE DM1 states that:

"Developers proposing new noise generating development must seek advice from an early stage to determine the level of noise assessment required. Proposals will need to be supported by:

- (a) Evidence to demonstrate that there are no suitable alternative locations for the development;
- (b) A noise report which provides accurate information about the existing noise environment, and the likely impact of the proposed development upon the noise environment. The report must also demonstrate that the development meets appropriate national and local standards for noise, as set out in Annex 1 of the Planning Noise Advice Document: Sussex, and any mitigation measures required to ensure noise is managed to an acceptable level; and
- (c) Evidence to demonstrate that the development will not impact upon areas identified and valued for their tranquillity, including Gaps Between Settlements which are important to the enjoyment of Arun's countryside, its habitats and biodiversity."

The NPPF states at paragraph 180 that planning decisions should "... ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: (a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and

avoid noise giving rise to significant adverse impacts on health and the quality of life"

It is not considered that the application is compliant with policy QE DM1 in that (a) no evidence has been put forward to demonstrate that there are no suitable alternative locations for the development (although this is in part as a result of the use being existing); and (b) although a noise report has now been submitted, it is not considered to be a robust assessment which would meet the standards in the Planning Noise Advice Document. However, it is not considered that there is conflict with part (c) as the land is situated alongside existing commercial premises, also that the use of land is not anticipated to adversely affect wildlife particularly as the site is not occupied at night.

The advice of the Councils Environmental Health officer is that noise from barking dogs is likely to have an unacceptably adverse impact on the amenity of residents living nearby particular those who have gardens adjoining the existing site and that none of the mitigation measures proposed (including relocation of the dog training area) would overcome these concerns. The advice goes on to state that the noise exposure will cause extensive and sustained changes in behaviour without an ability to mitigate the effects of noise and that this will lead to harm to health & quality of life. The officer has also considered the Noise Assessment which was submitted mid application but has found it to be not of the correct standard and notes that it does not offer any form of mitigation.

It is noted that the applicant has proposed some mitigation measures as follows:

- (1) The use of whistles by dog owners are discouraged;
- (2) Individual sessions are arranged on a case-by-case basis depending on the noisiness of the dog;
- (3) The new site to the west of the existing field would be used as a 'first option';
- (4) Asking clients in the summer months to park their cars inside the training paddock to prevent dogs getting overexcited whilst waiting their turn;
- (5) A reduction in class length from 60 minutes to 50 minutes to ensure dogs have left before new dogs arrive;
- (6) Asking dog owners to stay in their cars until the time of their class; and
- (7) Asking dog owners & Doggy Daycare to actively prevent dogs from any continuous barking including carrying out distraction techniques.

The NPPF sets out guidance on the use of planning conditions. It states at paragraph 55 that:

"Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

It is not considered that the mitigation measures proposed would be sufficiently precise or enforceable to enable them to be included as conditions. Furthermore, they would not completely mitigate the impact on residential amenity to such an extent as to enable a different opinion to be taken on this application.

It is therefore considered that the application is contrary to Arun Local Plan policies D DM1, QE SP1 & QE DM1 and with the guidance on noise in the NPPF.

VISUAL IMPACTS:

Concern has been expressed as to the impact of this proposal on the visual appearance and character of the shopping village. Policy D DM1 of the Arun Local Plan states in respect of Character that development should:

"Make the best possible use of the available land by reflecting or improving upon the character of the site

and the surrounding area, in terms of its scale, massing, aspect, siting, layout, density, building materials (colour, texture), landscaping, and design features."

Furthermore, BENDP policy EE7 requires an assessment of siting, scale and design when considering new recreational facilities.

It is considered that the existing site when viewed from the shopping village does appear a little untidy due to the boundary treatment, canvas signage and bunting. However, this is not considered to be harmful to character given the informal nature of the shopping village itself, which for want of a better phrase, is a little rough around the edges. It is also noted that there are little to no views of the existing training fields themselves other than from a position right outside the shopping village boundary. Therefore, it is difficult to agree with assertions that the use has a harmful visual impact on the character of the area.

In actual fact the proposed relocated site for the dog garden would likely have a greater impact due to the need to enclose this currently open field. However, it is not considered that the act of enclosure would be so harmful as to result in conflict with the relevant planning policies.

HIGHWAYS & PARKING:

Arun Local Plan policy T SP1 seeks to ensure that development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian and bridleway network. In respect of parking, it states that:

"The Council will support transport and development which: Incorporates appropriate levels of parking in line with West Sussex County Council guidance on parking provision and the forthcoming Arun Design Guide taking into consideration the impact of development upon on-street parking"

In respect of highway safety, it states that:

"The Council will support transport and development which: Explains how the development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter."

Policy GA4 of the BENDP states that "Development proposals will be supported only if they include the maximum level of off-street parking consistent with the current standards under the Local Plan. Developments that reduce the amount of off-street parking currently available will only be supported if they make enforceable provision for equivalent off-street parking nearby. Parking spaces provided in connection with such proposals will be required to be made available in perpetuity."

Regard should also be had to paragraph 109 of the National Planning Policy Framework which states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

There have been objections on the basis of insufficient parking facilities however the main concern with parking seems to be the excessive requirements when a dog show is held. The applicant states that these are held on an annual basis. These particular events are considered likely to benefit from permitted development rights and would not in their own right require planning permission. It should be noted that schedule 2, part 4, class B of the Town and Country Planning (General Permitted

Development) (England) Order 2015 (as amended) allows for the use of any land for any purpose for not more than 28 days in total in any calendar year. This can include markets, car boot sales, outdoor recreation activities and would include a dog show or similar.

The WSCC Parking Standards do not include any specific guidance as to dog training with the most relevant category being "Other Outdoor Recreation" for which an assessment has to be made on the application's own merits. However, this category is really for human based recreation activities.

It is noted that the site sits adjacent to the Shopping Village which itself has a significant amount of formal and informal parking spaces. The applicant has stated that although only 4 spaces are included within the application, in truth she has an agreement with the land owner to use as many as are necessary.

It is not considered that the use of this land has the potential to adversely affect the safety or convenience of the local highway and it is considered that there is sufficient parking available such that the proposal complies with Arun Local plan policy T SP1 and with BENDP policy GA4.

SUMMARY:

This proposal is considered to conflict with policy QE DM1 of the Arun Local Plan and it is clear from the advice of the Councils technical experts on noise that the dog training/day care use has a harmful impact on the amenity of nearby residents. It is accepted that the use attracts more people to the shopping village site and that therefore likely has an economic benefit to existing businesses. It is also acknowledged that the applicant has taken measures to try and control noise. However, these factors are not sufficient to outweigh the conflict with the development or the harm to the amenity of nearby residents. Therefore, it is recommended that the application be refused for the following reason.

HUMAN RIGHTS ACT

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION**REFUSE**

- 1 The proposal would have an unneighbourly impact on the locality and on adjoining residential dwellings by reason of the noise associated with the use and therefore conflicts with policies QE SP1 & QE DM1 of the Arun Local Plan and paragraphs 170 & 180 of the National Planning Policy Framework.
- 2 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason for the refusal, approval has not been possible.