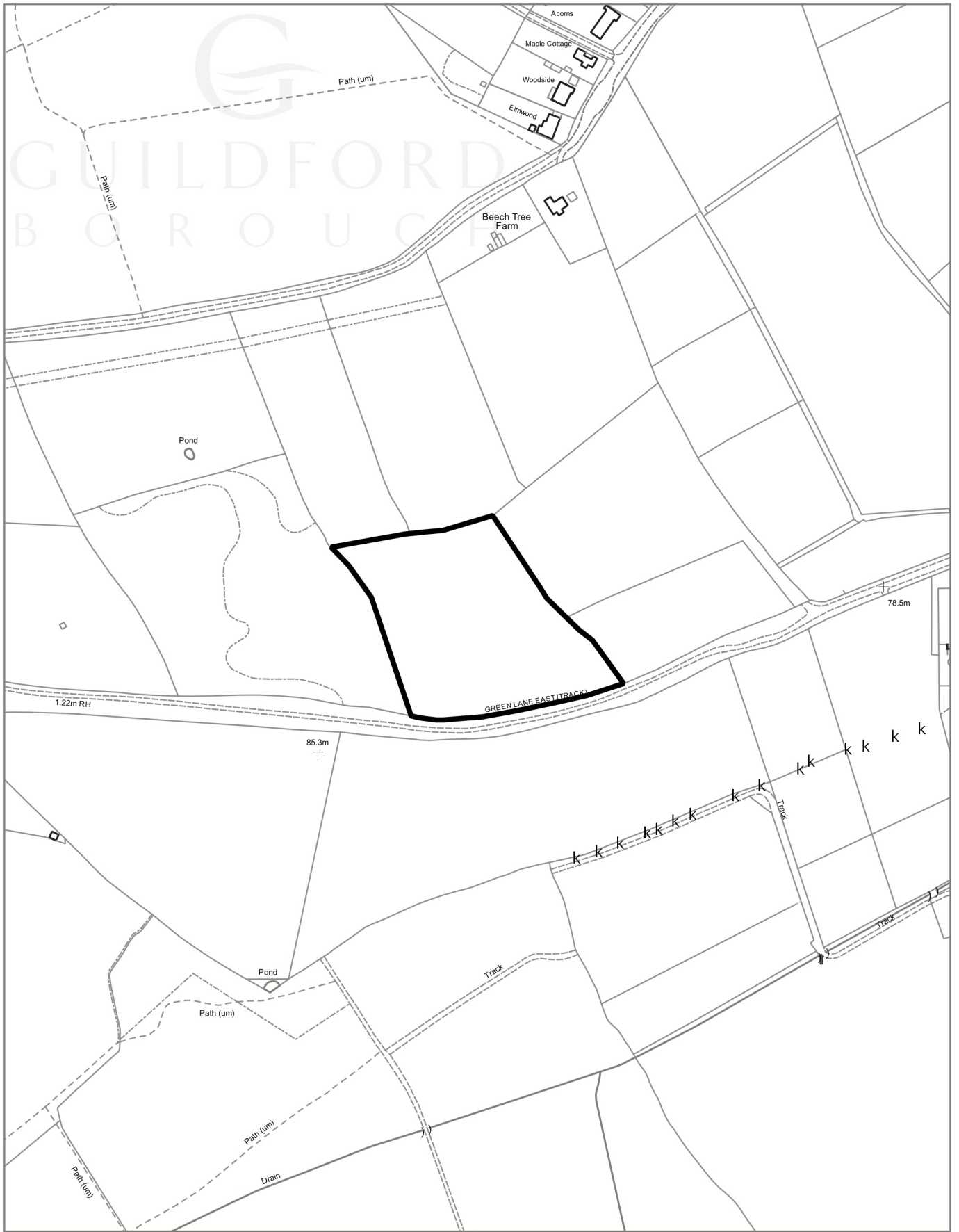


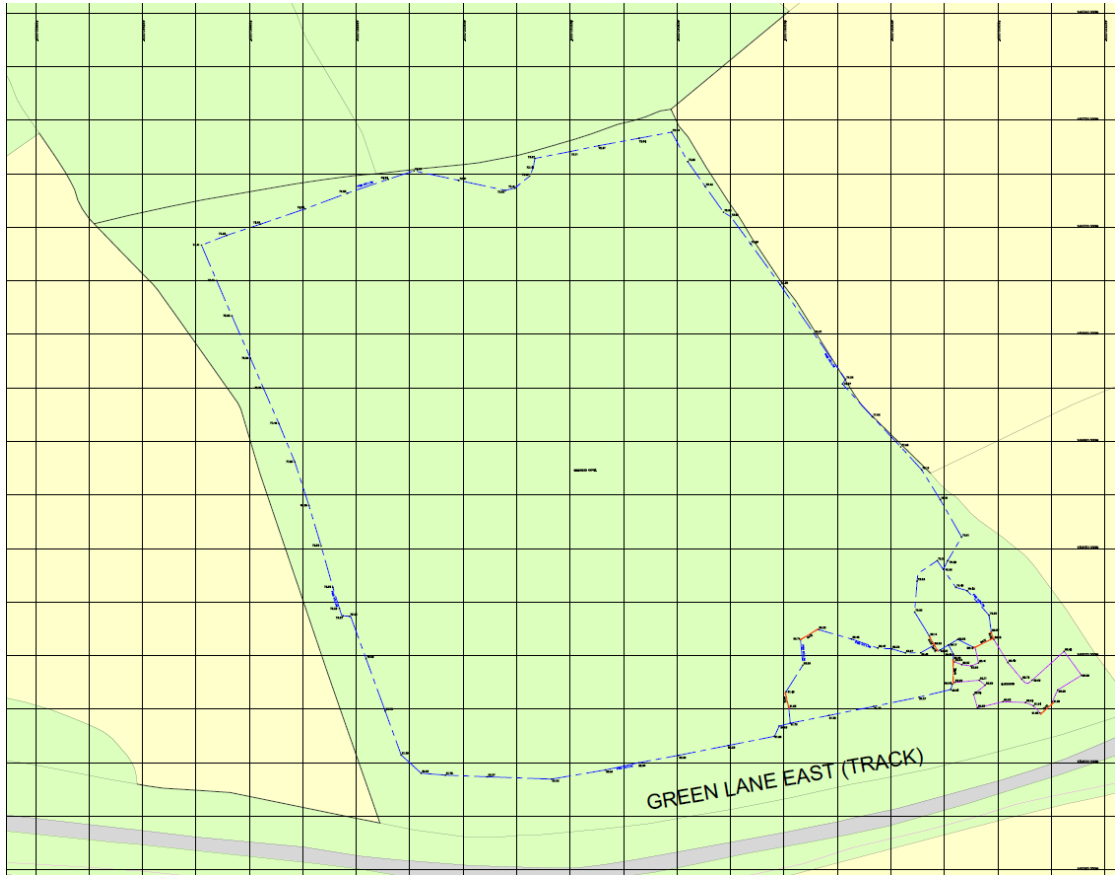
20/P/00534 - Weekwood Copse, Green Lane East, Normandy



N
Not to Scale



20/P/00534 – Weekwood Copse



Not to scale



App No: 20/P/00534
Appn Type: Full Application
Case Officer: Carolyn Preskett
Parish: Normandy
Agent :

8 Wk Deadline: 09/10/2020

Ward: Normandy
Applicant: Mr N Aust
Maple Cottage
Beech Lane
Normandy
Guildford
GU3 2JL

Location: Weekwood Copse, Green Lane East, Normandy, GU3 2JL
Proposal: Removal of conditions 2 (hours of use), 3 (restrictions on use) and 7 (submission of yearly log book) of planning application 19/P/01286 approved 04.12.2019.

Reason for referral

This application has been referred to the Planning Committee because more than 10 letters of objection have been received, contrary to the Officer's recommendation.

Key information

The proposal is for the removal of condition 2 (hours of use); condition 3 (restrictions on use - number of dogs) and condition 7 (submission of yearly log book) of planning application 19/P/01286. Planning Application 19/P/01286 was a retrospective planning application for the change of use from a private amenity woodland to a private amenity woodland and recreational dog walking area.

Summary of considerations and constraints

The proposed removal of condition 7 is considered acceptable.

Whilst the applicant has requested the removal of conditions 2 and 3 this is not considered acceptable.

However, as a S.73 application the Council MUST consider whether an alternative variation would be acceptable. In this instance it is considered more appropriate that these conditions are varied, the hours of operation will be extended to 07:00 to 21:00 Monday to Sunday The number of dogs allowed would be increased from 6 to 12.

For clarification the re-numbering of the conditions means that these two are now conditions 1 and 2. On this basis the recommendation is for approval.

RECOMMENDATION:

Approve - subject to the following condition(s) and reason(s) :-

1. The use hereby permitted shall not operate other than between the hours of 07:00 to 21:00 Mondays to Sundays (inclusive) with the gates of the premises being closed and locked between the hours of 21:00 and 07:00.

Reason: To safeguard the residential amenities of neighbouring properties.
2. There shall be no more than 12 dogs on the site at any one time during the operating hours.

Reason: To safeguard the residential amenities of neighbouring properties.
3. The development hereby approved shall be used for a dog walking facility only, and shall not be used for a dog boarding, dog kennels or other forms of dog day-care facility.

Reason: To safeguard the residential amenities of neighbouring properties and to limit the intensity of the site in terms of Green Belt use.
4. The proposed vehicular access to Green Lane East hereby approved shall be constructed and provided with visibility zones in accordance with the approved plans, Drawing No. 19-173/003, and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1m high.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 2, Classes A shall be carried out on the site.

Reason: Having regard to the nature of the development the local planning authority wishes to retain control over any future means of enclosure at the premises, in order to safeguard the Green Belt.

Informatives:

1. This statement is provided in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Guildford Borough Council seek to take a positive and proactive approach to development proposals. We work with applicants in a positive and proactive manner by:
 - Offering a pre application advice service
 - Where pre-application advice has been sought and that advice has been followed we will advise applicants/agents of any further issues arising during the course of the application
 - Where possible officers will seek minor amendments to overcome issues identified at an early stage in the application process

However, Guildford Borough Council will generally not engage in unnecessary negotiation for fundamentally unacceptable proposals or where significant changes to an application is required.

Pre-application advice was not sought prior to submission.

2. The developer is advised that Public Bridleway Number 523 crosses the application site and it is an offence to obstruct or divert the route of a right of way unless carried out in complete accordance with appropriate legislation.
3. The permission hereby granted shall not be construed as authority to carry out any works on the highway. The applicant is advised that prior approval must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, or verge to form a vehicle crossover or to install dropped kerbs. Please see www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/vehicle-crossovers-or-dropped-kerbs.
4. The applicant is reminded that any operation development at the site including development such as the laying of any additional hardstanding or erection of shelters and buildings would require further planning permission.

Officer's Report**Site description.**

The application site is located within the Green Belt.

The application site comprises a private amenity woodland located to the west of the village of Flexford. The site is accessed via Green Lane East which is also a public Byway. There is a Scheduled Ancient Monument (List ID: 1019641) intercepting the site.

The site is also in an Area of High Archaeological Potential (AHAP), and the 400m to 5km buffer zone of Thames Basin Heath Special Protection Area.

The surrounding area comprises of a mixture of fields and wooded areas.

Proposal.

Removal of conditions 2 (hours of use), 3 (restrictions on use - number of dogs) and 7 (submission of yearly log book) of planning application 19/P/01286 approved 04.12.2019.

Relevant planning history.

Reference:	Description:	Decision Summary:	Appeal:
19/P/01286	Change of use from private amenity woodland to private amenity woodland and recreational dog walking area (retrospective application).	Approve 05/12/2019	N/A

Consultations.

County Highway Authority:

- The County Highway Authority has undertaken an assessment in terms of the likely net additional traffic generation, access arrangements and parking provision and are satisfied that the application would not have a material impact on the safety and operation of the adjoining public highway. The County Highway Authority therefore has no highway requirements.
- The proposed increase in open times is unlikely to have a material impact on highway safety issues.

Natural England: No comment

SCC Archaeology

The archaeological remains will not be affected by this proposal . No objection.

SCC Lead Local Flood Authority

As there is no change to the drainage strategy or surface water drainage system, we would have no further comments

Surrey Wildlife Trust

Whilst the proposals do not appear to relate directly to ecological matters they advise that the Local Authority seek an opinion of an ecologist
(Officer note: A further ecological note has been submitted by the applicant in support of his application following these comments. The Ecological note concludes that the removal of restrictions in relation to operating hours and number of dogs is not likely to give rise to any adverse effects on the biodiversity of the woodland)

GBC Animal Welfare Officer - no objection

Normandy Parish Council

No objection

Third party comments:

25 letters of representation have been received raising the following objections and concerns:

- Green Lane East over the last year has suffered excessive noise from both traffic and dogs
- the doubling of dogs and their associated vehicles would make the bridleway impassable for horses, local people walking their dogs and older people
- concerns over road safety
- hours of operation proposed would be disruptive to all residents
- the applicant states that the hours are normal for agricultural and forestry working - since when has dog walking come under the auspices of Defra?
- numbers of requests up due to Covid 19 pandemic - does this mean they will be scaled down once it is over
- currently there is a licence for 6 dogs per hour, this is not policed

- unnecessary noise and disturbance
- restricts children's freedom to ride their bikes and play
- losing rural feel
- significant increase in traffic along Green Lane East during unsocial hours
- object to looking at a mobile toilet from my field
- no extenuating circumstances to change the current operational procedures.
- unless multiple speed restriction measures are going to be implemented, the road re-laid and resurfaced then must object
- the road surface is becoming increasingly pot holed and uneven
- far from dropping the condition relating to the submission of a yearly log book the LPA should reinforce their requirement that a log be provided and stress the importance of the log recording fully the activities that take place on site.
- significant damage caused to road since use started

Planning policies.

National Planning Policy Framework (NPPF):

Chapter 2. Achieving sustainable development

Chapter 6. Building a strong, competitive economy

Chapter 13. Protecting Green Belt land

Chapter 15. Conserving and enhancing the natural environment

Chapter 16. Conserving and enhancing the historic environment

New Local Plan 2019:

The Guildford Borough Local Plan: Strategy and Sites was adopted by Council on 25 April 2019.

The Plan carries full weight as part of the Council's Development Plan. The Local Plan 2003

policies that are not superseded are retained and continue to form part of the Development Plan (see Appendix 8 of the Local Plan: strategy and sites for superseded Local Plan 2003 policies).

P2	Green Belt
P4	Flooding, flood risk and groundwater protection zones
D1	Place shaping
D3	Historic Environment
ID3	Sustainable transport for new developments
ID4	Green and blue infrastructure

Guildford Borough Local Plan 2003 (as saved by CLG Direction 24 September 2007):

G1 (3)	General Standards of Development
G5 (2) (3) (4) (5) (7) (8) (9)	Design Code
NE5	Development Affecting Trees, Hedges and Woodlands

Supplementary planning documents:

Vehicle Parking Standard SPG 2006

Planning considerations.

The main planning considerations in this case are:

- background to this s73 application
- the principle of development
- the impact on the character of the area and the Scheduled Monument
- the impact on neighbouring amenity
- the impact on traffic and parking

- ecology and tree considerations
- flooding considerations

Background to this s73 application

This application is submitted under Section 73 of the Town and Country Planning Act (as amended). The provisions of Section 73 relate to the variation or removal of planning conditions attached to a grant of planning permission. The intention is that such matters would represent a minor material change to the original grant of planning permission.

The application must be determined on the basis of the effect of varying/removing the specified conditions. No other matters can be taken into account for example the principle of the original permission cannot be re-visited. Additionally, it is not appropriate to dismiss a proposal simply on the grounds that conditions were originally proposed and therefore by default should be retained. The local planning authority must consider whether any planning harm would result from the variation.

Section 73, gives two options when considering such applications:

- 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
- 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.

Under Section 73(a) officers should not limit themselves to assessing just the specific variation or removal suggested by the applicant. If an alternative change to the conditions would be acceptable then permission should be granted to that effect.

Part of the assessment under Section 73(b) should also be whether this would cause more than a minor material change to the original permission. In such cases permission should also be refused.

In this instance the application seeks the removal of condition 2, 3 and 7 of planning permission 19/P/01286 which state:

Condition 2

The use hereby permitted shall not operate other than between the hours of 08:00 to 19:00 Mondays to Sundays (inclusive) with the gates of the premises being closed and locked between the hours of 19:00 and 08:00.

Reason: To safeguard the residential amenities of neighbouring properties and to limit the intensity of the site in terms of Green Belt use.

Condition 3

There shall be no more than 6 dogs on the site at any one time during the operating hours.

Reason: To safeguard the residential amenities of neighbouring properties and to limit the intensity of the site in terms of Green Belt use.

Condition 7

Within 3 months of the grant of this planning permission a business management plan, including details of log keeping of activities on the site, shall be submitted to be approved in writing by the Local Planning Authority. The approved management plan shall be adhered to thereafter and evidence of a completed yearly log book shall be submitted to the Local Planning Authority every 12 months as a record.

Reason: Having regard to the nature of the development the Local Planning Authority wishes to retain control over any future activities at the premises, in order to safeguard the Green Belt

The applicant in support of their application to remove conditions 2, 3 and 7 from planning application 19/P/01286 have stated the following:

- as the days lengthen people want to walk their dogs later, especially in hot weather, or earlier
- with Covid 19 they have seen an increase in interest to walk dogs in isolation, especially from vulnerable groups and health workers
- no neighbours are affected
- given the space 12 dogs seems more reasonable
- the log book doesn't prove anything
- would like hours of use condition removed so they can be flexible but otherwise 0600 - 22 00 hours in line with normal agricultural and forestry practice ie. daylight hours in summer.

The report will consider the effect of removing each of the conditions in turn.

Condition 2

This condition seeks to limit the hours of operation. Although the land is in a reasonably isolated location there are some residential properties nearby and comings and goings to and from the site also have the ability to cause some disturbance. Therefore, some restriction over the hours of operation is necessary and reasonable. Furthermore, it is clearly related to the development and to planning. It is precise in its wording and restrictions over hours of use are enforceable. Therefore there is no objection in itself to the use of the condition.

The effect of removing the condition would remove some protection for nearby residents and therefore it is not desirable to remove it entirely. The applicant has stated a willingness to vary the condition to allow longer hours and under S.73 of The Act the Council must also consider this. A suggestion was made to extend the hours to 06:00 to 22:00, this would result in operations during early morning hours and relatively late into the night which could potentially increase levels of disturbance. Officers consider that these hours are not acceptable in terms of the potential effect on neighbouring amenity. However, a relaxation for between 07:00 and 21:00 would be less disruptive and it is therefore recommended that the condition be varied to allow operations to take place between these hours. The relaxation of the hours would not result in any further harm to the Green Belt.

Condition 3

The restriction of the number of dogs that can be kept on site at anyone time is again intended to provide a limitation on the intensity of the operation with the effect on neighbouring amenity and Green Belt noted in the reason for the condition.

In terms of Green Belt, if intensification increases, then there is the potential for additional pressure on further facilities/structures to be provided on site which could affect the Green Belt. Turning to neighbouring amenity again a greater intensity could see an increase in disturbance from the activities and therefore as with condition 2 it is necessary and reasonable and relevant in both requirements. It is precise in terms of the number of dogs to be kept on site and enforceable.

As with condition 2 removing it in its entirety would not be desirable due to the potential effects, however, a variation can be considered. The applicant has suggested allowing a maximum of 12

dogs to be kept on site. This is not considered unreasonable and at this level there is unlikely to be undue pressure on the Green Belt and the resulting impact on neighbouring amenity would not increase to unacceptable levels. Therefore the variation of this condition is considered acceptable.

The Council's animal welfare officer has commented on the application and does not consider that the change in the number of animals would affect the licensing requirements.

Condition 7

This condition required the submission of a business management plan and logging of activities to be carried out with details to be submitted to the Council every 12 months. The reason given for this condition is:

'Having regard to the nature of the development the Local Planning Authority wishes to retain control over any future activities at the premises, in order to safeguard the Green Belt'

It is noted that conditions 2 and 3 control the hours of operation and number of dogs that can be kept on site and there are further restrictions in terms of preventing kennelling of dogs on site and removing permitted development rights. Therefore, it is unclear what further controls are provided by condition 7. It is not necessary for the purposes stated and further it is unclear whether it is reasonable in the requirements it places on the applicant.

The permission granted was not a temporary permission and therefore monitoring of activities does not provide any particular benefit to the long term operation therefore it is questionable whether it is relevant to the development in this respect. Furthermore, should the use not operate within the parameters set out then an enforcement investigation would still be required.

Therefore, it is considered that this condition does not fully meet the tests for conditions set out in the NPPF (and reinforced in the planning practice guidance) and the request for its removal is supported by officers.

Conclusion.

It is concluded that condition 7 does not meet the tests set out in para 56 of the NPPF and in the planning practice guidance and therefore it would not be reasonable to recommend its retention.

Controlling the hours of operation and intensity of the use (conditions 2 and 3) is appropriate through planning conditions and therefore in general they meet the tests. However, it is also incumbent on the Council to consider a variation to these conditions.

In terms of the hours of operation given the location of the site there would be little impact from allowing operations to begin at 07:00 and an end time of 21:00. It is recommended as part of the variation.

Condition 3 relates to the number of dogs that can be kept on site. There is little evidence to support restricting this to 6 dogs and therefore officers support the variation of this condition to allow up to 12 dogs to be kept.

