

SOUTH NORTHAMPTONSHIRE COUNCIL – DELEGATED REPORT

Application for Planning Permission

Application No.	S/2019/1694/FUL	Case Officer:	Tom Ansell
Statutory Expiry Date:	25 October 2019	Consultation Expiry Date:	Consults date: 25 September 2019 Re-consults date:
Site:	Hobby Fish Farm Hobby Fish Farm Watling Street Old Stratford MK19 6BD		
Proposal:	Dog day care centre, including groomers, using wooden log cabin style temporary buildings. Hobby Fish is a retail outlet this would include a change of use for this section of land to be 'Sui Generis'.		

RECOMMENDATION

Approve, subject to the conditions and reasons set out on the attached decision notice

APPLICATION SITE

The site consists of disused land to the south-west of Hobby Fish Farm, to the rear of its ancillary outbuildings and adjacent to a timber outbuilding which is currently described as a 'hatchery' in the submitted documentation.

Hobby Fish Farm constitutes a main two-storey brick building which is now used as a shop selling fish-related paraphernalia and aquarium equipment. A reptile shop is also operating from the same premises, and to the south-west of the main building are ancillary outbuildings used for storage in connection with the existing businesses. To the north-east of the building is a car park with space for around 20 vehicles including manoeuvring. This is accessed directly from the A5, which heads north-west to Towcester or south-east to the Old Stratford roundabout respectively.

The site in question is accessed along a track that runs down the side of all the buildings and to the north of a hedgerow which delineates the boundary to the open fields to the south.

The land is described by the applicant as being despoiled and decayed, used for the dumping of building materials and rubble. Following a site visit, I consider this assessment to be accurate, and while there is a fair amount of grass and greenery in this location, I do not consider the land to be in agricultural use.

The site is screened to the south-west and north-west by mature hedgerows and planting. A PROW is accessible from the rear of the site, although glimpses of the site are difficult because of natural screening.

CONSTRAINTS

- Within open countryside
- Within 2km of three local wildlife sites
- Within an archaeological asset site

PROPOSAL

The application seeks consent for the changing the use and developing around 0.1ha of land to allow for the creation of a day-care centre for dogs. The land to be used is

considered to be contained within the recognisable curtilage of the existing Hobby Fish business.

RELEVANT PLANNING HISTORY

Application Number	Location	Received Date	Decision	Decision Date	Planning Register
S/1998/0914/P	Hobby Fish Farm Watling Street Potterspur	22/09/1998	(10) Approval	25/06/1999	Website
S/1975/0360/P	Hobby Fish Farm Bears Watering Towcester Road Potterspur	21/03/1975	(10) Approval	06/06/1975	Website
S/1978/1559/P	Hobby Fish Farm Towcester Road Old Stratford	13/11/1978	(10) Approval	11/01/1979	Website
S/1991/0832/P	Land At Shrobb Lodge Old Stratford	06/09/1991	(10) Appeal Allowed (Against Refusal)	19/03/1992	Website
S/2005/0775/P	Hobby Fish Farm Towcester Road Old Stratford	17/06/2005	(10) Appeal Dismissed (Against Refusal)	09/09/2005	Website
S/1985/0277/P	Hobby Fish Farm Towcester Road Old Stratford	21/03/1985	(10) Approval	23/05/1985	Website
S/1990/0585/P	Hobby-Fish Farm Towcester Road Potterspur	18/05/1990	(10) Approval	26/07/1990	Website
S/1975/0449/P	Hobby Fish Farm Bears Watering Watling Street Potterspur	21/03/1975	(10) Approval	06/06/1975	Website

PRE-APPLICATION ADVICE

Two rounds of pre-application advice precede this application.

The first round of advice (P/2018/0260/PRM) suggested using a field immediately adjacent to the existing business's carpark. Officers provided the following advice:

'I regret to inform you that I will not be able to support the proposal in its current form because of the following deficiencies/issues:

- *The application as initially shown is unacceptable in principle because it conflicts with policies S1 and R2 of the Joint Core Strategy, which sets out how new commercial and industrial businesses should be distributed within the district, primarily focussed on the main urban centres of Towcester and Brackley and then within settlement confines in the rural areas.*
- *The proposal also conflicts with saved Policies E7 and EV2, which seek to restrict new commercial development in the countryside*
- *While it has been indicated that there is some flexibility in respect of the siting and arrangement of the buildings, the restrictions placed upon the site's layout and appearance suggest that even if the principle could be accepted following a robust sequential approach, it remains unsuitable for the proposed use as it will unacceptably harm the appearance and character of the rural landscape'*

The second pre-application moved the site to where it is now proposed, to the rear of the business on despoiled/disused land used for storage/waste etc. A substantial amount of information was submitted with this, including a detailed sequential report outlining all other sites considered and dismissed. Officers issued the following advice:

'I confirm that I will be able to support the proposal, but would ask the applicant to be mindful of the following points...

- *The application will need to be accompanied by a Preliminary Ecological Assessment; the Council will not be able to grant permission without having sight of this beforehand (please see comments made by the Council's Ecology Officer). Such an assessment must be carried out by a suitably professionally qualified ecologist; a useful link is contained within the link provided by the Ecology Officer in their comments.*
- *It is likely a condition will be imposed on any planning consent requiring the submission of a more detailed landscaping scheme, showing not only the exact details of soft and hard landscaping within the site and any boundary treatments, but information on any reinforcement planting that may be necessary to the boundary of the site to ensure it remains shielded from view from the PROW. An example of the condition's wording will be provided in the report below.*
- *A block plan will be required showing the size and layout of the parking/turning areas provided for employees and customers to the site. The dimensions of the spaces will need to accord with those provided in the Council's adopted SPD on Parking Standards and Design. I note that this is partially shown (not to scale) on the site landscaping plan; a layout of this sort is likely to be fine.*
- *The current access/gravel track to the site from the car park appears to be limited in width and I am sceptical as to whether it would presently allow for vehicles entering and leaving the site simultaneously to easily pass each other. Any submitted application will need to demonstrate how this access can be improved to minimise the risk of vehicles meeting each other and having to reverse or find awkward passing places. I think there is scope for the access to be improved simply through tidying the verges on either side, which would likely allow legible or designated passing places to be created.*
- *Exact details on the finish of all the buildings and openings (i.e. windows/doors) will be needed, such as the colour of any wood stain if it is to be used as well as how the windows/doors etc will be treated. This could be requested by condition, but it would be helpful to have this up front.'*

KEY ISSUES

- Principle of development
- Visual impact of development
- Residential amenities
- On-site parking and highway safety
- Impact on protected species

RELEVANT PLANNING POLICIES

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

The Development Plan

SOUTH NORTHAMPTONSHIRE LOCAL PLAN (SNLP): G3, E7, EV1, EV2

WEST NORTHAMPTONSHIRE JOINT CORE STRATEGY (JCS): Policies SA, S1, S10, R2

DRAFT SOUTH NORTHAMPTONSHIRE PART 2 LOCAL PLAN (Part 2 LP): The draft South Northamptonshire Part 2 Local Plan was submitted to the Planning Inspectorate for Examination on 22nd January 2019. The examination was held during the two weeks commencing 10th and 17th June 2019. The Inspector's Final Report is awaited once consultation on the Main Modifications has been carried out. In accordance with Paragraph 48 of the National Planning Policy Framework (NPPF) the Council may now give weight to relevant policies in the draft Plan according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

As the Plan was submitted prior to 24th January 2019, in accordance with Paragraph 214 of the NPPF consistency should be tested against the previous Framework published in March 2012. The following draft Policies are considered relevant:

Policies SS1, SS2, EMP1, EMP3, SDP1

Material Considerations

NATIONAL PLANNING POLICY FRAMEWORK (NPPF): Sections 3, 4, 6, 7, 11, 12, 15

PLANNING PRACTICE GUIDANCE (PPG): Design

COUNCIL CORPORATE PRIORITIES: South Northamptonshire Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is "Protected, Green & Clean", is a place which supports "Thriving Communities & Wellbeing", and is a District of "Opportunity & Growth". All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) delivery innovative and effective housing schemes; and (9) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals on a case by case basis.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

CONSULTATION RESPONSES

OLD STRATFORD PARISH COUNCIL: **Supportive** of the development

NCC HIGHWAYS: **Comments**;

- Please refer to Highways England as A5 Watling Street is a trunk road
- Please refer to the information relating to the Public Rights of Way enclosed with the comments [this can be downloaded from the Council's Planning Register: <http://snc.planning-register.co.uk/plandisp.aspx?recno=104832>]

HIGHWAYS ENGLAND: **No objection**

SNC ECONOMIC DEVELOPMENT: **Supportive** of the development;

- Increases unlocked employment land within the district
- Allows for diversification/growth of business offer
- Creation of employment opportunities
- Impacts positively on the local community
- Aligns with the themes from SNC's Economic Growth Strategy

SNC ECOLOGY: **No objections** subject to the following conditions;

- Condition 11.2: The development hereby permitted shall be carried out in accordance with the recommendations, mitigation and enhancements set out in section 4 of the Preliminary Ecological Appraisal by Griffin Ecology dated 17th June 2019 unless otherwise agreed in writing by the Local Planning Authority.
- Condition 11.16: If the development hereby approved does not commence by 3rd June 2021. A revised ecology survey report including badger shall be undertaken prior to the commencement of the development to establish changes in the presence, abundance and impact on protected species. The survey results, together with any necessary changes to the mitigation plan or method statement shall be submitted to and approved in writing the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- Condition 11.23: 11.23 All species used in the planting proposals associated with the development shall be native species of UK provenance.

CRIME PREVENTION DESIGN ADVISOR: **No objections** to what is proposed subject to the security measures and advice provided as part of the CPDA's pre-application advice are included in the scheme.

NCC ARCHAEOLOGY: **No comments** on the proposal

SNC HEALTH AND ENVIRONMENTAL PROTECTION: **No objections** but have the following observations...

'The Health and Environmental Protection team have no objections to this application; however, wish to remind the applicant that due to the nature of the processes planned an application would need to be submitted to the licensing team of this Council to obtain a licence issued under "The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

Our licensing team do offer a pre-application service, which can be viewed here:

<https://www.southnorthants.gov.uk/info/15/licensing/343/pre-licensing-application-service/2>

As part of the above legislation a number of guidance notes have been written for different sectors; for this activity the relevant document is "Guidance notes for conditions for providing day care for dogs". I would strongly urge the applicant to familiarise themselves with these, and specifically the design criteria and space requirements for day care centres as inadequate internal space will greatly limit the number of dogs permitted.'

REPRESENTATIONS

None.

APPRAISAL

Principle of Development:

Policy & assessment

The Council's most up to date planning policy on the location and distribution of rural business development is found within the Joint Core Strategy (policies S1 and R2). Policy S1 refers to the distribution of development, and requires economic activity to be directed in and adjoining the principal urban area of Northampton, with the rural areas being provided for primarily within the smaller town centres of Towcester and Brackley. Policy R2 covers the rural economy in more detail, and sets out the following...:

'Proposals which sustain and enhance the rural economy by creating or safeguarding jobs and businesses will be supported where they are of an appropriate scale for their location, respect the environmental quality and character of the rural area and protect the best and most versatile agricultural land. The following types of development are considered to be acceptable:

- i) The re-use of rural buildings*
- ii) Schemes for farm diversification involving small-scale business and commercial development that contribute to the operation and viability of the farm holding*
- iii) Small-scale tourism proposals, including visitor accommodation*
- iv) Proposals that recognise the economic benefits of the natural and historic environment as an asset to be valued, conserved and enhanced*
- v) The expansion of businesses in their existing locations dependent upon the nature of the activities involved, the character of the site and its accessibility*
- vi) Small scale employment development to meet local needs; and*
- vii) The use of land for agriculture, forestry and equestrian activity'*

With regards to point (v), on page 6 of 18 of the Design & Access Statement the applicant confirms that the new site within the reasonable grounds of Hobby Fish Farm will...

'...provide financial benefits and additional opportunities to help support the existing business and the rural economy, as well as an additional business

diversification creating new joint marketing ventures and increased customer footfall.'

This strongly suggests that the business is no longer a wholly separate venture not associated or affiliated with Hobby Fish Farm in any way, and therefore Officers consider that the proposal now complies with this part of R2.

Furthermore, it remains the case that the proposed business in this case is not completely unsuitable for a rural location, and neither is it considered to be dependent on a rural location. However, the new site is considered to have a much better relationship with the existing site and buildings, and no longer represents an intrusion into untouched agricultural land. Instead, it legibly 'infills' a presently unused bit of land which, arguably, could benefit from being tidied (although planning permission is not a necessary catalyst to achieving this). Having said that, Officers note that the applicants have taken responsibility *'for clearing the discarded obsolete stock and waste construction materials'*.

As a result, Officers consider point (vi) of R2 to now also be applicable. Specifically, the applicant states in their introduction to the Design and Access Statement that this will be the first type of business of its type in Northamptonshire. Officers see no reason to refute this claim, and also note the Council's Economic Developments team, as well as Old Stratford Parish Council, have both offered full support. The former consultee confirms it will benefit the local community. Such benefits are considered to comfortably outweigh any remaining harm that is caused through allowing the development of land in this location.

Turning to the Saved Local Plan, the position set out within policy R2 is reinforced through policies EV2 and E7. Policy EV2 sets out a broader position on restricting development in the open countryside, with exceptions generally covering development necessary for purposes of agriculture, forestry, tourism or recreation (not applicable here). Policy E7 is more specific to industrial and commercial development in restraint villages and the open countryside, and recognises that *'new employment and associated development could have a detrimental impact on the setting and appearance of Restraint Villages and in the open countryside'*.

Policy E7 is worded thus:

'A proposal for industrial and commercial development will not normally be permitted in the restraint villages of Alderton, Castle Ashby, Courteenhall, Hulcote, Passenham and Thenford and in the open countryside. Exceptions will be considered which involve a change of use or the conversion of a building in accordance with policies EV16 and EV17 or on those sites shown in Chapter 13

While this policy is resistant to proposals which involve a change of use and new buildings and built form for commercial purposes in open countryside locations, this is considered to be more relevant in cases where the land is previously undeveloped land or completely disassociated with any nearby developments. This could fairly describe the site proposed in the first pre-application submission, which is why the Council strongly resisted that proposal.

However, as set out above, the new site is considered to have a much better relationship with the existing business and is contained entirely within what could be regarded as its curtilage. Therefore, Officers do not consider there to be a conflict with policy E7.

Sequential approach

Officers have previously set out the comprehensive sequential approach that is necessary to argue that there are no other sites available that are preferable in policy terms. This was particularly important to justify the use of an undeveloped, agricultural field such as the site originally proposed (and resisted).

Officers advised that the applicant would need to set out what other sites have been considered for the proposed business that are located in more policy compliant locations (i.e. within the confines of towns/villages or within existing commercial arrangements). Officers referred to the need to set out the catchment area for the business and go through each site identified within this area to set out the planning reason behind that site not being appropriate. During the original pre-application, Officers noted some limited evidence of this approach being taken in additional correspondence emailed to the Council on 31st October 2018. However, Officers pointed out that, for example, not pursuing the interest shown by the Three Cherry Trees Garden Centre because of its head office location would not form a valid planning reason for dismissing it as unsuitable.

Furthermore, Officers stressed that simply the absence of suitable alternative sites at the present time would not be sufficient reason alone to allow development on the originally proposed site or any site that conflicted with the adopted Development Plan. Therefore, the sequential approach was also requested to demonstrate that there is no reasonable prospect of an alternative site coming forward in the medium to long term, and that the long term future of the business is dependent on finding a site in the short term.

This application is supported by a comprehensive sequential assessment of other sites that have been explored during the search for an appropriate site on which to establish their business.

The applicant lists around 13 other sites in a diverse range of locations, from New Bradwell, to Yardley Hastings, Potterspury, Buckingham and Newport Pagnell. These are described as being the sites that were '*close to being suitable*'.

In each case, the applicant lists reasons as to why the sites could not be pursued or were likely to be brought forwards in the medium to long term. For example, in some cases landlords were unwilling to pursue the offer and instead wished to seek residential development. In other cases, the land already had planning permission for alternative development, or was not available for sale (i.e. it belonged to Network Rail). The applicant claims that all estate agents contacted advised that they had suitable vacant units but the landlords would not consider changing the use class to *sui generis* to accommodate the proposed use of the building. In other cases, the site would create a land use conflict with neighbouring residential uses, and it was indicated that there would be local opposition.

Only one site appears to have potential – Yardley Hastings Garden Centre – but the applicant claims the owner is not wanting to renovate the garden centre and surrounding land until 2020. This means it would not be a viable proposition in the short to medium term.

Notwithstanding this, Officers consider that there is reasonable scope for Yardley Hastings Garden Centre to be brought forwards as a potential site in the next 12-18 months. However, this is also in open countryside and, given the relationship between the proposed site and Hobby Fish, would not be any different in this respect

from a policy perspective. As the proposed site is felt to be a significant improvement over the originally suggested field, I wouldn't consider the potential medium to long-term viability of Yardley Hastings Garden Centre as a future site as weighing against the merits of supporting the scheme.

Conclusion

The applicant argues that they have demonstrated a fair degree of flexibility in searching for a suitable site and has not dismissed sites unnecessarily. Officers agree with both of these points, and are satisfied that the sequential assessment conducted has been comprehensive and that the sites presented are not available for planning-related reasons.

Therefore, subject to acceptable details being provided in respect of landscaping, boundary treatments and parking/turning, and there being no detrimental impact on highway safety, Officers are satisfied that the submission addresses all previous concerns raised in respect of the principle of development, and can now offer support to the scheme as submitted.

Visual impact of development

The general appearance of the buildings remains the same; four 'temporary' single storey garden-sized timber structures (two being of the same 'Nook' style) are proposed to accommodate the various uses within the site, including isolation units and a reception area. These buildings are considered to be more sympathetic and in keeping with the setting of the site than more permanent structure. However, the existing timber building (the hatchery) is considered to have the appearance of an agricultural building, and the sheds/domestic-style structures are likely to be more difficult to disguise as such, and could be regarded as being at odds with the open and rural character of the countryside experienced by those using the footpath.

Having said that, the applicants proposed to finish these buildings in wood stain 'Pale Green' to match the tanalised wood used to construct the hatchery building. This will help the new buildings sit more comfortably alongside this existing development.

The layout plan as shown on the 'Details of Site Landscaping' drawing is considered to represent a logical use of the space available, with the timber buildings arranged in a manner that creates a north-eastern facing 'edge' to the extent of built form. Making use of the raised pond and land to the rear of the existing shed as exercise arenas is considered sensible, and having the summer outdoor area closest to the PROW is also desirable as this part of the site is likely to retain a more natural and undeveloped appearance, although it will need to have appropriate boundary treatments to contain the dogs.

For this reason, Officers continue to consider it to be very important for there to be minimal, if any views of the buildings and paraphernalia from vantage points on the PROW while facing towards the site. A site visit concluded that glimpses towards the site, buildings and boundary treatments will be possible.

Officers also note that any boundary treatment is likely to take the form of 1.8m high 'V' Mesh Security Fencing, which, despite being green, is likely to create an undesirable form of visual intrusion. Officers do accept that a degree of security fencing is necessary given the use of the site and its isolated location, making it at higher risk of crime.

For these reasons, Officers are keen to secure some form of reinforcement planting within the existing hedgerow in order to screen the site more thoroughly from view.

The applicants have provided a document entitled '04b Screening of Site' which explains in detail how this will be achieved. Essentially, the applicants are looking at completing the screening that was granted approval in 1999 as part of a previous permission. Officers noted the existing hedgerow and planting which was, in fact, part of this earlier scheme. The applicant acknowledges that there are gaps in this hedge to the south of the access where plants did not take, and states that this will be completed in accordance with the planting species guide from the 1999 permission.

A list of native hedgerow species has been provided. The implementation and completion of such planting would go some way to addressing the concerns Officers have raised above.

The applicants do not intend to reinforce any of the existing screening on the western side. This is because the applicants state that the buildings being proposed are much less intrusive than those at Hobby Fish (which are over 5m in height) and so much less likely to be seen from this vantage point. Officers have considered the photograph taken on 7th May during the course of the second pre-application, and concede that views of the development are likely to be minimal, and if the new buildings are glimpsed this will likely be in the context of the wider Hobby Fish site.

To mitigate the visual impact of the security fencing, the applicants intend to use a natural reed screen to partially mask 1.8m of the security fencing that is proposed. Officers are not convinced by the reed screen, which is unlikely to sit comfortably within the landscape and make the more transparent, less solid security fence appear as a more opaque boundary treatment. Furthermore, the plans do not clearly show where any of the fencing is proposed to go.

Therefore, Officers will use a modified landscaping condition only requiring further details on the location of the boundary treatment, and will seek to remove the proposed reed screen at this stage.

To conclude, subject to the above condition, the development will have a neutral impact on the setting and character of the wider countryside, and will sit comfortably in the context of the surrounding Hobby Fish site.

Residential amenities

The only threat such a use poses to amenities is through noise disturbance (i.e. dogs barking).

The day care side of the business is proposed to be open from Monday to Friday 8am to 6:30pm, and the grooming salon Tuesday to Saturday 9am to 5pm.

The nearest non-ancillary residential dwelling (i.e. the nearest house not occupied by someone associated with Hobby Fish Farm) is 2 Watling Street Potterspury, which is some 300m to the north. Within the site, Hobby Fish Farm benefits from a maisonette within the main building near the A5, some 130m from the site.

The relatively isolated position, proposed working hours and the site's screening and the positioning of buildings between the site and both the residential properties mentioned all help mitigate any noise that may come from the site during the day.

A planning condition can control the hours of operation, as described above, to prevent the use from continuing on a Sunday or Bank Holiday when Hobby Fish Farm may otherwise be closed or when the overall background noise is quieter.

However, the development does not pose a significant risk to the amenities of any neighbouring properties.

On-site parking and highway safety

Access/highway safety

Officers note that neither NCC Highways or Highways England object to the application.

Hobby Fish Farm benefits from a relatively high-quality access with the A5, which in this location has a 60mph speed limit. The Design and Access Statement envisages a maximum of 25 additional vehicles visiting the site in the morning and evening during summer months, and around 12 during the winter months when space is less available. Comments made by the Council's Environmental Protection officer would suggest that these numbers may be a little optimistic.

The applicant states that around fifty people usually visit Hobby Fish shop during the middle portion of the day, which they argue far exceeds the intensity the new day care centre will generate. While no evidence has been submitted to substantiate this, Officers see no reason to disbelieve it, either.

Given the quality of the access and the fact that the increase in intensity is periodic throughout the day, and considering that the number of vehicles is limited by the number of dogs that the day care centre can lawfully accept (under licensing regulations), Officers do not consider these additional vehicular movements to pose a significant risk to highway safety and neither will they have a severe impact on the local highway network.

In site access/parking

To the north of the site is a reasonably large, square patch of land (approx. 12m x 12m) which seems to be used by vehicles attending the hatchery building. This land is not within the red line, and as such cannot be controlled by the Council. However, it is reasonable to expect this land to remain free of permanent obstructions given the use of the hatchery building and the need for vehicles to attend/deliver to this.

The site is accessed via a 150m long track which runs from a position just to the south-east of the existing shop along the side of the various buildings and paraphernalia associated with this business to the site itself, which is just to the south of the agricultural building known as the 'hatchery'. This track is presently inconsistent in width, and in places is pinched by various items and waste stored in and around the site.

Officers must be sure that the site will maintain adequate parking provision for those attending the site, including capacity to accommodate a number of vehicles arriving at once, and that the track into and out of the site is fit for use.

The applicant has prepared a detailed document called '04a Access Road', and this goes into more detail on the amount of parking being proposed as well as the site clearance and works that will be undertaken to create a workable access track.

The statement sets out how the parking provision was calculated, based upon a maximum of 20 cars arriving during the peak summer period within the 90-minute drop-off period. The applicants also foresee a drop-off lasting around 3 minutes.

Officers note that the number of 25 is given in the Design and Access Statement, and will work on that higher number instead, although the total number of dogs is likely to be less (and limited by the Council's licencing department). It is also quite likely that drop-offs will vary in length, with some taking place quickly and others needing slightly longer. 3 minutes is regarded as a reasonable average, however.

The applicants are providing three 2.5m x 5m spaces for customers to the east of the buildings for customers. A layby either side of these spaces will provide backup parking/waiting areas if more than three customers turn up at once, and likely accommodate a further three vehicles. Officers also acknowledge that some customers are likely to use Hobby Fish's own car park, which has a significant number of spaces and is positioned to the north-east of the shop, and walk their dogs up.

Bearing this in mind, Officers do not think that the parking arrangement and layout as shown in the submitted document risk creating an overly contrived or, ultimately, dangerous situation where users of the space are at risk of harm. The availability of around six spaces, either for parking/dropping off or for waiting for spaces to become available, is considered to be sufficient given the likely way in which the site will be visited by its customers.

The applicants also highlight parts of the access track which they are going to clear to provide passing spaces and greater width for passing vehicles. Such works are felt to be essential to ensuring the track can be used by two vehicles simultaneously travelling in opposite directions, and the passing places will mitigate instances where larger vehicles meet each other.

Officers can use a planning condition to require the improvements to the access track are made and the additional parking spaces are provided prior to the first use of the site as a day care centre for dogs. Officers will refer to document '04a Access Road' in this regard, which sets out via drawings and photographs where these improvements and areas will be.

Subject to such a condition being imposed, Officers are satisfied the development should not fail for highway, access or parking-related reasons.

Impact on Protected Species

The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion
- affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains a small area of tall ruderal vegetation located in close proximity to the open countryside.

Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that *"every public authority must, in exercising its functions, have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity"*.

Strict statutory provisions apply where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation of Habitats and Species Regulations 2010. When determining a planning application that affects a EPS, local planning authorities must have regard to the requirements of the EC Habitats Directive which states that "a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions".

Under Regulation 41 of the Conservation Regulations 2010 it is a criminal offence to cause harm to a EPS and/or their habitats which includes damage or destruction of a breeding site or resting place. However, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:

- 1) Is the development needed for public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature?
- 2) Is there any satisfactory alternative?
- 3) Is there adequate compensation being provided to maintain the favourable conservation status of the species?

In order for the local planning authority to discharge its legal duty under Reg 9(5) of the Conservation Regulations 2010 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing to authority has to consider itself the 3 derogation tests above.

In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.]

The application is supported by a detailed protected species survey which concluded that the habitat is of a low ecological value, with no evidence of protected species being recorded during the survey. Mitigation for protected species is provided within section 4 of the survey.

The Council's Ecology officer was consulted as part of the application, and they have not objected subject to the mitigation and compensations measures referred to by section 4 being implemented. Based on this no objection and the details provided in the protected species survey it is considered that subject to the recommendations of the survey report that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development.

CIL LIABILITY

The development is not liable for CIL as it does not propose more than 100sqm of residential or retail floor-space.

CONCLUSION

The proposal therefore accords with Policies G3, E7, EV1 and EV2 of the adopted Local Plan, policies SA, S1, S10 and R2 of the JCS, Sections 3, 4, 6, 7, 11, 12 and 15 of the NPPF, and gives due regard to the Council's Corporate Priorities.

HUMAN RIGHTS AND EQUALITIES

Due regard has been taken to South Northamptonshire Council's equality duty as contained within the Equalities Act 2010.

There may be implications under Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998 regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

Case Officer Signature	Tom Ansell
Date	28 th October 2019

Authorising Officer signature	DCA
Date	28/10/19