PLANNING COMMITTEE REPORT

TO:	Planning Committee South
BY:	Head of Development and Building Control
DATE:	19th November 2024
DEVELOPMENT:	Change of use of the land for use as day care facility for dogs (sui generis).
SITE:	2 Jenners Field, Rock Road, Washington, West Sussex, RH20 3BH
WARD:	Storrington and Washington
APPLICATION:	DC/23/2282
APPLICANT:	**Name:** Mrs Damien Wilson **Address:** High Croxdale Farm, Croxdale, Washington, West Sussex, DH6 5JR

REASON FOR INCLUSION ON THE AGENDA: More than eight persons in different households have made written representations within the consultation period raising material planning considerations that are inconsistent with the recommendation of the Head of Development and Building Control.

RECOMMENDATION: To refuse planning permission

1. THE PURPOSE OF THIS REPORT

To consider the planning application.

DESCRIPTION OF THE APPLICATION

1.1 Planning permission is sought for a change of use to facilitate the relocation and continued operation of the established dog day care facility, 'Barking Success', on the land adjacent to 2 Jenner's Field. No new buildings are planned for the site. The facility, including the existing building and fields, is set back from Rock Road and is separated from the road by a small car park that will be used for staff and customers dropping off and picking up their dogs.

DESCRIPTION OF THE SITE

1.2 The site is situated in a semi-rural location just off Rock Road, between the settlements of Heath Common and Washington, to the northeast of the A24 London Road. Covering approximately 0.8 hectares, the land is referred to as "Land Adjacent to 2 Jenner's Field." Currently, the site consists of open fields and a few existing timber shed structures. A small car parking area, previously created by the former owner, is located at the front of the site alongside Rock Road and was used for an unpermitted dog day care facility.

1.3 The site is well-screened along its southern and eastern boundaries by established border planting, providing privacy from neighbouring properties. To the north, the site is bordered by open agricultural fields, while the western boundary fronts onto Rock Road. The site adjoins the attached property (No. 1 Jenners Field), and is set adjacent to The Barn to the north-west and Highfield to the north-east.

2. INTRODUCTION

STATUTORY BACKGROUND

2.1 The Town and Country Planning Act 1990.

RELEVANT PLANNING POLICIES
The following Policies are considered to be relevant to the assessment of this application:

National Planning Policy Framework

Horsham District Planning Framework (HDPF 2015)
Policy 1 - Strategic Policy: Sustainable Development
Policy 2 - Strategic Policy: Strategic Development
Policy 7 - Strategic Policy: Economic Growth
Policy 9 - Employment Development
Policy 10 - Rural Economic Development
Policy 24 - Strategic Policy: Environmental Protection
Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
Policy 26 - Strategic Policy: Countryside Protection
Policy 31 - Green Infrastructure and Biodiversity
Policy 32 - Strategic Policy: The Quality of New Development
Policy 33 - Development Principles
Policy 35 - Strategic Policy: Climate Change
Policy 36 - Strategic Policy: Appropriate Energy Use
Policy 37 - Sustainable Construction
Policy 38 - Strategic Policy: Flooding
Policy 39 - Strategic Policy: Infrastructure Provision
Policy 40 - Sustainable Transport
Policy 41 - Parking
Policy 42 - Strategic Policy: Inclusive Communities
Policy 43 - Community Facilities, Leisure and Recreation

Horsham District Local Plan (2023-40) (Awaiting examination)
Policy 1: Sustainable Development
Policy 2: Development Hierarchy
Policy 3: Settlement Expansion
Policy 6: Climate Change
Policy 7: Appropriate Energy Use
Policy 8: Sustainable Design and Construction
Policy 9: Water Neutrality
Policy 12: Air Quality
Policy 13: The Natural Environment and Landscape Character
Policy 14: Countryside Protection
Policy 17: Green Infrastructure and Biodiversity
Policy 19: Development Quality
Policy 20: Development Principles
Policy 23: Infrastructure Provision
Policy 24: Sustainable Transport
Policy 25: Parking

Policy 31: Rural Economic Development

Storrington, Sullington and Washington Neighbourhood Plan (2018-2031)
Policy 1 - A Spatial Plan for the Parishes
Policy 8 - Countryside Protection
Policy 17 - Traffic and Transport
Policy 18 - Car Parking

Planning Advice Notes:
Facilitating Appropriate Development
Biodiversity and Green Infrastructure

PLANNING HISTORY AND RELEVANT APPLICATIONS

DC/19/0139	Erection of an outbuilding	Application 15.05.2019	Permitted
DC/21/0591	Change of use of land and existing building to a dog day care business (Retrospective).	Application	Disposed of

3. OUTCOME OF CONSULTATIONS

3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

3.2 **HDC Environmental Health**: Comment (*summary*)
The application is generally lacking in the level of information we would need to give a professional opinion. Further information is required in order for this department to determine the application.

3.3 **WSCC Highways**: Advice (*summary*)
The LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 115), and that there are no transport grounds to resist the proposal.

3.4 **Natural England**: Comment (*summary*)
We concur with the conclusion of your authority's HRA appropriate assessment insofar that adverse effects on the integrity of the Arun Valley Designated sites cannot be ruled out.

PUBLIC CONSULTATIONS

3.5 **Washington Parish Council**: Objection

'Members have considered the application from the owner of a former dog care facility, which has closed due to the owner selling the land for development. A small amount of employment would be created, replacing some of the jobs lost at the Old Clayton facility.

In recent years there was a period when these premises were used for a dog day care business without change of use permission being granted or ever being resolved. There is very limited information in this application as to a maximum number of dogs at any one time or hours of operation proposed. The application indicates that the dogs will be kept outside for most of the time. A similar business is running from within an enclosed building in the locality.

In the previous application (withdrawn), WSCC highways raised no objection, but we feel this should be reviewed with on an onsite inspection as Rock Road is increasingly busy particularly at peak times when customers are most likely to drop off or pick up. Rock Road is on a school bus route and is increasingly used to avoid Storrington for access to Thakeham, West Chiltington and Pulborough.

Members have considered the significant support from customers of the applicant's former dog care facility (These are mainly from people living outside the immediate vicinity of the site.) But we are mindful of the very large number of objections from residents in the immediate neighbourhood whose peaceful enjoyment of their own properties and gardens, and in particular the adjacent field to the north of the site which is frequently used for grazing sheep, could be considerably impacted by such a development. We believe that the interests of these residents must come first.

Additionally when permission was given in 2019 for the construction of the building that is situated within the area of the site for which this change of use is sought, a condition was imposed that it is not to be sold or let separately from the adjoining semi-detached bungalow, which is not included in this application. This implies that this application is in breach of that condition. A further condition was that it was used for storage of animal foodstuff and specifically not for housing animals.

The Planning and transport committee has therefore, after much discussion, agreed to object to this application.

We request that if HDC is minded to grant change of use, there should be strict conditions as to numbers of dogs at any one time and hours of operating ie not during weekends and public holidays and no overnight boarding. We further request delegation to the Planning Committee (South) should approval be proposed.'

3.6 106 letters of representation received, 56 of which were received from addresses *within* the District (**48** of which were received within the consultation period) *objecting* to the proposal on the following grounds:

- access shared with neighbours
- small paddock with no room to expand
- animals graze in adjacent field
- insufficient drainage
- increase in noise disturbances
- adverse increase in traffic movements
- danger to pedestrians
- too many dogs on site
- the use would not be water neutral
- concerns over the welfare of the dogs
- concerns about the storage of waste
- increased light pollution
- devaluation of neighbouring properties

3.7 103 letters of representation received, 46 of which were received from addresses *within* the District (**44** of which were received within the consultation period) *supporting* the proposal on the following grounds:

- good location
- much needed facility
- local employment opportunities
- more convenient than current location
- supports a local business

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS AND EQUALITY

4.1 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

4.2 The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

Principle of the Development

6.1 The application relates to a paddock associated with a residential dwelling on the eastern side of Rock Road, Washington. The site comprises a former paddock which circa 2020 was subdivided and proceeded to be used as dog day care without planning permission. The site has since been purchased by the applicant who seeks to regularise and reinstate the dog day care use.

6.2 The site is located outside of the built-up area boundary and therefore considered to be within a countryside location. Accordingly, Policy 26 of the Horsham District Planning Framework (HDPF) (Countryside Protection) applies in the consideration of this application. The policy states that *Outside built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected against inappropriate development. Any proposal must be essential to its countryside location, and in addition meet one of the following criteria:*

1. *Support the needs of agriculture or forestry;*
2. *Enable the extraction of minerals or the disposal of waste;*
3. *Provide for quiet informal recreational use; or*
4. *Enable the sustainable development of rural areas.*

In addition, proposals must be of a scale appropriate to its countryside character and location. Development will be considered acceptable where it does not lead, either individually or cumulatively, to a significant increase in the overall level of activity in the countryside, and protects, and/or conserves, and/or enhances, the key features and characteristics of the landscape character area in which it is located, including;

1. *The development pattern of the area, its historical and ecological qualities, tranquillity and sensitivity to change;*
2. *The pattern of woodlands, fields, hedgerows, trees, waterbodies and other features; and*
3. *The landform of the area.*

6.3 Policy 1 (A Spatial Plan for the Parishes) of the Storrington, Sullington and Washington Neighbourhood Planning Document (NPD) states that development proposals outside of the

defined built-up area boundaries will be required to conform to Development Plan policies in respect of the management of development in the countryside (such as Policy 26 as above).

6.4 The proposal would provide for enterprise within a rural setting. Policy 10 of the HDPF (Rural Economic Development) states that s*ustainable rural economic development and enterprise within the district will be encouraged in order to generate local employment opportunities and economic, social and environmental benefits for local communities. In the countryside, development which maintains the quality and character of the area, whilst sustaining its varied and productive social and economic activity will be supported in principle. Any development should be appropriate to the countryside location and must:*

1. *Contribute to the diverse and sustainable farming enterprises within the district or, in the case of other countryside-based enterprises and activities, contribute to the wider rural economy and/or promote recreation in, and the enjoyment of, the countryside; and either*
    a. *Be contained wherever possible within suitably located buildings which are appropriate for conversion or, in the case of an established rural industrial estate, within the existing boundaries of the estate; or*
    b. *Result in substantial environmental improvement and reduce the impact on the countryside particularly if there are exceptional cases where new or replacement buildings are involved. New buildings or development in the rural area will be acceptable provided that it supports sustainable economic growth towards balanced living and working communities and criteria a) has been considered first.*

2. *Demonstrate that car parking requirements can be accommodated satisfactorily within the immediate surrounds of the buildings, or an alternative, logical solution is proposed.*

6.5 The submitted Transport Technical Note indicates that the use would operate 7am to 7pm Monday to Friday and 8am to 6pm on Saturdays (no hours on Sunday) and will accommodate up to 40 dogs at any one time, with drop off times between 7am-9am and pick up from 4pm. The applicant has confirmed that no overnight kennelling is proposed. Accordingly, the proposed use could result in 80 additional movements to and from the site on any given day (excluding Sundays).

6.6 It is noted that whilst the site may not form part of an existing rural enterprise, it would contribute to the wider rural economy, providing up to 4 additional jobs that could be filled by local residents (5 including the applicant). Given the current lawful use of the site as paddocks associated with the curtilage to a residential premises, the change of use would significantly increase the level of activity within the countryside, especially when considering the additional 80 movements to and from the site per day.

6.7 Whilst the development would positively contribute to the rural economy and provide for local employment opportunities, the harm to tranquillity of this countryside setting would be adversely impacted by the increased level of activity in the countryside (in addition to amenity concerns), which would not be suitably outweighed by the resultant economic benefits that would arise from the use. The proposed use is therefore contrary to Policy 26 of the HDPF and Policy 1 of the Washington Neighbourhood Plan.

<u>Impact on Amenity</u>

6.8 Policy 33(2) of the HDPF states that developments are required to ensure that it is designed to avoid unacceptable harm to the amenity of occupiers/users of nearby property and land, for example through overlooking or noise, whilst having regard to the sensitivities of surrounding development.

6.9 As above, the proposal would incorporate a dog day care use for up to 40 dogs 6 days of the week for up to 12 hours. The Transport Technical Note clarifies that the use would take place outside and inside (within existing buildings on the site), and that no further buildings are required for the use to take place.

6.10 In terms of noise, the Council's Environmental Health Officers have advised that insufficient information has been submitted in support of the application, and that a noise management plan should be submitted with the application. As presented, there is no scope for substantive noise control measures. This will cause an adverse impact to the residential neighbours, and therefore cause loss of amenity, especially given the potential for up to 40 dogs to be accommodated on the site at any one time and the length of time that the site would operate for. Dogs barking is a sound that humans are naturally attuned to, as it often signals danger or requires immediate attention. Unlike background noises such as road traffic or aircraft, which people tend to become accustomed to and eventually tune out, barking remains a disruptive sound. Even if individuals are not disturbed by other forms of ambient noise, barking dogs in the vicinity can cause significant disturbance due to its instinctive association with alertness and urgency. This would be particularly disturbing to the closest neighbours: adjoining neighbour to the south (No. 1 Jenners Field), The Barn (29.5m to the north-west) and Highfield (76.9m to the north-east). Though the wider area is not particularly dense in residential use, the open nature of the adjacent fields would allow noise emission to travel from the site.

6.11 Concerns to this effect were raised by Environmental Health Officers in March 2024 and to date no management or mitigation plan has been received in response. In the absence of a strategy establishing how noise would be managed and / or mitigated against, Officers are not satisfied that the proposed use would not amount to adverse amenity harm by way of noise disturbances. Given that such a strategy would be fundamental to overcome this matter, Officers are not satisfied that this could be adequately controlled by way of condition. The proposal is therefore contrary to Policy 33(2) of the HDPF.

Highways and Parking

6.12 Policy 40 of the HDPF supports proposals which provide safe and suitable access for all vehicles, pedestrians, cyclists, horse riders, public transport and the delivery of goods, whilst Policy 41 requires adequate parking facilities within developments. Chapter 9 of the National Planning Policy Framework sets out that *'development should only be refused on transport grounds if there would be an unacceptable impact on highway safety grounds, or the residual cumulative impacts on the road network would be severe'*.

6.13 Policy 17 of the Neighbourhood Plan states development proposals will be supported provided they can demonstrate that their residual traffic impacts on the local road network are not severe.

6.14 The site is served by an existing vehicular access point on Rock Road which serves the outbuilding and opens onto an associated parking area. The submitted Transport Technical Note clarifies that the existing access into the site off Rock Road would be retained and utilised to facilitate the use. No alterations are proposed to the access. WSCC Highways have reviewed the document, noting that there are no apparent visibility concerns with the proposal. Furthermore, the note illustrates that adequate turning can be achieved on site to ensure that vehicles can manoeuvre off the site in a forward gear.

6.15 In terms of parking: drop off would be staggered within a two-hour period which should reduce vehicular conflict within the parking area. The parking area is of sufficient size to accommodate at least four car parking spaces. Given pick up and drop offs will mostly be staggered, and that customers will only be parked at the site for a short amount of time, WSCC considers the parking area sufficient for a development of this size.

6.16 Overall, WSCC do not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 115), and that there are no transport grounds to resist the proposal.

Water Neutrality

6.17 The application site falls within the Sussex North Water Supply Zone as defined by Natural England and which includes supplies from groundwater abstraction which cannot, with certainty, demonstrate no adverse impacts upon the defined Arun Valley SAC, SPA and Ramsar sites.

6.18 An advice note from Natural England advises that plans and projects affecting sites where an existing adverse effect is known will be required to demonstrate, with sufficient certainty, that they will not contribute further to an existing adverse effect. The received advice note advises that the matter of water neutrality should be addressed in assessments to agree and ensure that water use is offset for all new developments within the Sussex North Water Supply Zone.

6.19 The proposal falls within the Sussex North Water Supply Zone. Given the existing *lawful* use as a paddock associated with the dwelling on the site, the use of the site as a dog day care site, which would accommodate up to 40 dogs per day and five members of staff, the proposal would result in a greater level of water abstraction.

6.20 The site forms part of an extended curtilage associated with the residential use of 2 Jenners Field. The site was previously unlawfully used as a dog day care facility, though the use was never regularised or continually used. As such, the use had not been accommodated for within the applicant's water strategy.

6.21 The updated (September) Water Neutrality Statement (WNS) indicates a proposed baseline of **1,281.3l/d**, which is comprised of:

- 50l x 3 staff = 150l/d
- 45l x 2 horses = 90l/d
- 10l x 1 dogs = 10l/d
- 1l x 3 sheep = 3l/d
- 0.15l x 2 monkeys = 0.3l/d
- 240 x 30/7 commercial washing machine = 1028l/d

6.22 The proposed water use is calculated at **210l/d**, based on:

- 1.5l x 40 dogs = 60l/d
- 50l x 3 staff = 150l/d

6.23 On the face of it, the proposed use would consume some 1,071.3l/d less than the pre-existing use. However, a number of deficiencies have been identified with the strategy, including:

- The staff use for both existing and proposed has been calculated as 50lpd, though no evidence has been provided as to why / how 50lpd has been calculated. There is no Part G calculation or BREEAM equivalent to suggest such a use, and it is not likely that each member of staff would consume 50lpd of water on a workday. This figure is therefore not accepted for the existing and proposed use.
    - It is also not clear what purpose the staff served given that the previous day care use was not lawful
- There is no evidence that a commercial washing enterprise operated from the site, or to support the volumes of water in the calculations.

6.24 It is noted that a statutory declaration has been included as part of the proposed strategy. Whilst the contents of the declaration are not disputed, the statement does not suitably satisfy

that staff consumed up to 50lpd. Furthermore, the Council is not clear on the scale of operation of the commercial rug cleaning use- it should be noted that the site is a residential dwelling (bungalow)-whilst there are some outbuildings on site, it is not clear if the dwelling or said buildings have previously had or are capable of accommodating such commercial washing machines, and there are no planning permissions in place for a commercial use. A photograph of a washing machine unit 'that was removed from the site' has been provided. However, the applicant later clarified that this was not the appliance removed from the site, but rather was indicative of the type of appliance present on site. In addition to the absence of this evidence, there is no solid evidence to suggest that 'up to fifty' rugs were washed per week, and the water consumption of each cycle from the washing machines (metered bills or a manufacturers specification and BREAAM calculator in the alternate).

6.25 In the absence of a detailed strategy setting out how the applicant intends to demonstrate water neutrality, the Local Planning Authority is not currently in a position to ascertain whether or not the proposal would result in an adverse impact on the integrity of the interest features of the Arun Valley SPA, SAC & Ramsar site from the development either alone or in combination with other plans and projects. Natural England have commented that they concur with the conclusion of the officer's HRA appropriate assessment insofar that adverse effects on the integrity of the Arun Valley Designated sites cannot be ruled out.

6.26 With the above in mind, there is no certainty that the proposal will not contribute further to the existing adverse effect on the Arun Valley SAC, SPA and Ramsar sites, contrary to Policy 31 of the HDPF and NPPF paragraphs 185 and 186.

Ecology

6.27 Policy 31(2) (Green Infrastructure and Biodiversity) of the HDPF states that Development proposals will be required to contribute to the enhancement of existing biodiversity, and should create and manage new habitats where appropriate. The Council will support new development which retains and /or enhances significant features of nature conservation on development sites. The Council will also support development which makes a positive contribution to biodiversity through the creation of green spaces, and linkages between habitats to create local and regional ecological networks. 4(a) states that particular consideration will be given to the hierarchy of sites and habitats in the district as follows: (i) Special Protection Area (SPA) and Special Areas of Conservation (SAC)

6.28 The site is mostly laid to grass with some areas of hardstanding towards the western part of the site. No trees are located within the site, though there is an established row of trees to the boundary of the site to the west and south of the site. The site is located wholly within the Bat Sustenance Zone, thus the trees on the boundary may be used as foraging pathways for bats within the Mens SAC.

6.29 The proposal does not incorporate any buildings, nor any removal of trees to the boundary. Given the existing condition of the site, which is laid to grass and used as a paddock, the use would not likely adversely impact on the ecological qualities of the site. The proposal does not include details of external lighting, which if lit in excess may adversely impact on foraging pathways. However, Officers are satisfied that this specific matter could be adequately controlled by way of condition in the event that consent were to be granted.

Biodiversity Net Gain

6.30 While every grant of planning permission in England is deemed to have been granted subject to the biodiversity gain condition, commencement and transitional arrangements, as well as exemptions, mean that certain permissions are not subject to biodiversity net gain.

6.32 Biodiversity net gain has only been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Permissions granted for applications made before this date are not subject to biodiversity net gain.

6.33 As the application was submitted prior to the relevant date as above, the Planning Authority considers that biodiversity net gain does not apply.

Conclusion

6.34 The site is located within a rural location. Whilst the use would generate local employment opportunities in addition to a positive contribution to the wider rural economy the proposed use would result in an adverse increased level of activity within the countryside. Accordingly, the proposal would not provide of quiet informal recreational use of the countryside this would not be essential to the countryside location, contrary to Policy 26 of the HDPF and Policy 1 of the Washington Neighbourhood Plan.

6.35 The site would utilise an existing access off of Rock Road, in addition to an existing parking and turning area. WSCC Highways have reviewed the submitted Transport Technical Note and are satisfied that the development would not result in any severe cumulative impacts on the operation of the highway network.

6.36 However, the applicant has not satisfactorily demonstrated how the use would not result in adverse amenity harm to neighbouring by way of noise disturbances, or how the change of use would not result in a greater abstraction of water from the Pulborough borehole over and above the existing arrangement. For these reasons, the application is recommended to refusal.

7. RECOMMENDATIONS

7.1 It is recommended to the committee that the planning application is refused for the following reasons:

1 The proposal would result in an adverse increase in level of activity within the countryside which would not provide for quiet informal recreational use. The development would be contrary to the overarching strategy and hierarchical approach of concentrating development within the main settlements and is thus not essential to its countryside location. There are no material considerations which outweigh this harm, and the proposal represents unsustainable development contrary to Policy 26 of the Horsham District Planning Framework (2015), Policy 1 of the made Storrington, Sullington & Washington Neighbourhood Plan (2018), and the National Planning Policy Framework (2023).

2 In the absence of a clear strategy to manage or mitigate noise from the use of the site, the Local Planning Authority cannot be assured that the proposed use would not result in unacceptable harm to the amenity of nearby residents. As such, the proposal is contrary to Policy 33(2) of the Horsham District Planning Framework (2015).

3 Notwithstanding information submitted, the applicant has not demonstrated with a sufficient degree of certainty that the proposed development would not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction, contrary to Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 185 and 186 of the National Planning Policy Framework (2023), thus the Local Planning Authority is unable to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).