

<b>ITEM NO:</b>	
<u>Location:</u>	<b>East Lodge Lilley Bottom Lilley Luton Hertfordshire LU2 8NH</b>
<u>Applicant:</u>	<b>Mrs Tracy Bengougam</b>
<u>Proposal:</u>	<b>Variation of Condition 4 (Opening times) as attached to Planning application 17/04255/FP granted on 29/05/2018.</b>
<u>Ref. No:</u>	18/02132/S73
<u>Officer:</u>	<b>Kate Poyser</b>

**Date of expiry of statutory period - 4 October 2018**

**Reason for referral to committee** – original application was determined at the Planning Control Committee (see **appendix 1** for copy of the officer report).

#### 1.0 **Site History**

1.1 17/04255/FP Planning permission granted for the change of use of agricultural land to provide dog training/exercise facilities at the meeting of the Planning Control Committee held on 24 May 2018. This is subject to 6 conditions, including the following.

***4. The dog training business, hereby approved, shall only take place on Mondays, Tuesdays, Wednesdays between the hours of 9.00 and 17.00 and Saturday mornings between the hours of 09.00 and 13.00.***

***Reason: The site, due to its location along Offley BOAT 020, limited parking space and proximity to residential properties, is not a suitable location for a larger scale activity.***

1.2 03/00384/1 Replacement 4 bedroom dwelling, incorporating games room in basement area and attached single garage following demolition of existing bungalow and outbuilding (as variation to application No. 02/01043/1).

1.3 04/00914/1HH 1.35m high front boundary wall and 1.6m high hit and miss wooden gates.

#### 2.0 **Policies**

##### 2.1 **North Hertfordshire District Local Plan No.2 with Alterations (Saved Policies)**

Policy 2- Green Belt

Policy 19 – Historic Parks and Gardens

Policy 55 – Car Parking Standards

## 2.2 **Supplementary Planning Documents**

Vehicle Parking Provision at New Development SPD.  
North Hertfordshire and Stevenage Landscape Character Assessment

## 2.3 **National Planning Policy Framework**

Section 2 – Supporting a prosperous rural economy  
Section 4 – Promoting sustainable transport  
Section 8 – Promoting healthy communities  
Section 9 – Protecting Green Belt land  
Section 11 – Conserving and enhancing the natural environment  
Section 12 – Conserving and enhancing the historic environment

## 2.4 **North Hertfordshire District Local Plan 2011-2031 (awaiting Inspector's final report)**

Policy SP5 – Countryside and Green Belt  
Policy T1 – Assessment of transport matters  
Policy T2 – Parking  
Policy HC1 – Community facilities  
Policy NE1 – Landscape  
Policy HE1 – Designated heritage assets

## 3.0 **Representations**

3.1 Highway Authority – no comments relating to the variation of Condition 4.

3.2 Countryside and Rights of Way Officer – “Any additional private use of the track is likely to be detrimental to the condition of the track surface, thus increasing the amount of maintenance required. Whilst the applicant has informally offered to contribute towards future maintenance of the track surface, no agreement has yet been reached on a formal agreement in order to satisfy condition 1 of the previous application 17/04255/FP.”

3.2 The Gardens Trust – no comments received

3.3 Environmental Health (noise) – no comments received

3.4 CPRE – no comments received,

3.5 Offley Parish Council – comment on the initial application to vary the condition for an extra 20 hours.

“The Parish Council wishes to make the following observations regarding this variation. When the original application was presented the applicant stated that the field was to be used just to train and exercise their own dogs.

The original application was granted with conditions and permitted usage times were agreed along with a contribution for the upkeep of BOAT 20 which leads up to their property and paddock.

As far as I am aware the upkeep aspect of the original granted permission has not been finalised and placed into an agreement with HCC ROW.

I cannot see how any changes can be permitted or agreed upon until the conditions of the original approved application have been met.

The paddock is being used as a commercial enterprise which was not part of the original request for planning.

We assume therefore that the paddock is leased to the owner of the dog training company

and any change would be coming from the owner of the dog training company.

Are rates being collected from this business?

Do they have public liability insurance in place?

If there was only going to be small usage (not many dogs) as stated in the original application why do they now need additional hours?

The application to increase the working days will in effect allow an additional 20 hours a week which is a 42% increase on the original conditions set.

This would then become a full commercial operation and not a rural enterprise.

The Parish Council therefore requests that you refuse this application.”

### 3.6 Lilley Parish Council – no comments received

### 3.7 Local Residents – comments from the occupiers of ‘Lodge Cottage’ and ‘Glebefield’ have been received. The occupiers of ‘Lodge Cottage’ make the following observations

- Inappropriate to discard the planning conditions and ignore reasons for them;
- The applicant consistently ignores the planning conditions;
- The speed and nature of the applicant’s driving is distressing and a danger to children and pets;
- The applicant has not entered into an Agreement with HCC, contrary to their advice.

The occupier of Glebefield objects for the following reasons:

- The applicant has regularly breached nearly all of the conditions;
- The applicant has indicated that they will not comply with Condition 1 of the planning permission;
- The applicant refuses to improve the surface outside the neighbour’s houses.
- The applicant breaches Condition 4 restricting hours of operation on a weekly basis.
- It is unlikely that the applicant will abide by any new conditions;
- The speed of vehicles along BOAT 020 is dangerous to children and pets;
- The applicant harasses the neighbours.

## 4.0 **Planning Considerations**

### 4.1 **Site and Surroundings**

East Lodge is a residential property in a relatively isolated location between Lilley Bottom Road and Putteridge Bury. Access is gained via an unmade track from Lilley Bottom Road. The track is a Byway Open to All Traffic (Offley BOAT 020). The site lies adjacent to East Lodge and Glebefield, separated by the track. It is within the Green Belt and on the edge of the Historic Park and Garden of Putteridge Bury.

### 4.2 **Proposal**

#### 4.2.1 The application site is used for the training and exercising of dogs and was granted planning permission on 29<sup>th</sup> May 2018, following the resolution to grant planning permission passed by the Planning Control Committee on 24 May 2018. Permission

was granted subject to 6 conditions. The applicant now seeks to vary Condition 4, which is copied below.

*“4. The dog training business, hereby approved, shall only take place on Mondays, Tuesdays, Wednesdays between the hours of 9.00 and 17.00 and Saturday mornings between the hours of 09.00 and 13.00.*

*Reason: The site, due to its location along Offley BOAT 020, limited parking space and proximity to residential properties, is not a suitable location for a larger scale activity.”*

4.2.2 Initially, the applicant wanted to operate until 5pm 6 days a week, but following negotiations the application has been amended. The applicant now wishes to extend operational hours on Saturday only, until 5pm. This is an increase of 4 hours.

### 4.3 Key Issues

4.3.1 The key planning consideration relates to the reason for the time restrictive condition. The reason for the conditions is to stop a large scale activity on this particular site, due to:

- its location on a Byway Open to All Traffic;
- the limited amount of parking space and
- its proximity to residential properties.

4.3.2 The Byway Open to All Traffic (Offley BOAT 020) is an unmade track leading from Lilley Bottom Road to East Lodge and some farm buildings beyond. Whilst the track does lead into Putteridge Bury Park the route has been stopped just beyond the farm buildings. The track is not in particularly good order and Condition 1 of the planning permission requires the applicant to enter into a legal agreement with Hertfordshire County Council to secure the implementation of a surface improvement scheme, within 6 months of permission being granted for the dog training use. Whilst the applicant had failed to meet the requirements of the condition within 6 months, such an agreement has now been signed. The future maintenance of the BOAT has therefore, been secured. The applicant has agreed to reconstruct and maintain the track surface between East Lodge and Glebefield, to the satisfaction of HCC, for as long as the dog training use continues.

4.3.3 The applicant has not agreed to repair the part of the byway in front of Glebefield or Lodge Cottages. Hertfordshire County Council have agreed though to contribute 10% of the cost of repair and intend to spend that in repairing the track in front of these neighbouring properties, to complete the distance from East Lodge to Lilley Bottom Road.

4.3.4 Condition 6 of the planning permission restricts the number of dogs on the site to no more than 4 at any one time. I consider the proposed increase in 4 hours on Saturday afternoons would not result in such a large increase in activity, in this relatively remote location, to justify withholding permission on the grounds of environmental sustainability.

4.3.5 The Highway Authority has raised no objections to the variation of hours, but then it raised no objection to the initial application, without the restrictive conditions. The improved surfacing and repair of the BOAT would reduce any mud brought onto the highway.

- 4.3.6 There are no proposals to alter the parking arrangements. I do not consider the proposed increase in hours would have a significant effect on the demand for parking here. I can see no sustainable planning objection on these grounds.
- 4.3.7 The additional 4 hours of operation would increase the number of vehicular trips that pass Lodge Cottage and Glebefield. The occupiers have raised concern about the effect of the additional traffic on the safety of their children and pets. The Countryside and Rights of Way Officer has not raised any objections relating to the safety of pedestrians using the track. I do not consider that the proposed small increase in the scale of activity would amount to demonstrable harm to the living conditions of the occupiers of these two properties.
- 4.3.8 It is noted that the occupier of Glebefield has advised of breaches of the planning conditions and these are matters for the Councils Compliance Officer to investigate.

#### 4.4 **Conclusion**

- 4.4.1 Negotiations have led to a significant reduction in the extension of hours being proposed. The addition of 4 hours from 1p to 5pm on Saturday afternoons is considered a small increase in activity on the site and along the BOAT; as such it would not cause any significant harm to the openness of the Green Belt and environmental sustainability, highway safety, nearby living conditions or the parking needs of the use. No objections are therefore raised.

#### 4.5 **Alternative Options**

None applicable

#### 4.6 **Pre-Commencement Conditions**

I can confirm that the applicant is in agreement with the pre-commencement conditions that are proposed.

#### 5.0 **Legal Implications**

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

#### 6.0 **Recommendation**

- 6.1 That planning permission be **GRANTED** subject to the following conditions

1. The use of land hereby permitted shall cease before 29th May 2020 unless the works secured by the legal Agreement with Hertfordshire County Council has been implemented to the satisfaction of Hertfordshire County Council and the Local Planning Authority.

Reason: In the interests of highway safety and amenity and the appearance of the locality.

2. The dog training business, hereby approved, shall only take place on Mondays, Tuesdays, Wednesdays and Saturdays between the hours of 09.00 and 17.00.

Reason: The site, due to its location along Offley BOAT 020, limited parking space and proximity to residential properties, is not a suitable location for a larger scale activity.

3. There shall be no outdoor lighting associated with the dog training use, unless otherwise agreed to in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the countryside here.

4. There shall be no more than 4 dogs on the application site at any one time.

Reason: The site, due to its location along Offley BOAT 020, limited parking space and proximity to residential properties, is not a suitable location for a larger scale activity.

**Proactive Statement:**

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

7.0 **Appendices**

- 7.1 Committee report for 17/04255/FP.