



**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

to  
**SOUTH EASTERN AREA PLANNING COMMITTEE  
15 JULY 2019**

<b>Application Number</b>	<b>FUL/MAL/18/01518</b>
<b>Location</b>	Sandbeach Hockley Lane Bradwell-On-Sea Essex CM0 7QB
<b>Proposal</b>	Section 73A application to convert disused farm outbuilding into dog kennels, change of use of associated land to be used as a dog rescue centre and stationing of a caravan to be used as a veterinary practice in association with the dog rescue use.
<b>Applicant</b>	Ms Charlene Nathan
<b>Agent</b>	Mr Ashley Wynn
<b>Target Decision Date</b>	26.04.2019 (E.o.T. 19.07.2019)
<b>Case Officer</b>	Spyros Mouratidis
<b>Parish</b>	<b>BRADWELL-ON-SEA</b>
<b>Reason for Referral to the Committee / Council</b>	Member Call In – Councillor R Dewick – Matter of public interest

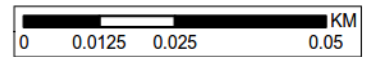
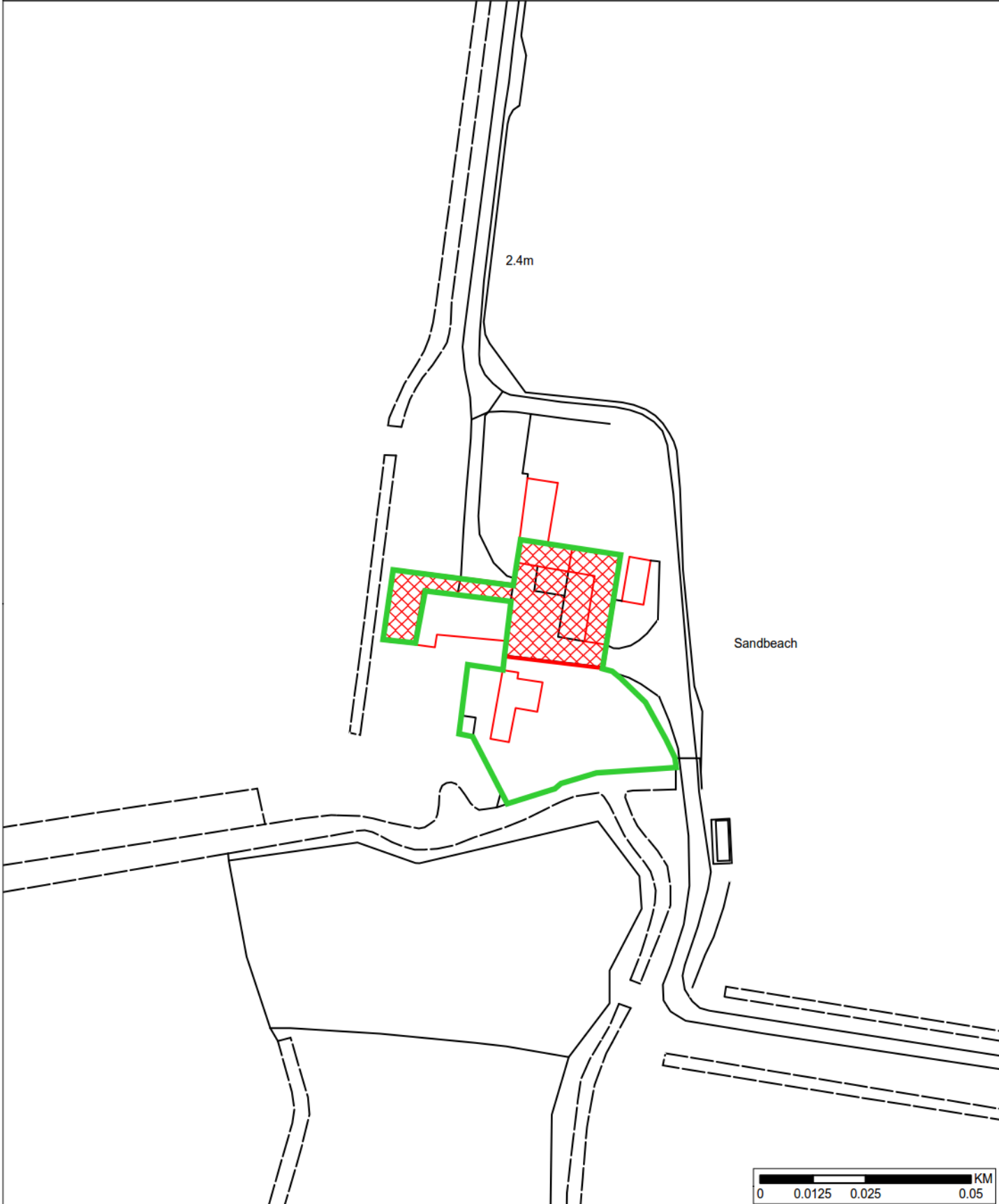
**1. RECOMMENDATION**

**Delegate to officers for APPROVAL** subject to the conditions as detailed in Section 8 of this report and subject to no new material planning considerations raised by the end of the re-consultation period.

**2. SITE MAP**

Please see overleaf.

**18/01518/FUL - Sandbeach, Hockley Lane**  
**Bradwell-on-sea, Essex CM0 7QB**



**Copyright**

For reference purposes only.  
 No further copies may be made.  
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright.  
 Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.  
 Maldon District Council 100018588 2014



[www.maldon.gov.uk](http://www.maldon.gov.uk)

Scale: 1:1,250

Organisation: Maldon District Council

Department: Department

Comments: SE Area Planning Committee

Date: 03/07/2019

MSA Number: 100018588

### **3. SUMMARY**

#### **3.1 Proposal / brief overview, including any relevant background information**

- 3.1.1 The application site lies within an agricultural setting, on the southern end of Hockley Lane which is a single file, concrete road to the south-east of Bradwell-on-sea. The site lies outside of any defined settlement boundary and is part of a cluster of buildings within the countryside. To the south of the application site is the dwelling known as Sandbeach which is under the same ownership and is rented by the Applicant. There are three additional buildings abutting or adjacent to the application site which are under the same ownership but are not included in the application. The site is occupied by an “L”-shaped building which is currently used to house the kennels, a yard treated with hard core loose material, and a caravan which is used as a vet practice in association with the dog rescue which is operating on site.
- 3.1.2 The area around the site is open and rural in nature, typical of the landscape in the Dengie Peninsula. The nearest structures to Sandbeach are agricultural buildings at Glebe Farm and Weatherwick some 350m to the north and 850m to the west respectively. The nearest residential properties are located approximately 1600m to the north as the bird flies. A footpath crosses the length of Hockley Lane for several hundreds of metres. The footpath continues from the east of the site southwards where it intersects another footpath connecting the site with the sea to the east and with the village of Tillingham to the south-west. To the south of the site is Bradwell Brook. To the south of Bradwell Brook is a part of Sandbeach Meadows Site of Special Scientific Interest (SSSI). Another part of the same SSSI designation is located approximately 200m to the north of the site. Approximately 600m to the east of the site, the land is part of a number of designations including the Essex Estuaries Special Area of Conservation (SAC) and Marine Conservation Zone (MCZ) and the Ramsar designated Dengie Special Protection Area (SPA) and SSSI.

#### The development

- 3.1.3 Planning permission is sought for the material change of use of the application site from agricultural to a dog rescue centre with associated kennels and a caravan used as a veterinarian’s office. The development has already been carried out, therefore, the application is retrospective in nature and has been submitted under the provisions of Section 73A of the Town and Country Planning Act 1990 as amended (the “1990 Act”).
- 3.1.4 To accommodate the use, the agricultural building within the application site have been converted to kennels. The “L”-shaped building has a maximum length of 24.3m, a maximum width of 21.1m and a maximum depth of 5.3m. The building is closed on four of its six sides. The sides facing the yard within the application site are open. The submitted plans show that sixteen (16) kennels have been accommodated within the building. An area of the hardsurfaced yard has been fenced off to create an exercise space. Gates and fences enclose the rest of the rectangular area between the house and the building. The caravan is located to the western part of the site. It is a standard static caravan measuring 9.6m by 3.6m with height to the eaves at 2.7m. The caravan has a typical shallow pitched roof measuring 3m from the ground to the ridge.

- 3.1.5 A management plan has been submitted in support of the application. Within the plan, it is proposed, among others, to display the plan on site, staff and volunteers to receive training, the visitors' hours to be Wednesday to Sunday 11am to 5pm with reduced hours for the winter, the dogs will be walked in groups with maximum of two dogs to one staff member, during specific hours (8:30am to 3pm) and will be kept on leads.

### Background

- 3.1.6 The dog rescue was previously located at Oldfield Lodge, Burnham Road, Latchingdon, Essex, CM3 6EZ. The Council refused three applications (references: FUL/MAL/15/00058, FUL/MAL/16/00118 and FUL/MAL/17/00556) and issued an enforcement notice (reference: ENF/14/00181/01) for the use at that site due to noise issues and the associated impact to the amenity of neighbouring occupiers.
- 3.1.7 The application was initially submitted without the caravan forming part of the development for which permission was sought for. This aspect of the development was highlighted during a site inspection. The application was amended to include the caravan. Furthermore, the management plan was submitted. Re-consultation was carried out at the time. During the consideration of the application it was considered necessary the dwellinghouse at Sandbeach to be included within the application site. The reason why this amendment was required is explained at section 5.3 and relates to the potential impact of the development upon the amenity of the area. As the application site has been amended to be enlarged, the application has been re-advertised for re-consultation. The consultation period will expire on 18 July 2019.

## **3.2 Conclusion**

- 3.2.1 There are no concerns raised in relation to the principle of the development, its impact to the character and appearance of the area and the risk of flooding. Subject to conditions, concerns about the impact on the amenity of residential occupiers, impact on the safety of the highway network and the effect upon the natural environment would be mitigated. Overall, it is considered that the disbenefits and the potential harm arising from the development, if appropriately controlled with conditions, would not outweigh its benefits. The development, subject to conditions, is considered to be sustainable and in line with policies S1, S7, S8, E4, D1, D2, D5, T1, T2 and N2 of the approved Local Development Plan (LDP). Given that planning applications should be determined in accordance with the approved LDP unless material considerations indicate otherwise, this application should be approved as there are no material planning considerations to indicate that the development should not be granted planning permission subject to conditions.

## **4. MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

### **4.1 National Planning Policy Framework 2019 including paragraphs:**

- 2-14 Achieving sustainable development
- 38 Decision-making
- 47 – 50 Determining applications

- 54 – 57 Planning conditions and obligations
- 102 – 111 Promoting sustainable transport
- 128 – 132 Achieving well-designed places
- 148 – 169 Meeting the challenge of climate change, flooding and coastal change
- 170 - 183 Conserving and enhancing the natural environment

#### **4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:**

- S1 Sustainable Development
- S7 Prosperous Rural Communities
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D2 Climate Change & Environmental Impact of New Development
- D5 Flood Risk and Coastal Management
- E4 Agricultural and Rural diversification
- N2 Natural Environment, Geodiversity and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

#### **4.3 Relevant Planning Guidance / Documents:**

- Planning Practice Guidance
- Maldon District Design Guide (MDDG) SPD
- Maldon District Vehicle Parking Standards Supplementary Planning Document

## **5. MAIN CONSIDERATIONS**

### **5.1 Principle of Development**

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the National Planning Policy Framework (the “NPPF”) require that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved Maldon District Local Development Plan (the “LDP”).

5.1.2 The application site lies outside of any settlement boundary as these are defined within the approved LDP. Policy S1 of the LDP states that:

*“When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and will apply [inter alia] the following key principles in policy and decision making:*

- 3) *Promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations;*
- 4) *Support growth within the environmental limits of the District;*
- 5) *Emphasise the importance of high quality design in all developments;*
- 12) *Maintain the rural character of the District without compromising the identity of its individual settlements;”.*

5.1.3 Policy S8 states that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. Outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, policy S8 states that planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for a specific type of development. Among others, policy S8 allows for:

- “e) the re-use of a redundant or disused building that would lead to an enhancement of the immediate setting in accordance with policy E4.*
- f) rural diversification, recreation and tourism (including equestrian and related activities) proposals in accordance with policies E4 and E5. “*

5.1.4 Policy E4 states that the Council will support the change of use of existing rural buildings to other employment generation uses if it can be demonstrated that:

- a) There is a justifiable and functional need for the proposal;*
- b) It will contribute to the viability of the agricultural business as a whole;*
- c) Any development respects the building’s historic or architectural significance;*
- d) Any development will not negatively impact upon wildlife and the natural environment;*
- e) No storage of raw materials or finished goods is to take place outside the building if it would be detrimental to the visual amenity of the area; and*
- f) The use of the building would not lead to dispersal of activity on such a scale as to prejudice the vitality and viability of existing businesses in nearby towns and villages.*

5.1.5 It is considered that the operational advantage of being in a relatively isolated location means that a countryside location is appropriate for a use of this type. If this use would be undertaken in close proximity to residential accommodation the situation would be problematic. It is considered that this dog rescue represents the re-use of an existing building within the countryside. The rescue operates, albeit without planning permission, since at least 2014. This demonstrates that there is a justifiable and functional need for the development in line with criterion (a). It is not clear if criterion (b) will be met as it is not clear if the land owner operates an agricultural business that would benefit from the rent income. With regard to criterion (c) the changes to the buildings are minor and as such this criterion is met. Criterion (d) is also met subject to conditions. The impact of the development on the wildlife and the natural environment will be discussed in detail in the following sections of the report. Criterion (e) is met and this can also be ensured with a condition. Finally, criterion (f) is also met, as this type of use is normally located away from town centres and villages.

- 5.1.6 It should be noted that when the planning applications the same use were considered by the Council, it was considered that the principle of the development could be viewed as an appropriate form of rural diversification. Given that both the site in Latchingdon and the current application site are out of any defined settlement boundary and the use in all previous applications was proposed to be accommodated within existing agricultural buildings as is the case for this application, significant weight should be given to the previous considerations about the principle of the development. For these reasons, no objection is raised to the overall principle of the change of use.
- 5.1.7 The development includes the stationing of a caravan to be used as a veterinary clinic in association with the dog rescue use. It has already been discussed that the principle of the change of use to the dog rescue is acceptable. Given that the caravan will be used for ancillary purposes to the dog rescue use, its stationing and use are also acceptable in principle. Other material planning considerations are discussed in the following sections of the report.

## **5.2 Design and Impact on the Character of the Area**

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

*“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*

*“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development”.*

- 5.2.3 This principle has been reflected to the approved LDP. The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-
- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
  - b) Height, size, scale, form, massing and proportion;
  - c) Landscape setting, townscape setting and skylines;
  - d) Layout, orientation, and density;

- e) Historic environment particularly in relation to designated and non-designated heritage assets;
- f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- g) Energy and resource efficiency.

Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG Supplementary Planning Document .

- 5.2.4 It has already been mentioned that the application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
- 5.2.5 The development has not resulted in any material external alterations to the buildings. Any alterations to the buildings are visible only from within the yard within the application site. The erection of the fencing within the yard to create the exercise area could have been carried out under permitted development. Overall, these alterations to the eastern part of the application site are not considered to be detrimental to the character and appearance of the area.
- 5.2.6 With regard to the caravan, whilst public views are limited from the east, south and west, the caravan is clearly visible from the north and from public vistas within the public footpath on Hockley Lane. Its appearance is typical for a caravan, a structure designed to be fit for human habitation. Such appearance conflicts with the agricultural nature of the application site and the surrounding area. This type of unit is normally more appropriate within established caravan sites or near residential settlements, not within agricultural units. Therefore, this part of the development is harmful to the character and appearance of the rural countryside contrary as it is of rudimentary design and domestic character which is out of context within the locality.
- 5.2.7 It is recognised that the caravan accommodates facilities which are very important for the operation of the dog rescue use. Hence, if planning permission would be granted a condition to limit the use of the caravan for a temporary period only would allow the applicant to find alternative accommodation for these facilities and ensure that the harm caused to the area is removed. It is considered that a condition allowing a temporary period of one year would pass the six tests. The one year temporary period is considered reasonable because if the Council were to take enforcement action with the service of an enforcement notice, the applicant would have the right to appeal. By the time that appeal would have been determined about a year would have passed. On the other hand, by managing this aspect of the development with a condition, if the condition would be breached, the Council has the opportunity to take enforcement action in the form of a breach of condition notice against which there is no right of appeal.



### **5.3 Impact on Residential Amenity**

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG. Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light . Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 The external alterations within the site, including the stationing of the caravan, coupled with the distance from residential properties, have not given rise to any issues regarding overlooking, overshadowing or overpowering any residential properties.
- 5.3.3 Whilst the same use for the same rescue was previously refused by the Council due to the generated noise affecting the amenity of neighbouring occupiers, in this instance the distance of the application site from other residential properties and the layout of the development within and adjacent the application site reduce noise and disturbance from the dogs. Whilst it is noted that the application site is located within a tranquil rural setting with very low ambient noise levels, when officers visited the site on three occasions, no significant noise was audible outside the application site. Another source of noise and disturbance is the vehicle movements associated with the use. It is not considered likely that the use would attract such high volumes of vehicle movements that they would be an issue in relation to noise.
- 5.3.4 Although objecting comments have been received, the issue of noise and disturbance has not been raised which is indicative that the use in this location is probably not detrimentally harmful to the amenity of residential occupiers. Whilst there is a dwellinghouse within the application site, this is occupied by the Applicant. This dwellinghouse originally was not included within the application site. Hence, an independent use of the dwellinghouse from the dog rescue use would not be improbable. If that were to occur, the noise and disturbance from the activities within the application site would be detrimental to the amenity of the occupiers. If the dwellinghouse was not within the application site a condition to tie the use of the dog rescue with the occupation of the dwellinghouse by the owner of the rescue would not have passed the six tests. However, now the dwellinghouse is within the application site. As such a condition to require the house to be occupied by a person who has control over the activities of the dog rescue use would pass the six tests and would render the level of harm acceptable. Furthermore, the other nearest residential properties are located in areas near roads or villages, where the ambient noise levels are slightly higher than the ambient noise levels immediately around the application site.
- 5.3.5 The Council's Environmental Health team has been consulted for this application but raised no issues in relation to noise and disturbance due to the remoteness of the application site. The Applicant's planning statement states that the application would be supported by a noise assessment, but this has not been submitted. The Council could request the noise assessment with a planning condition as it has done in other cases when it was not clear whether a use would cause detrimental impact to the amenity of residents. It is considered that a condition to limit the number of dogs to a

number not exceeding the current numbers noted on site would meet the six tests and ensure that there is no undue increase in the associated noise levels.

## **5.4 Access, Parking and Highway Safety**

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted Vehicle Parking Standards (VPS) Supplementary Planning Document contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure . The key objective of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.4.3 The development has not altered the existing parking arrangements on site or around the site. Within the application site there is an area between the building and the caravan that can be used for parking. Furthermore, to the west, north and east of the site there are extensive areas covered with concrete or hardcore material that could be used for parking by the rescue. Whilst a dog rescue use does not have a specific parking standard, the available parking areas are sufficient to accommodate a large number of cars. The access arrangements to the application site have also remained unaltered from the development. Whilst the use has attracted more vehicles on site, and the road is mainly for single file traffic, it is not considered that the development is detrimental to the highway safety of the adjacent network. The access road includes laybys to reduce conflict of incoming and outgoing traffic. Furthermore, the openness of the area allows drivers to see traffic coming from the opposite direction from longer distances. The Highways Authority has been consulted and raised no objection to the application subject to a condition to request the public footpath to be kept clear. While the adjacent highway is narrow and unlit lane, the traffic generated from the development, subject to conditions to limit the hours of operations and the number of visitors, will not be detrimental to the highway safety. Furthermore, a condition to bind the use of the veterinary caravan to the dog rescue use will pass the six tests as it would ensure there is no additional traffic generated.

- 5.4.4 Concerns have been raised about the traffic generated from interested parties. Comments have been received alleging that drivers visiting the rescue are speeding, driving dangerously, have no respect for pedestrians etc. This behaviour cannot be controlled by the planning system as it relates to the decorum of people. The planning system assumes that people are reasonable and adhere to other legislation. Drivers are required to drive at appropriate speed by the relevant legislation. For the purposes of this application the Local Planning Authority (LPA) will have to take that this will be the normal behaviour.

## **5.5 Ecology and impact on the natural environment**

- 5.5.1 As already mentioned, the application site lies at close proximity to nationally and internationally designated nature reserve sites. These designations have already been mentioned at paragraph 3.1.2 of the report and include part of Sandbeach Meadows SSSI adjacent to the southern part of the site and 200m to the north of the site, the Essex Estuaries SAC and MCZ and the Ramsar designated Dengie SPA and SSSI approximately 600m to the east of the site. The UK is bound by the terms of the Birds and Habitats Directives. They require appropriate steps to be taken to avoid the deterioration of natural habitats and species habitats as well as disturbance of the species for which the areas have been designated. The obligations are transposed into English law in The Conservation of Habitats and Species Regulations 2017 (the “CHSR”). If the LPA is considering granting planning permission in relation to any development likely to affect a designated site of conservation of nature, Section 63 of the CHSR require that the LPA has to carry out an appropriate assessment (also known as a Habitat Regulations Assessment or HRA) to fully consider the impact of the development to the designated site. The Applicant has to provide sufficient information to the LPA to allow them to carry out the HRA. A separate report for the HRA has been prepared. This section contains a summary of the HRA for the development.
- 5.5.2 Paragraph 180 of the NPPF states that in order to prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on the natural environment and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Paragraph 170 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by, among others, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.
- 5.5.3 Policy N2 states that any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance. Where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal will not normally be permitted. It also states that wherever possible, all development proposals should incorporate ecologically sensitive design and features, providing ecological enhancements and preventing pollution.
- 5.5.4 Policy D2 seeks all development to minimise its impact on the environment by incorporating measures to minimise all forms of possible pollution including air, land,

water, odour, noise and light. Any detrimental impacts and potential risks to the natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.

- 5.5.5 In this instance, the Applicant has not provided any information assessing the designated site and the likely impact the use is having or could have on them. Instead, a management plan has been submitted to state how the activities outside the site will be conducted, namely that dogs will be kept on leads and will be walked in groups of maximum two dogs per member of staff or volunteer. The nature of the use requires dogs to be exercised. If dogs were to be left to run freely, it is likely they would reach the designated areas around the site and cause disturbance to the flora and fauna of the habitats. However, on the basis of the submitted management plan, it is considered that the likely effect of the use on the nearby designated site is unlikely to be detrimental. The LPA has also consulted Natural England (NE), as a statutory consultee, and other non-statutory consultees, such as the Essex Wildlife Trust (EWT). NE's consultation response referred the LPA to the NE's standard advice which does not give rise to any concerns. The consultation response from EWT was objecting to the development on the basis of limited information and stated that there is potential harm unless the dogs are kept on leads when walked. This is exactly what is stated in the management plan. It should be noted that the public footpaths are used by dog walkers frequently and any such control would not be available on these dogs.
- 5.5.6 Other matters that could negatively impact the designated sites include external lighting, installation of external apparatus or inappropriate discharge of foul water. These matters could be addressed by appropriately worded conditions which would meet the six tests of the NPPF.
- 5.5.7 In summary, the HRA concludes that due to the proximity of the site and the nature of the development there is a Likely Significant Effect (LSE). The assessment for a LSE is the first stage of the HRA. As there is an LSE, the competent authority is required to carry out an Appropriate Assessment (AA). The AA examines whether the project on its own or cumulatively affects the integrity of the designated site (Integrity Test). The HRA states that the use and works as proposed adversely affect the integrity of the protected sites. The third stage of the HRA is the consideration of Alternative Solutions. As already discussed, conditions to ensure that dogs would not run loose within the designated sites, to manage the installation of external lighting and apparatus, and to require appropriate foul water drainage solutions if necessary would be sufficient to render the development acceptable and safeguard the integrity of the protected sites. As Alternative Solutions can minimize the impact of the development there is no reason to consider the fourth stage of the HRA regarding reasons to override the public interest or any compensatory measures. This outcome is compliant with planning policy, too.

## **5.6 Flood Risk**

- 5.6.1 The application site lies within a Flood Zone 3, the higher probability zone. Paragraph 164 of the NPPF states that when the development is for a change of use, there is no need to consider the sequential or the exception test, but the development should still be subject to a site specific Flood Risk Assessment. The nature of the use falls within the Less Vulnerable category as per the vulnerability of uses classification contained within the Planning Practice Guidance. Less vulnerable uses are suitable to

be located within a flood zone 3. The submitted FRA shows that although the site is within the higher probability zone, it also benefits from flood defences which render the event of flooding on site less likely. It is considered that the development has not increased the risk of flooding as the buildings were already in situ.

## **5.7 Sustainability and planning balance**

- 5.7.1 One of the key priorities within the NPPF is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of ‘sustainable development’ providing for an economic, social and environmental objective as set out in the NPPF. The development is considered to contribute positively to the economic and social objectives of the sustainable development. The economic benefits are minimal as they relate to the attracting of visitors to the area. The social benefits arise from the provision of facilities where dogs are rescued and people are able to adopt them. There are some disbenefits in relation to the environmental objective which relate to the increased vehicle movements, foul water discharge, potential noise pollution and potential light pollution. However, with the exception of the additional vehicle movements, these disbenefits can be limited with appropriate conditions as discussed in the relevant sections. An environmental benefit arises from the re-use of the existing buildings.
- 5.7.2 Overall, it is considered that the disbenefits and the potential harm arising from the development, if appropriately controlled with conditions, would not outweigh its benefits and the development is considered to be sustainable. Furthermore, the development is in line with policies S1, S7, S8, E4, D1, D2, D5, T1, T2 and N2 of the approved LDP. Given that planning applications should be determined in accordance with the approved LDP unless material considerations indicate otherwise, this application should be approved as there are no material planning considerations to indicate that the development should not be granted planning permission subject to conditions.

## **5.8 Other Material Considerations**

- 5.8.1 Concerns have been raised about the animal welfare and the condition of the kennels. These are matters that are not material planning considerations as they are controlled by other legislation.
- 5.8.2 Concerns have been raised for the waste collection, including clinical waste. These details could be requested with an appropriately worded condition.

## **6. ANY RELEVANT SITE HISTORY**

There is no relevant planning history for this application site.

## **7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

### **7.1 Representations received from Parish / Town Councils**

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Bradwell-on-sea	Object – The use has	Comment noted. Please

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
	caused traffic issues on a road which is supposed to be used only for agricultural purposes and conflict between drivers and pedestrians.	see section 5.4 of the report.

## 7.2 Statutory Consultees and Other Organisations

<b>Name of Statutory Consultee / Other Organisation</b>	<b>Comment</b>	<b>Officer Response</b>
Natural England	Comment – the application is within a trigger zone but no bespoke advice will be provided other than the standard advice.	Comment noted and standard advice taken into account.
Essex Wildlife Trust	Object – Limited information has been provided. An ecological report should be submitted. Potential harm to the adjacent designated sites, but if the dogs are exercised on a lead at all times this will greatly reduce the disturbance impacts to protected sites and nesting and foraging birds.	Comment noted. Please see section 5.5 of the report.
Highways Authority	No objection subject to a condition to keep the public's rights and ease of passage over footpath 19 unobstructed at all times	Comment noted. Please note that the footpath does not cross from within the application site therefore this conditions does not pass the six tests.

## 7.3 Internal Consultees

<b>Name of Internal Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Environmental Health	No objection subject to conditions – The site is in a remote location where noise is not an issue. Conditions proposed in relation to waste disposal, foul and surface water drainage. Informative	Comment noted.

Name of Internal Consultee	Comment	Officer Response
	proposed regarding licence under the Animal Welfare Regulations.	

#### 7.4 Representations received from Interested Parties

7.4.1 12 representations were received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Road is unsuitable for an increase in traffic. Many incidents of conflict between vehicles and pedestrians have been reported.	Comment noted. Please see section 5.4
No right of way for the business.	This is a private legal matter between the applicant, the land owner and any other interested parties.
There is no footpath for pedestrians	Comment noted. Please see section 5.4
The application doesn't state how many animals the proposed kennels are for, if there is a provision for veterinary services.	Comment noted. These are matters that can be controlled by conditions (please see section 5.3 and 5.4).
The application doesn't state the size of the kennels and does not show the proposed kitchen.	This is shown or can be measure on the submitted plans. The kitchen is thought to be within the area marked as store.
The vet caravan needs permission to run the vet clinic from the RCVS and needs to be of a suitable standard for the purpose.	This is not a material planning consideration.
The business transports over 60 dogs every two/ three weeks from outside the UK.	This is not a material planning consideration. The number of dogs on site is material planning consideration and has been discussed on section 5.3 of the report.
Too many dogs per kennel	This is not a material planning consideration.
Dogs have easily escaped and may do so in the future. This could affect the natural environment.	The adherence to the submitted management plan would be requested with a condition. The fencing on site along with the adherence to management plan would render any escape of dogs unlikely. Furthermore, the area has a public footpath were anyone has access. People could walk their dogs and leave them off lead.

<b>Objection Comment</b>	<b>Officer Response</b>
	There are no planning restrictions to limit this.
Poor living conditions for the animals	This is not a material planning consideration.
AA dog rescue must comply with EU Regulations the Balia Directive 92/65/ECC when importing dogs. The countries from where the dogs are coming may not comply with the directive.	This is not a material planning consideration. Other departments and organisations are dealing with animal imports and exports.
Imported dogs have inadequate history for suitable re homing	This is not a material planning consideration.
The conditions of the last rescue was not adequate	This is not a material planning consideration.
No sewerage on site, how will waste be disposed of including clinical waste?	Comment noted. Please see sections 5.5 and 5.8 of the report.
Wood cladding used on the barn is porous, unsuitable and a disease risk	This is not a material planning consideration.
No consideration for natural light, ventilation and heating facilities.	This is not a material planning consideration.
The Council has previously said that the lane is unsuitable for traffic for the development of the nearby wind farm.	The traffic generated for the development of a windfarm is materially different especially in terms of size of vehicles. Traffic for windfarm development usually includes vehicles that need more than a single lane.
The application show 17 kennels, but the Applicant received sponsorship for twenty which shows that more kennels are planned.	The number of kennels within the buildings is not binding. The size of these kennels could be changed to accommodate more kennels without the need for planning permission. If more kennels are planned elsewhere, this probably would require planning permission. However, this is not a consideration relevant to this application.
The submitted plans do not show if there is an allocation for isolation kennels	This is not a material planning consideration.
The applicant is a tenant. Can tenants submit applications? Does the applicant have the owner's permission?	Planning applications can be submitted by anyone for any land so far as the correct certificate of ownership has been signed. In this instance, Certificate B has been signed hence the owner has been notified. The consent of the owner is not necessary for a planning permission. If



<b>Objection Comment</b>	<b>Officer Response</b>
	the owner does not want the tenant to carry out activities is a private matter between them.

7.4.2 **23** representations were received **in support** of the application and the reasons for support are summarised as set out in the table below:

<b>Supporting Comment</b>	<b>Officer Response</b>
Minimal noise, nuisance and odour to residents due to its remote location	Comment noted.
The charity is a professional organisation that is knowledgeable of animal's needs, welfare and legal requirements.	This is not a material planning consideration.
Suitable location for the proposal, doesn't infringe on neighbouring properties	Comment noted.
They do not transport over 60 dogs every two/ three weeks	This is not a material planning consideration. The number of dogs on site is material planning consideration and has been discussed on section 5.3 of the report.
The charity is committed to save any animal they can, UK and abroad, by rescuing and rehoming dogs with a high success rate.	This is not a material planning consideration.
It will enable the company to expand and assist with more animals in the UK	This is not a material planning consideration.
Providing employment in local area	Comment noted.
The vet practice will attend to the medical and mental needs of the dogs quickly	Comment noted.

## **8. PROPOSED CONDITIONS**

- The use hereby permitted of the area hatched red within the application site on the attached plan shall only be as a dog rescue centre.  
**REASON** To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
- The residential use of the site shall be contained within the original dwellinghouse and its curtilage and outside of the area hatched red within the application site on the attached plan.  
**REASON** To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in

- accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
3. The occupation of the dwelling shall be limited to a person solely or mainly working for the dog rescue use hereby permitted and the person's household as long as the dog rescue use hereby permitted is taking place.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
  4. The caravan hereby permitted shall only be used for purposes ancillary to the use of the site as a dog rescue to attend to medical needs of the dogs before their adoption.  
REASON To ensure the interests of protecting the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, T1, T2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
  5. The caravan hereby permitted shall not be used as a separate business.  
REASON To ensure the interests of protecting the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, T1, T2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
  6. The caravan hereby permitted shall be removed and the land restored to its previous condition within twelve (12) months from the date of this permission.  
REASON To ensure the harm to the character and appearance of the area is removed in accordance with local policies S1, S7, S8 and D1 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
  7. The Management Plan which was submitted to the Local Planning Authority on 24 May 2019 and forms part of this application, shall be displayed on site and be adhered to at all times in perpetuity.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
  8. The premises hereby permitted to be used as a dog rescue centre shall not be open to customers/people who are interested in adopting a dog outside of 10:00 hours and 17:00 hours on Wednesdays, Thursdays, Fridays, Saturdays and Sundays. No customers shall be present on the premises outside the permitted hours and days.  
REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.
  9. Deliveries to and collections (other than collection of dogs by customers) from the site shall only be undertaken between 08:00 hours and 18:00 hours on weekdays and between 08:00 hours and 13:00 hours on Saturdays and not at any time on Sundays and Public Holidays.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the highway safety in accordance with local policies S1, S7, S8, E4, D1, D2, N2, T1 and T2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

10. No external storage of any items and paraphernalia associated with the permitted use be carried out within the application site.

REASON To ensure the appropriate use of the site in the interests of protecting the character and appearance of the area in accordance with local policies S1, S7, S8, E4 and D1 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

11. The dog rescue use hereby permitted shall cease immediately and shall not commence again unless within three months from the date of this permission a foul water drainage scheme to serve the premises has been submitted to the Local Planning Authority and unless the scheme has been implemented in accordance with the approved details within three months from the date of its approval. The foul water drainage arrangements shall be kept as implemented in perpetuity.

REASON To ensure the interests of protecting the natural environment in accordance with local policies S1, S7, S8, E4, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

12. The dog rescue use hereby permitted shall cease immediately and shall not commence again unless within three months from the date of this permission a scheme for the storage and removal of waste and recyclables to serve the development has been submitted to the Local Planning Authority and unless the scheme has been implemented in accordance with the approved details within three months from the date of its approval. The storage and removal of waste and recyclables shall be kept as implemented in perpetuity.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E4, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

13. Notwithstanding the submitted details, no external illumination shall be installed or operated within the application site unless it is in accordance with a scheme that has been submitted and approved by the Local Planning Authority. Any approved external illumination shall be turned off by 20:00 hours.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E4, D1, D2 and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.

14. No extraction or ventilation equipment, vents, air conditioning units or similar plant equipment shall be installed or fitted to any external part of the building except in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The scheme as approved and installed shall be retained as such thereafter.

REASON To ensure the appropriate use of the site in the interests of protecting the amenities of adjacent occupiers, the natural environment and the character and appearance of the area in accordance with local policies S1, S7, S8, E4, D1, D2

and N2 of the approved Local Development Plan and national policies contained in the National Planning Policy Framework.