

# COMMITTEE REPORT

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## APPLICATION DETAILS

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APPLICATION No:	DM/21/00198/FPA
FULL APPLICATION DESCRIPTION:	Retention and use of existing outbuildings and land for the non-commercial breeding and keeping of dogs
NAME OF APPLICANT:	Mr and Mrs Wills
ADDRESS:	Land East of Home Farm, Sedgfield TS21 2EJ
ELECTORAL DIVISION:	Sedgfield
CASE OFFICER:	Hilary Sperring, Planning Officer, 03000 263947, <a href="mailto:hilary.sperring@durham.gov.uk">hilary.sperring@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application relates to a small (0.1 hectare) roughly rectangular parcel of land to the south west of Sedgfield that adjoins a larger field in the ownership of the applicant.
2. Access to the site is taken from a track to the south off Racecourse Road (C38) that passes through two sets of gates. To the north the site is bordered by the A689 dual carriageway (at a lower level), with residential properties in Sedgfield beyond in Queens Drive, Claremount Grove and Station Road.
3. The site boundary is demarked in part by post and rail fence, hedge and trees, with (an element of crash barrier close to the entrance). The site itself is of relatively level topography, although the access slopes into the site from the main road.
4. The boundary of the Hardwick Park Conservation Area lies to the north of Station Road, in excess of 120 metres from the site.

### The Proposal

5. The application is retrospective in nature and a single storey concrete sectional building, with pitched roof, is in place close to the eastern boundary. This has a linear form and is orientated north south facing into the site (approximate dimensions 21.8 metres by 3.5 metres and 2.5 metres in height to the ridge) The building has a concrete base and is finished in pebbledash, with white uPVC windows.
6. The building has been subdivided internally to provide 2 areas of kennelling, separated by a central feeding preparation point. 9 individual kennels are provided in one area and 5 in the other.

7. A timber shed, with corrugated roof, (approximately 2.5 metres by 3.6 metres, and 2.1 metres in height) and a former railway carriage (approximately 2.5 metres by 5.8 metres and 2.35 metres in height) are located to the north of this building and are being used for storage (sawdust bedding etc).
8. Areas of hardstanding are positioned to the west and south of the existing buildings and a roughly triangular shaped grassed field to the west is used to exercise the dogs. A generator is positioned adjacent to the kennels building.
9. The application is being reported to the Planning Committee at the request of Sedgefield Town Council which, having noted concerns expressed by those who have submitted objections, predominantly relating to noise disturbance consider this the best way to ensure the views of all parties are heard.

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## **PLANNING HISTORY**

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10. There is no history of any formal planning applications relating to the site. It is however understood that the site has in the past included stables and associated storage buildings that were used for personal recreational purposes, some of which remain in situ.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

11. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. In accordance with Paragraph 213 of the National Planning Policy Framework, the following elements of the NPPF are considered relevant to this proposal.
12. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
13. *NPPF Part 4 Decision-Making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

14. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
15. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
17. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
18. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
19. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
20. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.
21. *NPPF Part 16 Conserving and Enhancing the Historic Environment* – Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

## **NATIONAL PLANNING PRACTICE GUIDANCE:**

22. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air design process and tools; determining a planning application; amenity; healthy and safe communities; historic environment; land affected by contamination, land stability, natural environment; noise; public rights of way and local green space; and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

#### **LOCAL PLAN POLICY:**

##### The County Durham Plan (CDP)

23. *Policy 10 Development in the Countryside* – states that development in the countryside will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposals relates to stated exceptions.
24. *Policy 21 Delivering Sustainable Transport* - states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
25. *Policy 29 Sustainable Design* - requires all development proposals to achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents where relevant, and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
26. *Policy 31 Amenity and Pollution* - development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated.
27. *Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* - states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
28. *Policy 35 Water Management* - states that all new development should adopt the hierarchy of preference in relation to surface water disposal.
29. *Policy 39 Landscape* - states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.

30. *Policy 40 Trees, Woodlands and Hedges* - states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
31. *Policy 44 Historic Environment* – seeks to ensure that development should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/ levels of public benefit which must apply in those instances.

### **The Sedgefield Neighbourhood Plan**

32. The application site falls within the geographical scope of the Sedgefield Neighbourhood Plan. This plan received support through a referendum on 12 September 2019 and now has development plan status. Therefore, the following Neighbourhood Plan policies would be considered relevant:
  33. G1b - Development outside the Built-up Area Boundary
  34. E1 - Visual and Spatial Impact

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

35. *Sedgefield Town Council* – Noting concerns expressed by those who have submitted objections, predominantly in material planning terms, relating to noise disturbance.
36. *Highway Authority* – No objections

### **INTERNAL CONSULTEE RESPONSES:**

37. *Animal Health Inspector* – Advising that one enquiry relating to the site was received in late 2019, relating to some dome kennels on the land and concerns that dog breeding might take place. This was investigated and not considered to be the case. There are no other recorded visits or complaints relating to the sale of dogs from the site.
38. *Design and Conservation* – Not considered to be any adverse impact on designated heritage assets
39. *Environmental Health (Contaminated Land)* - No adverse comments to make. There is no requirement for a contaminated land condition.
40. *Environmental Health (Noise)* – Following the submission of a Noise Assessment and with the application of conditions, satisfied that the development is unlikely to cause a statutory nuisance.
41. *Landscape* – No objection

## **PUBLIC RESPONSES:**

42. The application has been advertised by way of neighbour notification letters to nearby properties and a site notice has also been displayed. 43 representations have been received raising numerous objections (with 16 of these received from outside of the immediate area of the application site including some from locations throughout the country). The objections refer to: –
43. The potential for noise pollution both for basic expectations of residential amenity and impacts on local businesses, from the animals, vehicle movements and the use of a generator. The problem is likely to be worse in the evenings and winter months, without tree cover, with the existing fencing providing no mitigation in this respect. Full noise impact surveys are requested.
44. Issues of smell and odour including the management of waste, with burning of animal waste a further concern particularly in summer months.
45. Flood-risk and drainage issues particularly from contaminated water.
46. The size of operation and suitability of the buildings and site for this purpose is questioned, with insufficient exercise space for the dogs and animal welfare and detailed management of the operation raised with reference to the Animal Welfare Act 2006. No details on the number of animals, breeding intentions and sales are provided and there is a concern the dogs may escape towards the nearby dual A689 carriageway. The potential for the operation to generate a need for a permanent residence is raised with the physical relationship of the applicant to the site unknown.
47. The site is prominent with the design and appearance of the buildings not high quality. Entrance to the site is on a bend of a national speed limited road with no signage, and safety concerns for the access and egress. Maintenance of the access as a public highway and the Council's responsibilities for this is queried with the storage of oil must be in compliance with relevant legislation and the potential risk for theft and vandalism from the site is an issue.
48. There is no mention in the application as to whether the owner of the site has declared a pecuniary interest with regards to the land in accordance with the Sedgefield Councillors Code of Conduct and Standards
49. The use is already taking place in disregard of planning regulations.
50. Initial consultation on the application was inadequate
51. Some correspondents claim a likely negative effect on house prices in the area.

## **APPLICANTS STATEMENT:**

52. For a great many years, this site has been used for the keeping of domestic livestock as pets. Initially it was used for the keeping of the owners family horses/ponies and then for the rearing of chickens and rabbits. At all times the use has been small scale and non-intrusive with minimal impact upon residents, the closest of which live more than 90m from the site, on the other side of the busy A689 dual carriageway around the town. The landowners family have grown up and the site is no longer needed for their own livestock and accordingly they offered it to a local farrier and family friend who rears greyhounds for his own personal enjoyment. It's a simple and

straightforward hobby, not an intensive commercial operation. The small number of dogs are well looked after and the site has been visited by animal welfare officers who have found nothing wrong with the conditions on site.

53. The dogs are healthy and well looked after although this has not prevented some fantasy reporting in the local press. None of the reports seemed to be based upon any actual understanding of conditions on site and no visits were made.
54. The site is virtually invisible from any public vantage point and the detailed noise report confirms that no noise nuisance is caused by the current operations. Conditions can be imposed to limit the maximum number of dogs, recognising that the permission runs with the land, not the person.
55. The applicants have co-operated fully with officers of the Council and have demonstrated that there are no technical issues with the application at all. It is not understood why a minor application of this nature relating to such a small scale proposal, with such miniscule impacts needs to be considered at such a high level, clogging up the agenda and preventing the proper consideration of major proposals that affect the strategic direction and investment in the County. You will appreciate it was never the applicants wish that members valuable time should be taken up with this small matter. We hope that members will appreciate that this scheme has no technical objections and is compliant with the policy framework nationally and locally. We urge you to support it without further delay.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at

<https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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56. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
57. The Local Plan was adopted in 2020 and is up to date. Consequently, consideration of the development should be led by the plan if the decision is to be defensible. The site also falls within the geographical scope of the Sedgfield Neighbourhood Plan that has development plan status.
58. Paragraph 11c of the National Planning Policy Framework requires applications for development proposals that accord with an up to date development plan to be approved without delay.
59. The main considerations in regard to this application are considered to be the principle of the use in this location, the impacts upon amenity, landscape/visual impact, access and highway safety, flooding and drainage, land stability and other matters raised.

The Principle of the Development:

60. The site is positioned outside the built-up area of Sedgefield within a countryside location.
61. Policy 10 of the County Durham Plan relates to development within the Countryside and states that all development in the countryside must accord with all other relevant development plan policies and by virtue of their siting, scale, design and operation must not:
- l. give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for;
  - m. result in the merging or coalescence of neighbouring settlements;
  - n. contribute to ribbon development;
  - o. impact adversely upon the setting, townscape qualities, including important vistas, or form of a settlement which cannot be adequately mitigated or compensated for;
  - p. be solely reliant upon, or in the case of an existing use, significantly intensify accessibility by unsustainable modes of transport. New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport;
  - q. be prejudicial to highway, water or railway safety; and
  - r. impact adversely upon residential or general amenity.
  - s. minimise vulnerability and provide resilience to impacts arising from climate change, including but not limited to, flooding; and
  - t. where applicable, maximise the effective use of previously developed (brownfield) land providing it is not of high environmental value.
62. Policy G1b of the Sedgefield Neighbourhood Plan relates to development outside the built-up area boundary. It advises that development will be supported where it meets national and local policy requirements advising and that certain relatively small-scale developments that protects the character of the countryside will be permitted. Other development, which can justify a rural location including agricultural workers, farm diversification, recreation and tourism development may also be allowed. All proposals must be in scale and keeping with the form and character of the neighbourhood area and local landscape.
63. Accordingly, the principle of development could accord with the County Durham Plan and the National Planning Policy Framework and be regarded as acceptable subject to detailed consideration of the issues below.

Amenity:

64. Paragraph 170 of part 15 of the National Planning Policy Framework requires decisions to prevent new development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of pollution such as noise pollution.
65. Paragraph 180 goes on to advise that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;



b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason;

66. Policy 29 of the County Durham Plan seeks to secure high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
67. In addition, policy 31 of the County Durham Plan states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and can be integrated effectively with any existing business and community facilities. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living and/or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result.
68. A large number of objections relate to the suitability of the site and building for their purpose in view of its proximity to the local community. These highlight issues of noise and disturbance, from the dogs during the day and at night and from the generator and general comings and goings. This is considered to negatively impact upon residential amenity, resulting in disturbance, loss of sleep, fatigue, upset and anxiety.
69. The Environmental Health Officer (EHO)(Noise) initially advised that the development would be noise generating as by their nature dogs bark, and the sound can have particular characteristics that can travel significant distances causing annoyance and statutory nuisance. This can be worsened when the kennels are unmanned.
70. A document entitled 'Noise Management Plan' had initially been submitted with the application which the EHO considered to be more of a review and statement from the authors that the development would be at a low impact 'No Observed Effect Level'. Having considered the information initially submitted and notwithstanding the separation distances to the nearest dwellings across 4 lanes of the A689 at this point he was of the opinion that the development could potentially result in a statutory nuisance being created, with the noise from the vocalisation of the dogs likely to give rise to a statutory nuisance, particularly at night.
71. The applicant was therefore requested to submit a detailed noise impact assessment of the likely affects.
72. Following the submission of this document the EHO has stated that he is in agreement with the approach and methodology taken by the consultants and the report conclusions that the development would not have a negative impact upon sensitive receptors and that no further mitigation is required.
73. He also advised that there is no record of previous complaints on the EHO database in relation to noise from this development which is retrospective in nature. However, he notes that a recent complaint has been made about the generator which is under investigation and that members of the public have objected to the current application.

74. Taking the above into consideration he has no objection to the development, however as noise from dog barking can be difficult to quantify and in the interest of protecting amenity going forward, he recommends that the following conditions are applied to any planning approval
- There should be no more than 14 dogs held within the kennels in total at any time.
  - All dogs shall be held within their kennels between 2300hrs and 0700hrs on any 24-hour day.
  - The structure of the kennels should be maintained in perpetuity in order to provide the levels of attenuation described within the Noise Impact Assessment.
  - The use of the generator is restricted to daytime hours of operation, that is the generator is not to be used between the hours of 2300 to 0700hrs on any day, unless in the interest of animal husbandry.
  - That an acoustic screen is erected adjacent to the generator preventing line of sight with the Noise Sensitive Receptors.
75. Based on the information submitted with the application and subject to the above conditions, the EHO is satisfied that the development is unlikely to cause a statutory nuisance.
76. It is appreciated that these comments relate to statutory nuisance. However, having considered the nature, scale and location of the development relative to the nearest residential properties which are suitably separated, screened and orientated in relation to the site it is not believed that the development would inherently give rise to significant adverse amenity impacts. Notwithstanding the representations received it is not considered that the use and operations give rise to such conditions of excessive noise and disturbance to sustain a refusal.
77. As regards the concerns about smell and the management of waste and burning of material on site that have been raised supporting information advises that all waste bedding is composted with the material being spread on the adjacent grassland at an appropriate seasonal point. Dog faeces are kept in a secure flyproof container on the site and disposed of via a waste contract.
78. It is recommended that in the event of an approval suitable conditions are attached in respect to the management of waste and to prevent the burning of materials and waste.
79. Although it is not known how far away from the site the user lives, supporting information suggests that he spends a significant portion of his day there (although not in any residential capacity). There is no set routine to activity at the site as this depends very much on the number of dogs being kept at any one time, their age, condition, training needs etc.
80. Taking into account the above, and subject to condition, the proposals are considered to satisfy the provisions of Parts 12 and 15 of the National Planning Policy Framework and policies 10, 29 and 31 of the County Durham Plan.

#### Animal Welfare:

81. A number of the objections have highlighted breeding and welfare issues relating to the dogs, under the Animal Welfare Act 2006. Representations also query the

information submitted with the proposals in terms of number of dogs on the site and sale of dogs. It is also stated that although the application is for non-commercial breeding and keeping of dogs the dogs are being bred and trained for the purposes of racing and presumably financial gain.

82. Supporting information with the application indicates that a limited amount of breeding takes place with there being only one litter born on the site. It is advised that the puppies with the most potential from any new litters are retained by the applicant with the balance of the litter sold to good homes, in the same manner as domestic litters. There is no intention therefore to breed commercially, other than to maintain the applicants own pack of competitive racing dogs. Whilst it is acknowledged that the operation is more extensive than a household with a one or two dogs, it is nevertheless has the characteristics of a hobby and not a commercial operation or bespoke puppy farm. In terms of scale, the existing buildings provide sufficient space for a maximum of 14 adult dogs to be kept on the site. The user either keeping or rehoming his greyhounds when they have reached the end of their competitive periods.
83. The Animal Health Inspector has been consulted and advises that according to their system they received one enquiry relating to the site in late 2019. The information received was from a concerned neighbour who had noticed that some dome shaped kennels had been erected on the land and they were concerned that dog breeding might take place. This was investigated and not considered to be the case. There are no other visits recorded as taking place and there are no complaints relating to the sale of dogs from the site.
84. Issues and matters relating specifically to animal welfare are ultimately subject to separate legislative control and as such are not reasons to sustain refusal of the application in planning terms.

#### Visual/Landscape Impact:

85. Parts 12, 15 and 16 of the National Planning Policy Framework support high quality design, protection of the natural environment and valued landscapes and conservation or enhancement of heritage assets.
86. County Durham Plan policy 29 (Sustainable Design) seeks to ensure that all development proposals will achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents where relevant, and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions.
87. Policy 39 of the County Durham Plan indicates that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Whilst policy 44 advises that development will be expected to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting.
88. In addition, Policy E1 (Visual and Spatial Impact) of the Sedgefield Neighbourhood Plan advises that development should enhance the visual and spatial characteristics of Sedgefield. In particular development should respect significant views of designated and non designated heritage assets. This is also reaffirmed within Sedgefield Neighbourhood Plan policy E4 which relates to Listed Buildings,

Scheduled Monuments and Heritage Assets. Proposals affecting designated and non designated heritage assets will be considered in relations to the NPPF, which seeks to protect them, subject to criteria.

89. Concerns have been raised with regard to the visibility and poor design of the buildings, when seen from the main roads into Sedgfield. Whilst it is acknowledged that there have been various small structures on the site over the years it is considered that the newly erected buildings cannot be considered high quality design.
90. The Design and Conservation Officer has provided comments noting the application site is located approximately 120m to the south of the Hardwick Park Conservation Area. Given the scale of the proposal and the distance involved there is not considered to be any adverse impact on setting. For similar reasons there is also no adverse impact on the grade II listed Sands Hall that lies approximately 500 metres to the west
91. Landscape Officers advise that the site does not lie in an area covered by any national or local landscape designations. Due to topography and existing vegetation, it is not considered that the site is significantly visible, being screened or heavily filtered (especially during summer months) from public viewpoints. As such there is no objection or conflict with landscape related policies.
92. It is understood that the shed and railway building have been on site for some time. Whilst it is acknowledged that the kennel building is somewhat functional in appearance, given its single storey nature and position within the site and the presence of some boundary screening it is considered that the development is generally well contained and not particularly intrusive in visual terms in accord with relevant parts of the National Planning Policy Framework, County Durham Plan and Sedgfield Neighbourhood Plan.

#### Highways:

93. NPPF Part 9 seeks to ensure that development only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
94. Policy 10 of the CDP states that proposals should not be prejudicial to highway safety and paragraph 108 of the NPPF states that applications for development should ensure that safe and suitable access to the site can be achieved for all users.
95. Policy 21 of the CDP requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated.
96. The proposal has given rise to highway safety concerns from some objectors regarding access and egress to the site, on a bend of a national speed limited road, with no signage.
97. In commenting on the development, the Highways Officer has advised that access to the site is via an existing field access from C38 Racecourse Road carriageway linking to the remains of the former road. He considers that the current use (kennels) is similar to previous usage (stables) of the site with no residential provision and

considers the access to be acceptable for this purpose. The proposals would meet visibility standards and given the type of access would not normally be signed.

98. He also advises that the road up to the site enclosure remains adopted public highway albeit with public vehicular rights removed between the enclosure site to the north and the gate nearest to the C38 Racecourse Road to the south. (Although pedestrian rights remain up to the central gateway). Nevertheless, and from a safety perspective it is noted that the position of this gate allows a vehicle to be fully off the live carriageway before stopping at the gate.
99. He also notes that there are 2 parking spaces shown to be available within the site and on the basis of the above offers no objections from a highways perspective.
100. Given the continued low-level use of the site, available access and parking arrangements and comments from the Highways officer, the proposals are considered to satisfy the provisions of Part 9 of the NPPF and policy 21 of the CDP.

#### Flooding and Drainage:

101. Part 14 of the National Planning Policy Framework seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
102. Policy 35 of the County Durham Plan requires development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. Development in flood zones should not be permitted unless in exceptional circumstances. Regarding surface water flood risk, the management of water must be considered intrinsic to the overall development, with runoff rates carefully controlled.
103. The application site is not located within a high-risk flood zone 2 or 3 area, nor is the site located within a surface water flooding high risk area.
104. Surface water drainage is not altered as the buildings are existing. This is considered acceptable in terms of the above policy.
105. Despite concerns raised, the proposal is deemed to be satisfactory with respect to the management of surface water for the development with proposals considered to satisfy the principles of Part 14 of the NPPF and policy 35 of the NPPF.

#### Land stability:

106. Part 15 of the NPPF seeks to prevent unacceptable risks from pollution and land instability. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. Policy 32 of the CDP stipulates that development will not be permitted unless the developer can demonstrate that:
  - a. any existing despoiled, degraded, derelict, contaminated or unstable land issues can be satisfactorily addressed by appropriate mitigation measures prior to the construction or occupation of the proposed development;

- b. the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities; and
- c. all investigations and risk assessments have been undertaken by an appropriately qualified person.

107. Contaminated land officers have assessed the application and have no adverse comments to make, advising there is no requirement for a contaminated land condition.
108. Subject to conditions, no objections are raised, with proposals to satisfy Part 15 of the National Planning Policy Framework and Policy 32 of the CDP.

Other Matters:

109. A number of additional comments have been raised about the development and its likely impacts:
110. As regards a possible future need for a permanent residence at the site to manage activities, it is advised that the current application relates only to the use of the kennels and there is no indication that this is intended. Separate planning permission would be required for any such proposals which raise different planning policy considerations.
111. Comments in respect of the possible storage of oil and proximity to wooden buildings relate to site management practices and would be matters for other legislation.
112. The proximity of the proposals to the A689 there are possible safety issues should the dogs escape are appreciated. However, the possibility of this occurring is considered slight with appropriate management of the animals and this is not considered to be reason to withhold the grant of planning permission. Similarly, a refusal could not be sustained on the grounds of possible vandalism, theft or on the grounds of effects upon house prices which are not material to any planning decision.
113. The ownership of the land linking the site to the carriageway has also been raised along with safety concerns regarding the duty of care to maintain this driveway and the access/ driveway maintained at public expense. Part of the access road to the site is within the ownership of the Council. The appropriate certificate of ownership has been completed to accompany the application with the agent advising notice served on the Council as land-owner. Issues of land ownership and maintenance are separate issues outside the planning application.
114. Issues relating to pecuniary interest with regards to the land in accordance with the Sedgefield Councillors Code of Conduct and Standards are also separate matters to the planning application which is not being determined by Sedgefield Town Council or those with an interest in the site.
115. It is appreciated that the application is retrospective in nature having been brought to the attention of the Council. However a planning application has been made for consideration on its merits.
116. In addition, concerns have been raised in respect to the issue of pillars, gates and walls at the entrance to the site and that no reference has been made to them within

the application. The gates lie outside the application site and their position on land that is currently in the ownership of the County Council is a matter for the Council as landowner.

117. Following comments made in terms of the limited consultations undertaken in respect of the application. this was extended to include a further 27 letters. In addition, a site notice was displayed close to the entrance to the site. This is considered to accord with statutory requirements and a range of public responses to the proposal have been received.

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## **CONCLUSIONS**

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118. The application is to be determined in accordance with relevant policies set out within the County Durham Plan and the Sedgefield Neighbourhood Plan therefore the application falls to be determined in accordance with Paragraph 11c of the NPPF which requires applications which accord with an up to date development plans to be approved without delay.
119. The proposals relate to the use of existing buildings within a countryside location on the southern edge of Sedgefield for the non-commercial kennelling of dogs.
120. It is acknowledged that the development has given rise to objections and concerns from the local area and from further afield about a range of matters. However, these are not considered to outweigh the presumption in favour of the development arising from the planning assessment of the issues and the response of consultees.
121. The issues of noise and disturbance and odour and the impacts on residential amenity has been carefully considered and subject to conditions to ensure that on site activities are appropriately managed it is considered that the amenities of nearby occupiers would not be so significantly and detrimentally impacted upon as to warrant refusal. Given the location, low level nature and orientation of buildings and associated landscaping the proposals are also considered acceptable in visual terms. Nor do they give rise to any heritage, flood risk and drainage, land stability or parking, access and highways safety concerns.
122. The proposals are therefore considered to satisfy the provisions of Parts 2, 4, 6, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework and in particular policies 10, 21, 29, 31, 32, 35, 39, 40 and 44 of the County Durham Plan and Sedgefield Neighbourhood Plan. The application is recommended for approval subject to the following conditions.

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## **RECOMMENDATION**

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That the application be **APPROVED** subject to the following conditions:

1. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Drawing Number P100 Rev A Existing and Proposed Layout  
Noise Impact Assessment by Professional Consult. Reference: 20.187.2.R1 Issue  
Date: 30 April 2021

*Reason: To define the consent and ensure that a satisfactory form of development is obtained, in accordance with Policies 10, 21, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the NPPF.*

2. There should be no more than 14 adult dogs, an adult being 2 years and above, held within the kennels in total at any time.

All dogs shall be held within their kennels between 2300hrs and 0700hrs on any 24 hour day.

The structure of the kennels should be maintained in perpetuity in order to provide the levels of attenuation described within the Noise Impact Assessment, reference 20.187.2.R1 dated 30 April 2021 and produced by Professional Consult.

*Reason: In the interests of the amenities of neighbouring occupiers and to comply with Policies 10 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

3. All animal waste generated by the kennels hereby approved shall be stored in a suitable closed waste receptacle at all times and then shall be removed from site by a waste carrier.

*Reason: In the interests of the amenities of neighbouring occupiers and to comply with Policies 10 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

4. There shall be no burning of animal bedding or waste at the site.

*Reason: In the interests of the amenities of neighbouring occupiers and to comply with Policies 10 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

5. The kennels hereby approved shall be used in connection with the keeping of dogs for personal/hobby use only and not for, or in conjunction with, any commercial operation or business and there shall be no sales to visiting member of the public.

*Reason: In the interests of residential amenity and highways safety, in accordance with Policies 10, 21, 29 and 31 of the County Durham Plan*

6. The use of the generator is restricted to daytime hours of operation, that is the generator is not to be used between the hours of 2300 to 0700hrs on any day, unless in the interest of animal husbandry.

*Reason: In the interests of the amenities of neighbouring occupiers and to comply with Policies 10 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

7. Within 3 months details of an acoustic screen for the generator and its position shall be submitted to and approved in writing by the Local Planning Authority. The screen shall thereafter be erected and retained at all times whilst the generator is in place and in use.

*Reason: In the interests of the amenities of neighbouring occupiers and to comply with Policies 10 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*



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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

The County Durham Plan

Sedgefield Neighbourhood Plan

Statutory consultation responses

Internal consultation responses

External consultation responses



<p><b>Planning Services</b></p>	<p>DM/21/00198/FPA</p> <p>Land East Of Home Farm, Sedgefield TS21 2EJ</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p><b>Comments</b></p>	
<p><b>Date</b> June 2021</p>		