

APPLICATION NO.	P23/S2141/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	6.7.2023
PARISH	KIDMORE END
WARD MEMBER(S)	Peter Dragonetti
APPLICANT	Mr S Herbert
SITE	Summer Cottage, Cane End, RG4 9HG
PROPOSAL	Retrospective planning for change of use of three areas of land for dog walking including associated benches/tables and shelters, change of use of an area as dog adventure park and change of use of existing outbuilding for dog day care and dog grooming service, and installation of septic tank.
OFFICER	Jeremy Peter

1.0 INTRODUCTION AND PROPOSAL

- 1.1 This application is being referred to Planning Committee because the recommendation is in conflict with the Parish Council's view.
- 1.2 The application site is part of a larger site in one ownership that lies approximately one and half kilometres northwest of the village of Cane End, on the east side of the A4074, with access onto that road. The red lined application site comprises several parcels of land that includes three wooded areas, an adventure area for dogs and an existing single storey outbuilding. The overall ownership extends to approximately 4.5 ha that also includes a series of paddocks and open land that is used to accommodate various animals including goats, horses, a pig, parrots within an enclosure, peacocks, free roaming chickens, a turkey and ducks.
- 1.3 There is also the dwelling known as Summer Cottage as part of the overall land ownership, with its own access onto the A4074. The authorised lawful use of the land appears to have been a mix of residential, equine and agricultural.
- 1.4 There are a number of other buildings within the overall ownership, outside the red lined application site, such as:
- Garage/workshop - currently being used as ancillary accommodation by the owners whilst Summer Cottage is being renovated and extended.
 - Gatehouse – used as separate residential accommodation that was recently accepted as being lawful though a grant of a lawful development certificate under application ref: P23/S3347/LDE.
 - Stable block – used for storage.
 - Summer Barn – used for family recreational purposes. The barn appears to have been previously used for children's parties but it is understood that this has since ceased.
 - Stable block – used by horses.

- 1.5 Other residential dwellings are located to the north and south of Summer Cottage. The site is located within the Chiltern Area of Outstanding Natural Beauty (AONB).
- 1.6 The development, for which retrospective permission is sought, utilises 3 areas of woodland for dog walking - called Oak Park - comprising 4 acres, Chapel Woods - comprising 8 acres and Wallaby Woods - comprising 4 acres - with associated wooden shelters and benches/tables. There is also an area used for dog exercise/agility known as Adventure Park. There is an existing L shaped, single storey building to the southwest of the site that is used for dog day care and dog day care clinic (known as Oscars Day Care Centre) as well as a dog groomers (known as Canine Cuts). This building lies adjacent the woodland known as Oak Park. The dog day care has five separate kennelled areas within the building. The proposed site plan with respective areas and layout of the building is shown below.



- 1.7 The applicant has provided further information as to how the various services is/will be operated, in addition to that provided in the Design Statement.
- 1.8 With regard to the dog walking areas, the maximum number of dogs per dog walking area would be up to 10 dogs per hour, per area, when booked by dog walking companies. The minimum is one dog per hour per area when booked by private individuals. The hours operated are from 0600 – 2100 hours in the Spring/Summer and 0800 – 1600 hours in the Autumn/Winter, seven days a week. The applicant operates a one out, one in policy with each fenced off dog walking area having its own car parking area accessed via a gate. This enables the dog walkers to enter their pre-booked dog area with their dog/s in their vehicle, unload, do their walk, load their dog/s into their vehicle and leave. This is to ensure dogs do not encounter each other in the way in or out. It is claimed this avoids noise and disturbance through dogs barking or becoming aggressive. Bookings are made online via the K9 Woodland Services website.

- 1.9 The dog agility area (Adventure Park) is only for dogs who are under Oscars Day Care with a maximum of 20 at any one time. This is to accord with the Day Care License issued by South Oxfordshire District Council Environmental Health Department. However, it is claimed, in reality, this would be much less given that there are only 5 kennels. Oscars Day Care operates from 0730 – 1830 hours.
- 1.10 Canine Cuts can groom up to 6 dogs per day. This operates from 0730-1830 hours.
- 1.11 There is also a pickup drop off service offered by the applicant for Oscars Day Care and Canine Cuts.

2.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

- 2.1 Kidmore End Parish Council – objects as change of use would change the nature of the property from residential to commercial; has detrimental impact on the AONB; commercial activities on land and in buildings have not been inspected for safety and no consideration of environmental or other consequences; additional traffic from A4074 increases likelihood of accidents; unsustainable location only accessible by private cars; increase in noise and nuisance and no information on how dog waste is to be hygienically and sustainably processed; development is at odds with vision and objectives of adopted Kidmore End Neighbourhood Plan.
- 2.2 Forestry Officer – Initially a holding objection was lodged on grounds of potential damage to newly planted trees and the inability to implement the requirements of a Forestry Commission Restocking Notice. Following submission of further information and a Tree Management Plan, holding objection removed. No objections subject to Tree Management being implemented as a condition to a permission.
- 2.3 Oxfordshire County Council- Transport Development Control – Notes that applicant has submitted a Transport Statement which demonstrates access is acceptable to serve the development and that increased traffic generation is unlikely to result in a material impact on the highway network. It is noted that the site is only accessible by car and there are no connecting footways. Nevertheless, given the nature, size and operation of the development, it is considered to be acceptable in this instance.
- 2.4 Lead Local Flood Authority – No flooding shown for this site apart from a tiny area of low risk, low depth flooding, which will not affect any buildings and is presumably due to a localised low spot. There are no drainage implications on this site, so the use of SuDs (Sustainable Drainage System) is not relevant.
- 2.5 Drainage Engineer (SODC) – no objections in relation to the installation of the septic tank following the submission of additional information.
- 2.6 County Archaeologist – no archaeological constraints, so no objections.
- 2.7 SGN Plant Protection Team – No objections. Standard advice received.

2.8 Designing Out Crime Officer – No comments received.

2.9 Community Safety Officer – No further actions in regard to the site. The issues reported do not come under their jurisdiction as the police deal with any dangerous dog reports.

2.10 Countryside Officer – The application site resides within the Chilterns AONB, where the conservation and enhancement of wildlife is important. Natural beauty of the AONB includes flora and fauna. The site also resides wholly within the Chilterns Dipslope and Plateau Conservation Target Area (CTA). Conservation targets for this CTA include woodland and wood-pasture management and restoration. CTAs form Oxfordshire's ecological network, pursuant to paragraph 179a of the NPPF. CTAs are identified as an important ecological feature under Policy ENV2. Retrospective ecological surveys have identified that none of the habitats present onsite during visits were a notable constraint to development. Impacts on protected species, whilst they cannot be ruled out due to the retrospective nature of the application, are unlikely to occur during operation. If the case officer is minded to grant planning permission, then a condition is recommended to be applied to the decision notice to secure ecological enhancements as part of any permission granted.

2.11 Oxfordshire County Council Landscape/Green Infrastructure – The District Council Landscape Officer should be consulted on the application. (see below – Landscape).

2.12 Landscape Officer – The development is at odds with the key characteristics of the local AONB landscape and would impact on the character and visual amenity of the A4074 and the footpath which passes adjacent to the site. The signage, fencing and lighting all have an impact on the tranquillity of the adjacent AONB footpath. At present there are no proposals to reduce these impacts or mitigate the harm caused by the development. Proposals should be made to reduce the impact of the development on the adjacent footpath, the A4074 including reducing the impact of lighting in the area and the planting of a mixed native hedging to screen the boundary and the activity of dogs on the site.

2.13 Environmental Protection Team – No adverse comments to make. Should issues of noise become apparent, we would investigate these under our complaints procedure.

2.14 Neighbour Comments – Objections received from 11 sources on the following grounds:

- Dog walking areas not supervised and have aggressive dogs. Concerns that fence heights inadequate and dogs may escape and attack people and other dogs on the adjacent public footpath network.
- Concerns over risk to highway safety on A4074 caused by increased vehicular activity caused by the development and unlawful use of Summer Barn for events and parties.
- Disagree with conclusions of Transport Statement.

- In an unsustainable location for walking/bus services.
- Land being contaminated by dog excrement and harmful to humans and other animals. No contaminated land evidence provided.
- Hours of use are seriously and deliberately understated. Most frequent users are professional dogwalkers between 8-14 dogs at a time. The applicant's website offers more time for trading than the application requests.
- Doggy day care and grooming services being conducted in buildings that have been unlawfully constructed.
- Use results in harm to the amenity of neighbouring properties due to noise, nuisance and light pollution.
- Unsuitable fencing has been erected around woodland areas that is harmful to AONB.
- No discussion with neighbours prior to undertaking uses demonstrates deliberate and total disregard for neighbours and Parish.
- Illegal overdevelopment and ongoing uses adversely affect the rural nature of the settlement in the AONB.
- Other services, change of use of buildings and other extensive groundworks have been undertaken which are not covered by the application including a petting farm, party barn and associated activities that also require planning permission.
- Does not comply with Local Plan policies and 2022 Kidmore End Neighbourhood Plan
- No demonstration of need for the services proposed.
- Mature hedging, trees, ponds, flora and expelled fauna removed.
- Application description should include change of use to commercial land.
- Development has caused damage to the environment. Woodland removed to create grassed areas.
- Absence of biodiversity/ecology assessment.
- 3 septic tanks have been illegally installed.
- Inadequate drainage, parking, excessive trackways and limited incident controls on site.
- No carbon plan given excessive bonfires undertaken by the applicant.
- Other areas not covered by the application also being used for dog walking.
- Numerous signs and banners advertising the various businesses clashes with rural aesthetic of AONB.
- Application form is inaccurate and misleading.

3.0 RELEVANT PLANNING HISTORY

3.1 [P23/S3572/FUL](#)

Proposed ground mounted photovoltaic panel installation – not yet determined.

3.2 [P23/S3347/LDE](#) (27/11/2023)

Lawful Development application for use of Gatehouse as a separate residential unit – granted.

- 3.3 [P23/S3090/S73](#)
Variation of conditions 2 (Approved Plans) on application reference number P17/S1455/HH – as the rear extension at first floor level has been built slightly larger than that approved. (As amended by plan received 26 October 2023 to demonstrate all changes carried out already) (Two storey side and rear extensions) – not yet determined.
- 3.4 [SE23/85](#) - (09/03/2023)
Change of use without planning permission, agricultural to pet cremation – Closed as no breach.
- 3.5 [P23/S0378/PEO](#) - Advice provided (03/03/2023)
Use of Summer Barn by members of the public. Change of use of agricultural to petting farm. Oscars Daycare Centre - for dogs (includes groomers). All associated physical development. Trees, and replacement planting, which as I understand it has not occurred, and so an outstanding breach exists in this regard. Alleged Installation of septic tanks.
- 3.6 [SE22/214](#) - (01/08/2022)
change of use of building for use as residential.
- 3.7 [SE22/91](#) - (29/03/2022)
Unlawful building and creation of a dwelling house
- 3.8 [SE21/256](#) –
Without planning permission creation of visitor centre/ petting zoo, dog walking areas and dog grooming services. Enforcement investigation that led to this application being submitted.
- 3.9 [P21/S2183/PEM](#) - Advice provided (27/07/2021)
Proposed Day Nursery
- 3.10 [SE18/430](#) - (19/03/2019)
Without planning permission the creation of a bund.
- 3.11 [P18/S3316/HH](#) - Approved (15/03/2019)
Construct of earth bund (retrospective).
- 3.12 [P17/S1455/HH](#) - Approved (14/07/2017)
Two storey side and rear extensions (As amended by plans 2017_06_27 to reduce scale of extensions).
- 3.13 [P16/S1454/HH](#) - Approved (15/06/2016)
New Garage Block with storage above
- 3.14 [P15/S3975/PEO](#) - Advice provided (29/02/2016)
Proposed extension
- 3.15 [SE14/036](#) - (07/04/2014)

Without planning permission the erection of a fence in excess of 1m adjacent to a highway used by vehicular traffic.

- 3.16 [P12/S0527/PEO](#) - Advice provided (31/05/2012)
Private equestrian menage.
- 3.17 [P11/E1952/PEM](#) - Advice provided (23/12/2011)
-Demolish the existing cottage & build a new dwelling possibly with a larger footprint.
-Build a new single storey dwelling within the domestic curtilage of the cottage.
-Build an ecologically sustainable single storey timber building.
- 3.18 [P09/E0023](#) - Approved (16/03/2009)
Two storey extension and alterations (as amended by drawing no.1124/P100 rev A accompanying letter from Agent dated 20 February 2009).
- 3.19 [P00/S0856](#) - Approved (11/12/2000)
Detached oak framed garden building.
- 3.20 [P99/S0271](#) - Approved (08/06/1999)
Single storey extension(as corrected by plan no 137/01A received 3 June 1999)
- 3.21 [P98/S0104/RET](#) - Approved (05/05/2000)
Change of use of agricultural land to residential garden area. (Retrospective).
- 3.22 [P98/S0127/RET](#) - Approved (08/04/1998)
Erection of timber stable block (two stables, tack room and store). Relocation of field shelter. Change of use of land to keeping of horses. (Part retrospective).
- 3.23 [P97/S0798/RET](#) - (25/02/1998)
Construction of timber stable block (2 stables, tack room and store) and relocation of existing shed to N W of stable block. Change of use of land to domestic curtilage. (Part retrospective).

4.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

- 4.1 The development does not constitute Schedule 1 or 2 development and therefore an Environmental Assessment is not required.

5.0 **POLICY & GUIDANCE**

5.1 **Development Plan Policies**

South Oxfordshire Local Plan 2035 (SOLP) Policies:

STRAT1 – The Overall Strategy

EMP10 – Development in Rural Areas

TRANS5 – Consideration of Development Proposals

ENV1 – Landscape and Countryside

ENV2 – Biodiversity – Designated Sites, Priority Habitats and Species

ENV3 – Biodiversity

ENV12 – Pollution – Impact of Development on Human Health, the Natural Environment and/or Local Amenity (Potential Sources of Pollution)

EP3 – Waste Collection and Recycling
DES1 – Delivering High Quality Development
DES2 – Enhancing Local Character
DES6 – Residential Amenity

5.2 **Neighbourhood Plan**

Kidmore End Neighbourhood Development Plan 2011-2035 (KENDP) Policies:
General Design Principles Policy (LCDPG)
Safety For All Road Users (LTSRU)
Safe Access and Parking Policy (LTSAP)
Infill Policy (LC1)
Local Valued Landscape Policy (LPLV)

5.3 **Supplementary Planning Guidance/Documents**

South Oxfordshire and Vale of White Horse Joint Design Guide 2022
Chilterns AONB Management Plan 2019-2024.

5.4 **National Planning Policy Framework (2023) and Planning Practice Guidance**

5.5 **Other Relevant Legislation**

Human Rights Act 1998

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

Equality Act 2010

In determining this planning application the Council has regard to its equalities obligations including its obligations under Section 149 of the Equality Act 2010.

6.0 **PLANNING CONSIDERATIONS**

6.1 The relevant planning considerations are the following:

- **Principle of development**
- **Impact on the AONB, Design and Character**
- **Neighbour Impact**
- **Ecology and Biodiversity**
- **Impact on Highways, Access and Parking**
- **Drainage**
- **Other matters**

Principle of development

6.2 STRAT1 of the Local Plan states that proposals for development will be assessed using national policy and guidance and the whole of the Development Plan and should be consistent with the overall strategy of, amongst other things, protecting and enhancing the countryside and the AONBs and Oxford Green Belt by ensuring that outside of the towns and villages, any change relates to very specific needs such as those of the agricultural industry or enhancement of the environment.

6.3 EMP10 states that proposals for sustainable economic growth in rural areas will be supported. Amongst other things, the Council will support the sustainable

growth and expansion of all types of business and enterprise in rural areas through the conversion of existing buildings; and promote the sustainable development and diversification of agricultural and other land-based rural businesses.

- 6.4 KENDP Policy LC1: Infill Policy - states that proposals for development outside of the built-up areas of villages will only be supported if they are appropriate to a countryside location and are consistent with the SODC Local Plan 2035 and any relevant policies of the KENDP.
- 6.5 The NPPF states at para.85 that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In relation to the rural economy, the NPPF states at para.88 that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, including through the conversion of existing buildings; as well as the development and diversification of other land-based rural businesses. It goes on to say in para. 89 that planning policies and decisions should recognise that sites to meet local business and community needs may be found beyond existing settlements and in locations not well served by public transport. In these circumstances, it is to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
- 6.6 The application site is located outside a recognised settlement within the rural area and also within the AONB. The development being undertaken involves a change of use of land and the conversion of an existing building, which according to historic aerial photography, has been in existence for over 4 years and so the building is considered lawful. Although there are no specific policies applicable to the dog walking areas, the NPPF advises that planning policies have to be flexible to allow for changes in economic circumstances. Moreover, there is no restriction to new businesses operation in AONBs provided their impacts on the AONB are taken into consideration.
- 6.7 Therefore, it is considered that in principle, the development is acceptable as a business in a rural area, subject to the other considerations as detailed below.

Impact on the AONB, character and design

- 6.8 ENV1 states that the highest level of protection will be given to the AONBs. Development will only be permitted where it conserves, and where possible enhances the character and natural beauty of the AONB; where it is appropriate to the economic and environmental well-being of the area or promotes understanding and enjoyment of the AONB. Development which supports economic growth in rural areas will be supported provided it conserves and enhances the landscape, countryside and rural areas.
- 6.9 DES1 – Delivering High Quality Development – requires all development to be of high-quality design that, amongst other things, uses land efficiently while respecting existing landscape character.

- 6.10 DES2 – Enhancing Local Character requires new development to be designed to reflect the positive features that make up the character of the area and should both physically and visually enhance and complement the surroundings.
- 6.11 KENDP Policy LPLV: Local Valued Landscape Policy – requires development proposals to protect and where practicable enhance the physical and visual attributes of the character, quality and appearance of valued landscape.
- 6.12 KENDP Policy LCDPG: General Design Principles Policy - requires development to complement, reinforce and where practicable enhance the local distinctiveness and landscape setting of the relevant settlement. As appropriate, development proposals should incorporate design considerations, such as: retention of dark visual ambience via minimal external illumination; regard for good quality locally characteristic building materials and vernacular building styles; landscaping schemes that include local indigenous trees and features that already form part of the immediate locality.
- 6.13 The NPPF states that great weight should be given to the conserving and enhancing landscape and scenic beauty in the AONBs which have the highest status of protection in relation to these issues (para 182). In terms of design, the NPPF states that good design is a key aspect of sustainable development (para. 131), and that planning policies and decisions should ensure that developments function well and add to the overall quality of the area; is visually attractive as a result of good architecture, layout and landscaping; and is sympathetic to local character (para.135).
- 6.14 The Chilterns AONB Management Plan Policy DP1 seeks to ensure that planning decisions take full account of the importance of conserving and enhancing the natural beauty of the AONB and the great weight given to its protection in the NPPF. Policy DP2 rejects development in the AONB unless it meets several criteria such as its use is appropriate to its location; it is appropriate to local landscape character; it supports local distinctiveness; it respects heritage and historic landscapes; it enhances natural beauty; ecological and environmental impacts are acceptable; there are no detrimental impacts on chalk streams, there is no harm to tranquillity through the generation of noise, motion and light that spoil quiet enjoyment or disturb wildlife; and there are no negative cumulative effects including when considered with other plans and proposals.
- 6.15 Oxfordshire Joint Design Guide require development to respect and respond to landscape character.
- 6.16 The development involves the use of existing woodland for dog walking, which is a countryside activity and therefore, would not intrinsically change the landscape character. The concerns of the Landscape officer and objectors are noted but it is considered that conditions in regard to lighting, fencing and native hedging can be applied to mitigate any harmful impacts on the AONB. It is also the case that further tree planting has been/will be undertaken that will help enhance the AONB. The shelters and tables/chairs have been provided to provide shelter and sitting down areas to dog walkers. They are made of wood and it is considered, blend in with the woodland areas in which they are located.

6.17 The use of an existing building in the AONB to carry out the dog grooming and day care services are also considered not to be intrinsically harmful to the AONB. The building's materials and design are similar to that of stables which are found throughout the AONB and the countryside. Whilst it is acknowledged the intensity of a combination of the uses could be problematic, the imposition of a condition to control the frequency of the uses taking place would also help mitigate the impact on the AONB.

6.18 Therefore, it is considered that the impact on the AONB, and the character and design of the use is acceptable and could be further mitigated by appropriately worded conditions in relation to lighting, hedging and fencing.

Neighbour Impact

6.19 Policy DES6 – Residential Amenity – requires development not to have significant adverse impacts on the amenity of neighbouring uses when considering both individual and cumulative impacts such as loss of privacy, daylight, sunlight, noise or visual intrusion, pollution, contamination and external lighting.

6.20 ENV12 – Pollution – Impact of Development on Human Health, the Natural Environment and/or Local Amenity (Potential Sources of Pollution) – requires development not to result in significant adverse impacts on human health, the natural environment and or the amenity of neighbouring uses.

6.21 EP3 – Waste Collection and Recycling – requires non-residential development to ensure adequate waste and recycling provision is made that is adequate for the proposed use.

6.22 The NPPF states that amongst the things that planning policies and decisions should ensure is that developments create places that are safe inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users (para.135).

6.23 KENDP - General Design Principles Policy (LCDPG) – one of the criteria of this policy is that development should not cause significant adverse effects to the amenity of neighbouring uses.

6.24 The SODC design guide reminds developers and applicants to be mindful of the impact of proposals on the amenity of future and existing adjacent occupiers and that proposals should not give rise to unacceptable impact.

6.25 The matters to be considered that may have an impact on neighbouring amenity are:

- Noise and disturbance
- Fences
- Light pollution
- Treatment of Dog Waste

- 6.26 With regard to noise and disturbance, this case officer has been to site on several occasions and has not heard or observed any undue noise and disturbance being created by visiting dogs and walkers. The services being operated appear to be being undertaken in a manner that ensures noise and disturbance is minimised. The Council's environmental health service has also raised no concerns with regard to this matter.
- 6.27 That said, it is considered that the number of dogs that could visit the site at any one time is potentially high. This in conjunction with the operating hours currently being undertaken, could possibly result in undue noise and disturbance to nearby residential neighbours, particularly during unsocial hours and weekends/bank holidays. Therefore, it is proposed to limit, through condition, the hours of operation of the various activities to minimise noise and disturbance on the site as follows:
- Dog walking areas - hours of operation for months of March - August: 0700 - 2000 hours. September - February: 0800 - 1600 hours.
 - Oscars Day Care and Dog Grooming - 0730 - 1830 hours, Monday to Friday and from 0800 - 1300 hours on Saturday with no activity on Sundays or Bank Holidays.
- 6.28 Oscars Day Care and Dog Grooming as well as the Adventure Park are closer to residential properties. It is considered reasonable to restrict operating hours on weekends and bank holidays when most people will expect to quietly enjoy their properties.
- 6.29 It is considered that with this condition and the way the services provided thus far have been undertaken, noise and disturbance arising from the operation of these businesses are unlikely to be significant and so would comply with policy.
- 6.30 In respect of fences, these currently comprise 2m high wooden backed chain link fencing with netting around the Agility/Adventure Park. Around the woodland wall areas are 2m high post/chain link fencing topped with angled inward facing wire to prevent dogs jumping out and netting to prevent dogs seeing each other. It is also proposed to undertake the planting of hedging around the perimeter of the woodland areas to further mitigate the impact.
- 6.31 Whilst it is considered that the fencing proposed is appropriate as currently undertaken, nonetheless in order to ensure that it is fit for purpose and maintained to an acceptable standard, a condition is proposed to require the applicant to submit details of the fencing that has been undertaken and/or to be undertaken to be approved by the Local Planning Authority, including any proposed hedging to mitigate the fencing proposed. This is required to be submitted within three months of the date of an approval, with works required to be undertaken within three months of any approval.
- 6.32 It also should be noted that the applicant/owners can enclose land that is not fronting a public highway with fencing up to 2m high under permitted development rights, without the need for planning permission.

- 6.33 With regard to lighting, allegations have been made in connection with the cumulative lighting that has been put on the dwelling known as Summer Cottage, the Barn as well as the Kennels/dog grooming building, the subject of this application. However, the local planning authority can only address the issue of lighting as it relates to those areas and building that are part of this application. Consequently, it is considered appropriate to impose a condition requiring details of the lighting to be undertaken/provided to be submitted and approved within three months, and undertaken within three months of any approval.
- 6.34 With regard to treatment of dog waste, a condition of hiring the walking areas is that all walkers have to pick up their dog's waste and deposit the waste in bins located at the entrance to the dog walking areas. These bins are emptied into a primary bin at the entrance to the site (which has been set aside for bin storage) which is then disposed of by a specified waste carrier. Again, the Environmental Health team have raised no issues regarding the treatment and disposal of dog waste. Therefore, it is considered that the arrangements put in place are satisfactory with regard to the treatment of dog waste.
- 6.35 Therefore, it is considered that with regard to noise and disturbance, fences and lighting, the impact on the amenity of neighbouring occupiers can be mitigated and made acceptable through the imposition of appropriate conditions so that the development would comply with policy.

Ecology and Biodiversity

- 6.36 The site is identified as being in the Chilterns Dipslope and Plateau Conservation Target Area (CTA). Policy ENV2 – Biodiversity – Designated Sites, Priority Habitats and Species – states that development likely to result, either directly or indirectly to the loss, deterioration or harm to ecological networks such as CTAs will only be permitted if the need for and the benefits would outweigh any adverse effects on the interests; it could not be reasonably located on an alternative site that would cause no or less harm; and if measures could be undertaken by condition or legal agreement that would avoid, mitigate or compensate for the adverse effects caused.
- 6.37 Policy ENV3 – Biodiversity – requires all new development to provide a net gain in biodiversity where possible. All proposals should be supported by evidence to demonstrate biodiversity net gain. Development proposals which would result in a net loss of biodiversity will only be considered if it can be demonstrated that alternatives which avoid impacts on biodiversity have been fully explored. Planning permission will only be granted if impacts on biodiversity can be avoided, mitigated or compensated fully.
- 6.38 KENDP – Local Valued Landscape Policy (LPLV) – states that where development proposals accord with Local Plan Policy ENV1 and this policy, any landscape mitigation measures should reflect the prevailing local vegetation pattern and where practicable support the landscape, bio-diversity and heritage objectives as set out in the plan.

- 6.39 The NPPF states that when determining applications, local planning authorities should apply, amongst other principles, that planning permission should be refused for development that causes significant harm to biodiversity that cannot be adequately mitigated (para.186).
- 6.40 The applicant has submitted an Ecology report as part of the application documents. This suggests that with enhancements proposed, it is possible that there could be a 10% net gain in biodiversity value. The Council's Countryside officer has also noted in his response that retrospective ecological surveys have identified that none of the habitats present onsite during visits were a notable constraint to development. Impacts on protected species, whilst they cannot be ruled out are, unlikely to occur during the operation of the uses. He has recommended that a Biodiversity Enhancement Plan be required to be submitted as a condition of any consent.
- 6.41 In the absence of any evidence of harm to protected species and the potential for mitigation and enhancement to be undertaken, it is considered that that at any ecology and biodiversity impacts can be adequately addressed. The development can, therefore, be made acceptable with regard to these matters.
- 6.42 **Impact on Highways, Access and Parking**
TRANS5 – Consideration of Development Proposals – requires proposals for all types of development to, where appropriate and amongst other things, provide for a safe and convenient access for all users to the highway network.
- 6.43 KEND Policy - Safety For All Road Users (LTSRU) – requires developments not to cause an unacceptable reduction in road safety for all road users.
- 6.45 KEND Policy - Safe Access and Parking Policy (LTSAP) – requires development proposals to provide off-road parking by delivering innovative and attractive arrangements which complement the character of the area and which meet the County Council's standards.
- 6.46 The NPPF states that when considering development proposals, amongst other things, appropriate opportunities to promote sustainable transport modes should be or have been taken, depending on the type of development and its location; and that safe and suitable access can be provided for all users. Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The NPPF also acknowledges that in respect of development for business and community needs in rural areas, planning policies and decisions should recognise that some locations will not be well served by public transport. In these circumstances, it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location.
- 6.47 The applicant has submitted a Transport Statement by Highway Consultants as part of the application documents. At para.5.10 and 5.11, it is concluded that the amount of peak vehicular traffic to and from site will not result in adverse disruption to the flow of traffic on the local highway network, causing no material

impact from a highway and transportation perspective. It is also concluded that access meets the required geometric standards and therefore the requirements of plan policy for accesses are met.

6.48 Oxfordshire County Council, as highway authority, has raised no objections, noting that given the nature, size and operation of the development, the highway impacts, access arrangements and internal vehicle circulation/parking is considered to be acceptable.

6.49 The concerns of third-party objectors as regards highway safety are acknowledged as well as the lack of sustainable transport options. However, no conflicting evidence as regards highway safety and access issues have been provided. Also, planning policy does recognise that it is not always possible to access other sustainable transport choices in rural areas.

6.50 Consequently, in regard to this issue, it is considered that the impact on highways, access and parking arrangements are acceptable and accord with policy.

6.51 **Drainage**

DES1 – Delivering High Quality Development – requires new development to be sustainable and resilient to climate change, and to mitigate water run-off and flood risks.

6.52 The applicant has installed a septic tank to deal with waste and treatments relating Oscars Day Care and the Dog Grooming Service. Following a statement by the applicant that:

- The Dare care centre will not accept dogs on medication.
- Dog waste is taken to bins to be disposed of.
- They only allow for grooming of dogs.
- If washed, only chemical free shampoos are used (as per their website)
- The Septic tank is over 6m away from the front of the day care building, which is a replacement septic tank, cleaned out once a year.

6.53 Following the submission of the above information, the Council's drainage engineer has indicated he has no objections. Therefore, it is considered the development is acceptable as regards this issue.

Other Matters

6.54 It is considered appropriate to consider those objections raised by third parties that have not been covered in the issues above. These are set out below as the consideration of each matter:

6.55 No discussion with neighbours prior to undertaking uses demonstrates deliberate and total disregard for neighbours and Parish.

There is no requirement in planning legislation, except for major developments of which this is not, for any prior consultation to take place. Also, there is provision in planning legislation for applications to be submitted retrospectively in order to regularise unauthorised development that has taken place.

- 6.56 Other services, change of use of buildings and other extensive groundworks have been undertaken which are not covered by the application including a petting farm, party barn and associated activities that also require planning permission.
It is understood that activities such as the petting farm and party barn has ceased. A planning application has been submitted in relation to works to the main house and a lawful development certificate has been submitted and determined regarding the use of the Gatehouse as separate residential dwelling. Other works are subject to ongoing enforcement investigation. It is understood that further applications will be submitted in due course.
- 6.57 No demonstration of need for the services proposed.
The services being undertaken are a part of private businesses. In a market economy, it is not for the planning system to regulate as to whether there is a need for a particular service or business.
- 6.58 Mature hedging, trees, ponds, flora and expelled fauna removed.
It is understood that trees have been removed but these have been replaced or undertaken as part of a tree management and planting scheme. Also, there is a pond on site so it's not clear which pond has been removed. Further hedges and has been provided or will be by condition.
- 6.59 Application description should include change of use to commercial land.
The application is clearly for the use of land commercial purposes. There is no need to refer to change of use to commercial land.
- 6.60 Development has caused damage to the environment. Woodland removed to create grassed areas.
Officers consider the development can be undertaken without causing undue damage to the environment subject to the imposition of appropriate conditions. It is also the case that further trees are being provided as part of a tree management plan.
- 6.61 3 septic tanks have been illegally installed.
It is understood that apart from the septic tank that has been installed and being considered as part of this application, three others have been installed in relation to the barn, the Gatehouse and the main house. The one for the main house is a replacement septic tank. Retrospective applications are expected to be submitted in due course in relation to these.
- 6.62 Inadequate drainage, parking, excessive trackways and limited incident controls on site.
These matters have been considered and found to be acceptable.
- 6.63 No carbon plan given excessive bonfires undertaken by the applicant.
Excessive bonfires are an environmental health matter and not a planning matter.
- 6.64 Other areas not covered by the application also being used for dog walking.
All the areas that are being used for dog walking are covered by the application.

6.65 Numerous signs and banners advertising the various businesses clashes with rural aesthetic of AONB.

The signs at the entrance and around the site are considered to be low key and unobtrusive. They are not illuminated. It is not considered that the signage in place is not harmful to the AONB.

6.66 Application form is inaccurate and misleading.

Sufficient information has been submitted to enable proper assessment and consideration of the application.

6.67 Pre-application response

It is acknowledged that the pre-application response by the Council was not supportive of the development. However, that view was given without the benefit of full plans and further information which has been submitted as part of this application. It is also the case that the pre-application response is not binding on the Council in respect of the formal determination of any planning application submitted.

6.68 **Community Infrastructure Levy**

Not applicable in this case.

6.69 **Pre-commencement conditions**

None

7.0 **CONCLUSION**

7.1 It is considered that development of this type and scale in this location is supported by Policy EMP10 of the South Oxfordshire Local Plan, Policy LC1 of the Kidmore End Neighbourhood Plan and the NPPF. Therefore in principle, the development is considered acceptable.

7.2 In respect of impact on the AONB, character and design, it is considered that this is acceptable and can be mitigated through the imposition of appropriate conditions.

7.3 In regards to impact on neighbouring amenity, the use of conditions to regulate operational hours and to ensure appropriate fencing and lighting will help to ensure any negative impacts are controlled and minimised.

7.4 Ecology and biodiversity matters can also be made acceptable through imposition of an appropriate condition whilst technical matters relating to highways and drainage have been satisfactorily addressed.

7.5 Consequently it is considered that the development accords with relevant local plan, neighbourhood plan and national planning policy. Whilst it is acknowledged that the application is retrospective, the application has been assessed on its merits and considered to be acceptable or could be made acceptable by the imposition of appropriate conditions.

8.0 RECOMMENDATION

That planning permission is granted subject to the following conditions:

1. That the development hereby approved shall be carried out in accordance with the details shown on the following approved plan - Proposed (retrospective) Site Plan - 7075/2/ Rev B received 14/11/2023.

Reason: To secure the proper planning of the area in accordance with Development Plan policies.

2. Within 3 months of the date of this permission, a detailed biodiversity enhancement plan (BEP) shall be submitted and approved in writing by the local planning authority. The BEP shall include the following:

30 year (minimum) woodland management plan, including detailed annual work schedule, to improve the ecological condition of woodland habitats present onsite. Full details (including specification, position, height, orientation, etc) of a scheme of faunal enhancements (e.g., bat boxes, bird boxes, hibernacula, log piles) to be provided onsite and timelines for implementation. Full details (including planting plans) for the reinstatement and future management of the onsite pond, to ensure that it holds water year round.

Thereafter, the BEP shall be implemented in accordance with the approved details. Within one year of the date of this permission, this condition shall be discharged through the receipt of a letter from the project ecologist confirming that relevant actions have been implemented on site as part of the approved BEP.

Reason: To ensure there is no net loss of biodiversity, in accordance with Policies ENV2 and ENV3 of the South Oxfordshire Local Plan 2035.

3. The tree protection details as shown on the approved Tree Plan (ref: 7075-3-A) produced by Groom Design Ltd shall be undertaken within 2 months of the date of this permission and shall be retained in situ until the newly planted trees are of adequate size so as not to need further protection.

Reason: To safeguard trees which are visually important in accordance with Policies ENV1, DES1, and DES2 of the South Oxfordshire Local Plan 2035,

4. The details of a hedge that is required to be planted along the north east boundary of the land shall be submitted in writing to the Local Planning Authority (LPA) within three months of the date of this permission for approval by the LPA. The hedge so approved shall be planted within three months of the date of approval by the LPA. Such hedge shall be so tended as to grow to and remain at a height of not less than 2m metres, and any plant which may die or be seriously damaged or destroyed within 5 years of the completion of the development shall be replaced and the replacement shall be properly maintained.

Reason: To help to assimilate the development into its surroundings in accordance with Policies ENV1, DES1 and DES2 of the South Oxfordshire Local Plan 2035.

5. The hours of operation for the development will be restricted as follows:

Dog walking areas known as Oak Park, Chapel Woods and Wallaby Woods as shown on Site Plan - 7075/2/ Rev B received 14/11/2023 - hours of operation for the months of March - August: 0700 - 2000 hours and for the months of September - February: 0800 - 1600 hours.

Adventure Park, Day Care and Dog Grooming services - 0730 - 1830 hours, Monday to Friday and from 0800 - 1300 hours on Saturday. (No activity to take place on Sundays or Public Holidays without the prior written authority of the Local Planning Authority.

Reason: To ensure that the development is not unneighbourly in accordance with Policy DES6 of the South Oxfordshire Local Plan 2035.

6. The details of any external lighting to be installed on the site should be submitted to and approved in writing by the Local Planning Authority. These shall include location of the external lights and product specification.

Reason: To protect the appearance of the area, the environment and wildlife, and local residents from light pollution in accordance with Policies ENV1, ENV2, ENV3 and ENV12 of the South Oxfordshire Local Plan 2035.

7. Details of a fence at a height of 2m metres along the northeast and southeast boundary of the land shall be submitted to and approved in writing by the Local Planning Authority (LPA) within three months of the date of this permission. The fence as approved shall be erected within three months of approval by the

LPA and thereafter retained without alteration, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual appearance and neighbouring amenity of the development in accordance with Policies DES1, DES2 and DES6 of the South Oxfordshire Local Plan 2035.