

SCHEDULE A: Applications with Recommendation

21/0496

Item No: 13

Date of Committee: 23/07/2021

Appn Ref No:
21/0496

Applicant:
Top Dog

Parish:
Carlisle

Agent:

Ward:
Cathedral & Castle

Location: Unit 11, Willowholme Industrial Estate, Millrace Road, Willowholme, CA2 5RS

Proposal: Change Of Use From Industrial Unit To Day Care Centre For Dogs

Date of Receipt:
18/05/2021 11:00:44

Statutory Expiry Date
13/07/2021 11:00:44

26 Week Determination

REPORT

Case Officer: John Hiscox

1. Recommendation

- 1.1 It is recommended that this application is approved with conditions.

2. Main Issues

- 2.1 Whether the principle of the change of use can be accepted
- 2.2 Whether the development would be prejudicial to highway safety
- 2.3 Impacts on others' amenity
- 2.4 Flood risk
- 2.5 Effects on Public Rights of Way

3. Application Details

The Site

- 3.1 The site is located well within the Willowholme Industrial Estate in the Caldewgate Area of Carlisle, west of the River Caldew. Its only access is via a double metal gate access off Millrace Road, which itself connects to Willowholme Road (the main estate service road);
- 3.2 The site includes a single freestanding building (Unit 11) and associated

ground to the north up to the boundary with Unit 22, and a strip that runs from said boundary along the west side of the building.

- 3.3 It seems that its last use may have been by a business called 'Fleet Sales' (according to a remnant advert on the access gates).
- 3.4 The 'As Existing' floor plan shows that the internal area of the building is one space with a toilet cubicle in one corner.
- 3.5 Within the gated compound is another, larger building currently not in use (Unit 10) and advertised as being available to let. There are no physical subdivisions between the two units at present. To reach Unit 11, it is necessary to walk or drive past the northern end of Unit 10, which contains a large roller-shutter door. The application does not include the area between the access gates and the site in terms of what is within the red line, so it may be assumed that entitlement to access across this ground exists.
- 3.6 The building is modest by comparison to many of the individual units on the estate and is not prominent (behind other larger structures) although it is easily viewed from the adjacent public right of way 109074 (east of the building), from which it is separated by a 2m high security fence. Between the fence and the building, whose long side is aligned with the fence, is a narrow grassed strip.
- 3.7 The site is flat and all of the yard external to the building is concreted.
- 3.8 It may be noted that the consultation response of the Cumbria County Council Public Rights of Way Officer indicates in mapping that a connecting footpath (no. 109073) exists immediately to the south of the building, which would place it within the long-established compound, in terms of its official designation. In actuality, the footpath exists but it is some distance further south on the ground (approximately 15m from the south gable end of the building). The application would not affect footpath no. 109073.
- 3.9 Immediately adjacent to the north is the compound serving Unit 22, and the unit itself, which are occupied by Harding and Redgewell (automotive repair and MOT centre).

Background

- 3.10 The Committee is asked to note that the former 'Flight Engineering' premises (Unit or Site 21) adjacent to the west of Harding and Redgewell has very recently become the new premises of 'It's A Dog's Life' doggy day care and grooming centre, further to the granting of planning permission under ref. 20/0515. It serves as the replacement premises for what was 'Bark in the Park'.
- 3.11 The application description for 20/0515 is: Change Of Use From Vehicle Repair Centre To Dog Day Care Facility.
- 3.12 It is understood that the operations were relocated from 1 Millrace Road

(further along Millrace Road, next to W M Joinery and just along from the recently renamed 'Fusion' trampoline park) which in itself benefitted from planning permission under ref. 17/0931.

- 3.13 Although Bark in the Park (now 'It's A Dog's Life') has relocated, the unit it previously occupied still effectively has its dog day care use intact.

The Proposal

- 3.14 The submitted drawings show how the site would be laid out in terms of parking - with 5 no. parallel parking spaces diagonally arranged on the west side of the building. At the northern end of this area would be a bin storage area.
- 3.15 An enclosed outdoor exercise area would be created to the north of the building, butting up to the boundary with Unit 22 (north) and footpath no. 109074 (east). It would be accessed from within the building via the existing roller-shutter door, although within the building the area inside the door would be altered so that a single pedestrian door divides the outside from the central walkway.
- 3.16 The 'As Proposed' floor plans identify that the internal layout created would include two separate exercise areas either side of a central walkway, plus storage areas, staff room, wash room, reception, toilets and a 'rest area' room.
- 3.17 An elevational drawing submitted indicates where a signboard would be located above the roller-shutter door in the north elevation. The advert is not under consideration in this application. No alterations to the external elevations are proposed other than this.

4. Summary of Representations

- 4.1 The application has been advertised by way of a site notice displayed at the site, a notice in the press and neighbour letters sent to three neighbouring properties. In response, approximately sixty representations have been received. Of these, approximately two-thirds are written in objection; approximately one-third in support.
- 4.2 The approximation of the number reflects that some representations may not be valid because they are repeated or because they do not contain adequate or valid information relating to the third party's address or relating to the application.
- 4.3 A summary of the issues of relevance raised in objection to the application is as follows:
- (i) adding another dog day care facility next to an existing facility would adversely impact on that business in terms of loss/dilution of business (impact of Covid pandemic on existing businesses cited);

- (ii) saturation of dog day care uses in the locality (up to 2 other similar facilities nearby); no need for the additional dog day care development;
- (iii) would be more appropriate to set up this business elsewhere in the town where there are no existing similar facilities;
- (iv) use of the access to serve this new use would impact on useability of access to existing, adjacent business;
- (v) potential traffic conflicts due to 'shared yard' nature of site;
- (vi) adverse impacts of increase in traffic using the area - potential increase in risk to pedestrians and road users;
- (vii) building would be introduced in a (partly) residential area
- (viii) adverse impacts of additional development on nearby public paths;
- (ix) increased noise from barking dogs (proximity to residential area).

4.4 A summary of the issues of relevance raised in support of the application is as follows:

- (i) development proposed represents positive economic development (especially important after impacts of Covid pandemic);
- (ii) brings a vacant building back into productive use;
- (iii) additional facility supports enabling front line workers to go back into the workplace;
- (iv) development would add diversity to a predominantly industrial area;
- (v) development would promote social and economic growth;
- (vi) development is in a handy location; away from residential area but within easy reach;
- (vii) planned expansion of Carlisle (i.e. St Cuthbert's Garden Village) would introduce many more homes, requiring more supportive services such as this;
- (viii) development would promote healthy competition and choice;
- (ix) development unlikely to promote danger to pedestrians and road users.

5. Summary of Consultation Responses

Carlisle City Council Environmental Health: - No objection

Cumbria County Council - (Highway Authority - Footpaths): - No objection; provides advice relating to the presence of public rights of way adjacent to the site.

The Ramblers: - No response.

Planning - Access Officer: - No objection.

6. Officer's Report

Assessment:

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise.

- 6.2 The proposed development requires to be assessed against the National Planning Policy Framework (2019) and the Policies of the Carlisle District Local Plan 2015-2030 listed in paragraph 6.4 below.
- 6.3 The main issues, as listed earlier in the report, are as follows:
- (i) Whether the principle of the change of use can be accepted
 - (ii) Whether the development would be prejudicial to highway safety
 - (iii) Impacts on others' amenity
 - (iv) Flood Risk
 - (v) Effects on Public Rights of Way
- 6.4 Taking into consideration the range and nature of matters for consideration in respect of this major planning application, the following Policies of the aforementioned Local Plan are of relevance to this application:
- Policy EC 2 - Primary Employment Areas
Policy IP 3 - Parking Provision
Policy CC 4 - Flood Risk and Development
Policy GI 5 - Public Rights of Way
Policy CM 5 - Environmental and Amenity Protection
Policy IP 2 - Transport and Development

Applicants' Supporting Information:

Flood Plan:

- 6.5 The application is supported by a basic Flood Plan (author not stated). It reads as follows:

"Due to the area being in a flood risk zone, this plan must be followed in the event of a warning having been received to indicate an elevated risk warranting an evacuation:

All duty supervisors are signed up the Environment agency flood warning notification scheme.

- * Duty Supervisor to inform all staff of intent to initiate evacuation plan.*
- * Information cards for all present dogs to be collected.*
- * Inform all owners of situation or the next person on the emergency contact list to arrange collection immediately.*
- * For the remaining, return dogs to owners or designated alternative location.*
- * Check off all dogs and staff member to ensure all are safely evacuated."*

Supporting Statement:

- 6.6 The application is supported by a Supporting Statement, the highlights of which are as follows:
- site described as ideally located in a non-residential area with good road links, benefitting from close vicinity to countryside walks;

- describes external items and installations associated with the development (i.e. how layout would be arranged);
- describes apparent absence of contamination on the site/building;
- mentions installation of sign on building and erection of two directional signs for visitors (identified on submitted site plan);
- describes intended opening hours and phasing of arrival times along with collection service;
- discusses operation of the site and provides reasoning in relation to this;
- discusses operational ethos in terms of partners and staff training;
- describes job/trainee numbers.

Consideration of Development Proposals:

(i) Whether the principle of the change of use can be accepted:

6.7 In terms of the current Local Plan, the most pertinent Policy is considered to be EC 2 'Primary Employment Areas'. The site is firmly within the long-established industrial estate and therefore this Policy is key to consideration of whether or not the principle can be supported.

6.8 Two parts of the Policy are highly relevant to the current application. Within the first paragraph, the following text is relevant:

"Sui Generis uses may also be appropriate in Primary Employment Areas providing it can be demonstrated that employment opportunities are nevertheless being maximised and that there would be no significant adverse impacts on existing or proposed adjoining uses."

The fourth paragraph states:

"Where there is no reasonable prospect of an entire employment site remaining in continued employment use; interventions to improve the attractiveness of the site are not feasible; and its release would not impact on the wider strategy for employment land or the availability of local employment opportunities, applications for alternative uses of land or buildings will be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities".

6.9 Turning to the National Planning Policy Framework, the following Paragraph is considered to be of most relevance, in this case and in relation to the principle of development:

Paragraph 80:

"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. 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. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly

important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential."

- 6.10 Willowholme Industrial Estate, relatively speaking, is an active and well occupied employment area. Its overarching usage was historically all general industry including storage and distribution, manufacturing, engineering, mechanics etc. Nowadays, though, the traditional thread through all of the estate has been lessened, and somewhat diluted, reflecting the changing market and the changing requirements of businesses. Some units within the overall site have been out of use for a while and are being advertised as 'to let'. Units such as that now occupied by 'It's A Dog's Life' and 'Fusion' have fully departed from the traditional B2 and B8 mainstay activities and offer Sui Generis uses within former industrial buildings, with the benefit of planning permission.
- 6.11 Carlisle City Council has already, on two occasions, indicated by granting planning permission first for Bark in the Park, and secondly for It's A Dog's Life that the introduction of what might be called a complementary use as dog day care is appropriate within Willowholme Industrial Estate. The entire estate is non-residential and so a potentially noisy employment/commercial use has been found to be relatable to other such noise generating uses and not out of keeping. The use proposed is essentially a daytime use and so noise from activities at the site during the night is highly unlikely to emanate.
- 6.12 The Committee will have noted that within several objections received, some people have opined that having a second facility in such close proximity to one that already exists and has only very recently been set up, is likely to have an adverse impact on that business. Some have also referenced the other building/site previously occupied by Bark In The Park as a third such similar use within the Estate, although the Committee should note that at present no such use is operational within that other premises, with Bark In The Park relocating to Unit 1 and rebranding itself as It's A Dog's Life.
- 6.13 Arguably, it is sensible to have a similar business located in this sub-area of the overall estate because it is already recognised that the locality is suitable and planning policy would be supportive of the principle, as tested by application 20/0515.
- 6.14 Furthermore, Unit 11 is smaller than Unit 21 (the former is around two-thirds the size of the latter) within which It's A Dog's Life is now operating and so it would not promote a dominant use whereby a newcomer could clearly have the potential to capture the lion's share of the market. It would offer choice within a competitive market, which should be viewed positively because in a growing industry it is inevitable that some businesses will thrive more so than others - the market requires this so that it can be genuine and healthy, and to make sure that businesses in rival positions rely not only on their existence, but also on the quality, robustness and futureproofing of their operations in the knowledge that competitors may create their own advantages within the market, or indeed disadvantages.

- 6.15 In addition, it is recognised that since Covid-19 gave rise to lockdowns more people, who have had to change their patterns of living and working, have taken on dogs as pets because this offers a recreational opportunity within an otherwise limited arena of recreation. At the present time, however, a degree of reversion to what is perceived as normality leading to people going back 'into the workplace' in a traditional sense has created a greater demand for supportive facilities such as dog day care centres.
- 6.16 Having regard to Policy EC 2 and the NPPF as cited above, the development would therefore accord with both national and local policy in terms of the principle, because:
- although the use is no longer within the industrial bracket, it both provides and supports employment (the latter in a wider sense);
 - it would not be reasonable or sustainable to make a case in a planning context that the introduction of a second, smaller, similar business nearby would adversely impact on the existing business simply because they would both exist - competition is a natural element of business and business development;
 - it is situated within a commercial area already established as acceptable in principle for dog day care (Sui Generis) use;
 - the intention to create the dog day care centre reflect signals emanating from the current-day market; and
 - it would be a complementary use, not an alien introduction into the overall estate, and would be proportionate in terms of its scale in relation to the estate and activities within the estate.

(ii) Whether the development would be prejudicial to highway safety

- 6.17 The development would utilise an existing shared access with another commercial unit. The access itself is well-established, is wide and is formed in a location that is appropriate to the estate and the site itself. It could be used (presently) without modification by two adjacent or separate industrial or distribution operators and has not got the hallmarks of a dangerous access.
- 6.18 'Fusion' (was 'Energi') trampoline park is unusual in that it attracts quite a lot of customers that walk from Caldewgate through the industrial estate; many of these are young people, including groups of teenagers who occasionally go to Fusion without adults. Pedestrians utilising Fusion would necessarily walk past the access for the proposed dog day care unit. Other pedestrians would be active in the locality, but perhaps less proportionately relevant if they are not customers at Fusion.
- 6.19 The Fusion/pedestrian safety scenario, though, could not logically be argued to be worsened with the alternative use proposed. It may be that at certain times of day movement of cars and vans increases at drop-off and pick-up times, but throughout the day, as an alternative to a unit in active industrial use, it would be likely to give rise to hardly any lorries or other large commercial vehicles. The unit is slightly smaller than average by comparison to many of the units within the overall estate that have the potential to generate more commercial and associated traffic.

- 6.20 Turning to the site itself, it would provide a modest parking area in the designated zone outside the unit. The designation of marked spaces is an improvement on the current situation, with the overall compound presently having no spaces for any vehicles marked out. However, there is clearly more space available within the curtilage than just the parking spaces shown in the site plan. Plus, customer vehicles are not likely to stay for long, and so although there may be peak times when the access and parking area is busiest, a pattern is likely to establish quite quickly of customers coming and going, which would be likely to settle over time as the business matures.
- 6.21 The indication within the supporting statement relating to some dogs being taken to and from the site by the site operators suggests further mitigation, and that this matter has been thought through.
- 6.22 In respect of highway safety and parking provision, therefore, the proposed use, although likely to attract a different range of traffic and in a different pattern during the day, would not exacerbate current permitted usage in any meaningful adverse way. The application is therefore in accord with Policies IP 2 and IP 3.

(iii) Impacts on others' amenity:

- 6.23 Within more than one objection, the potential for noise emanating from the site, in combination with the nearby It's A Dog's Life premises, is cited as problematic because the locality is, or is in part, a residential area.
- 6.24 The assertion that this is a residential area is incorrect. The Showmans' Guild site is 125m due east from the site with the next nearest being at Caldew Maltings, approximately 250m east south-east. Between Unit 11 and the Showmans' Guild site and Caldew Maltings, and adjacent to the application site, is the very large Stagecoach maintenance depot for buses. There are no other residential areas within a 300m radius of the site.
- 6.25 The Environmental Health service of Carlisle City Council has been consulted on this application, and has responded favourably without reference to noise, on the basis of the information submitted. Taking into consideration that the proposed use is in the middle of an industrial estate, which is inherently noisy during the daytime as this is an appropriate and intended area for noise-generating activities (within reason, and with necessary controls in place as appropriate), the Planning Service concurs with this position.
- 6.26 It is acknowledged that the additional facility will probably add to existing noise generated by It's A Dog's Life, but by virtue of the previous permissions for dog day care within the Estate, this would not be a new noise sensation and cumulative noise, given the distance between residences and the site, would not be likely to significantly, or notably increase.
- 6.27 The application, therefore, would be in accord with both Policies CM 5 and EC 2 because the new use, even cumulatively with It's A Dog's Life, would not give rise to significant impacts on residential amenity.

- 6.28 The committee may wish to note that the hours of openings are stated within the planning application form as being from 0730 hrs to 1800 hrs Monday to Saturday. The premises is not intended to open on Sundays. To ensure that these hours are followed, it would be appropriate to impose a condition describing them and limiting opening to align with them. This general approach was taken in relation to It's A Dog's Life in Unit 21.

(iv) Flood Risk:

- 6.29 The site and building is within Flood Zone 2/3, meaning that it could flood in extreme weather circumstances. The entire Estate is within this flood risk designation.
- 6.30 Although a Flood Risk Assessment has not been submitted with the application, the applicants have included a Flood Plan within the application bundle, which demonstrates an awareness that if a flood event arises, measures must be in place to ensure risk to users is minimised.
- 6.31 The premises is not currently precluded from use for industry despite the flood designations. The intended use would not be inhabited at night time and would be manned during operational hours by staff - this would be similar to any previous use within the building and site. The change from general industrial to this specific Sui Generis use, therefore, would not increase risk or prejudice to users in terms of flood risk, and is therefore compatible with Policy CC 4.

(v) Effects on Public Rights Of Way:

- 6.32 The development would be physically contained within the long established fenced compound and would not change impacts on the public footpath network. Dogs and staff may be visible and audible from the adjacent footpath network, but this would not be an adverse impact in a planning context. The application would therefore not be in conflict with Policy GI 5.

Conclusion:

- 6.33 The above assessment reflects that the proposed change of use does not give rise to any issues that would preclude support. The proposed use is compatible with the Estate and with adjacent uses, would continue to provide employment and support wider employment, and no other planning issues such as highway safety, flood risk or noise arise that present significant challenges or concerns.
- 6.34 It is therefore recommended that the application is approved because it is in accord with Policies EC 2, CM 5, IP 2, IP 3 and CC 4 of the Local Plan, and is in accord with the National Planning Policy Framework.

7. Planning History

- 7.1 This unit has no site specific planning history since 1974. As a building within the Willowholme Industrial Estate, its current accepted use is general or light industrial and/or wholesale storage and distribution. This would reflect former Use Classes B8 and B2, and to a limited extent B1. B8 and B2 still exist, whereas B1 is now incorporated into Class E 'Commercial, Business and Service'.

8. Recommendation: Grant Permission

1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:

1. the submitted planning application form;
2. drawing ref. TD02 'Location Plan', received on 18 May 2021;
3. drawing ref. TD03 'Site Plan', received on 18 May 2021;
4. drawing ref. TD06 'External Area Plan', received on 18 May 2021;
5. document ref. TD08 'Flood Plan', received on 18 May 2021;
6. document ref. TD01 'Supporting Statement', received on 18 May 2021;
7. the Notice of Decision;
8. any such variation as may subsequently be approved in writing by the Local Planning Authority.

Reason: To define the permission.

3. The dog day care facility (Sui Generis Use) hereby approved shall not be open for business except between 0730 hours and 1800 hours from Monday to Saturday inclusive, and shall not open on Sundays or Bank Holidays. No animals shall remain on the premises outside of these times.

Reason: To align with the operating hours stated in the application form, in the interests of amenity and animal welfare, and in order to mitigate the risks posed by flooding to the site in accordance with Policies EC 2 and CC 4 of the Carlisle District Local Plan 2015-2030.

REF: TD02

Proposed Top Dog Doggy Day Care Centre - Location Plan



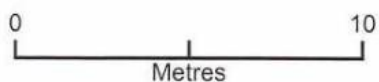
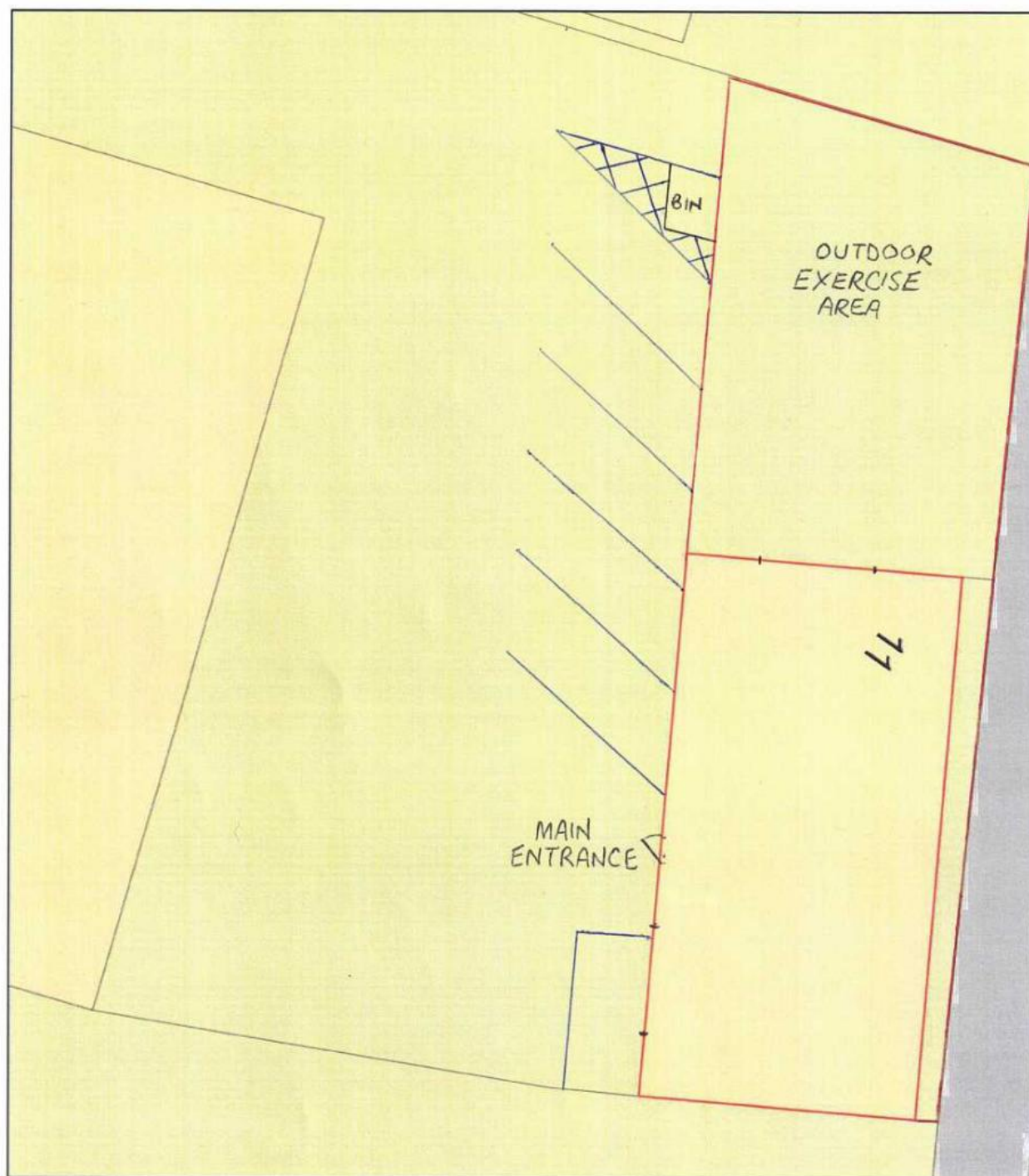
0 50
Metres



Plan Produced for: David McKenna
Date Produced: 11 May 2021
Plan Reference Number: TQRQM21131071711749
Scale: 1:1250 @ A4

REF: TD03

Proposed Top Dog Doggy Day Care Centre - Site Plan



Plan Produced for: David McKenna

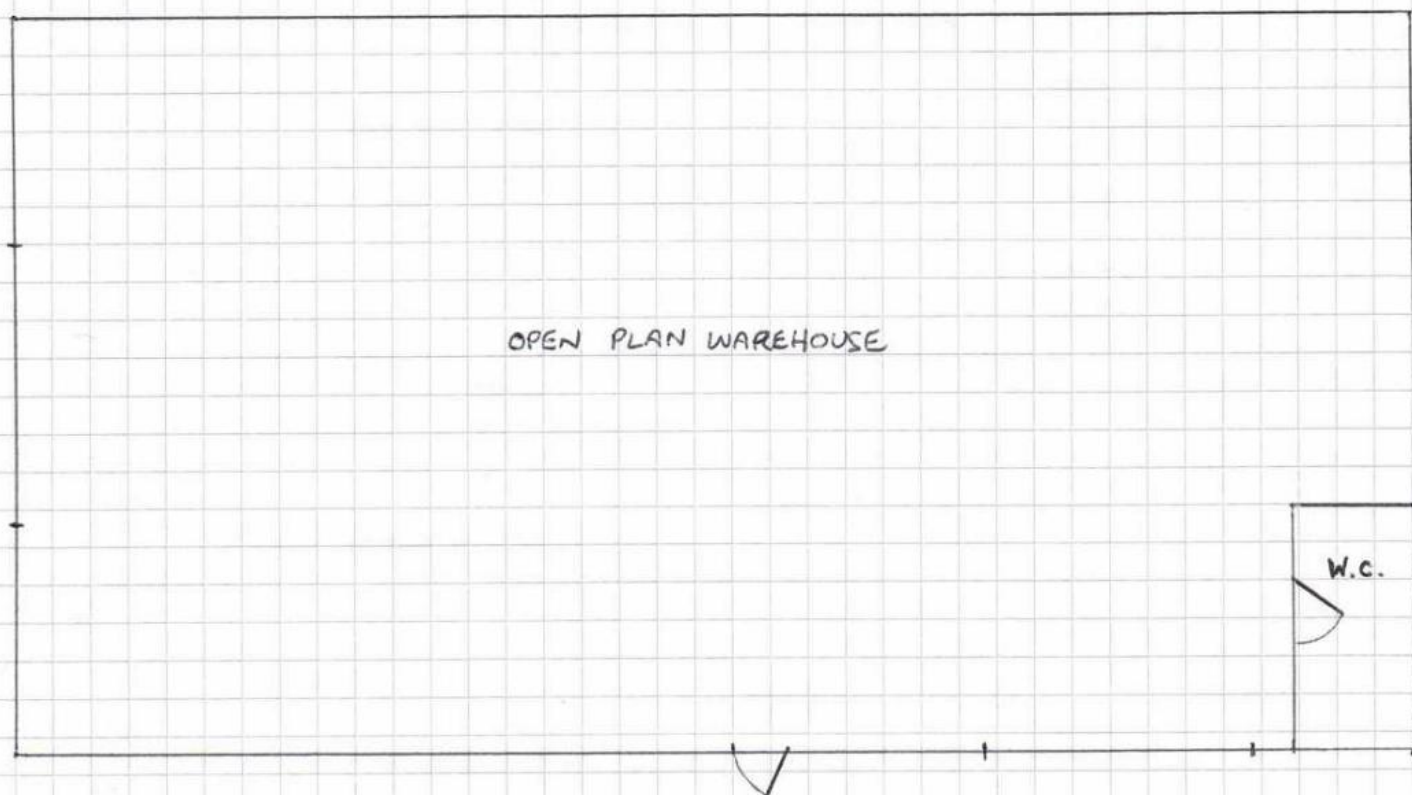
Date Produced: 11 May 2021

Plan Reference Number: TQRQM21131073148926

Scale: 1:200 @ A4

REF: TD04

PROPOSED TOP DOG DOGGY DAY CARE CENTRE - FLOOR PLAN (EXISTING)

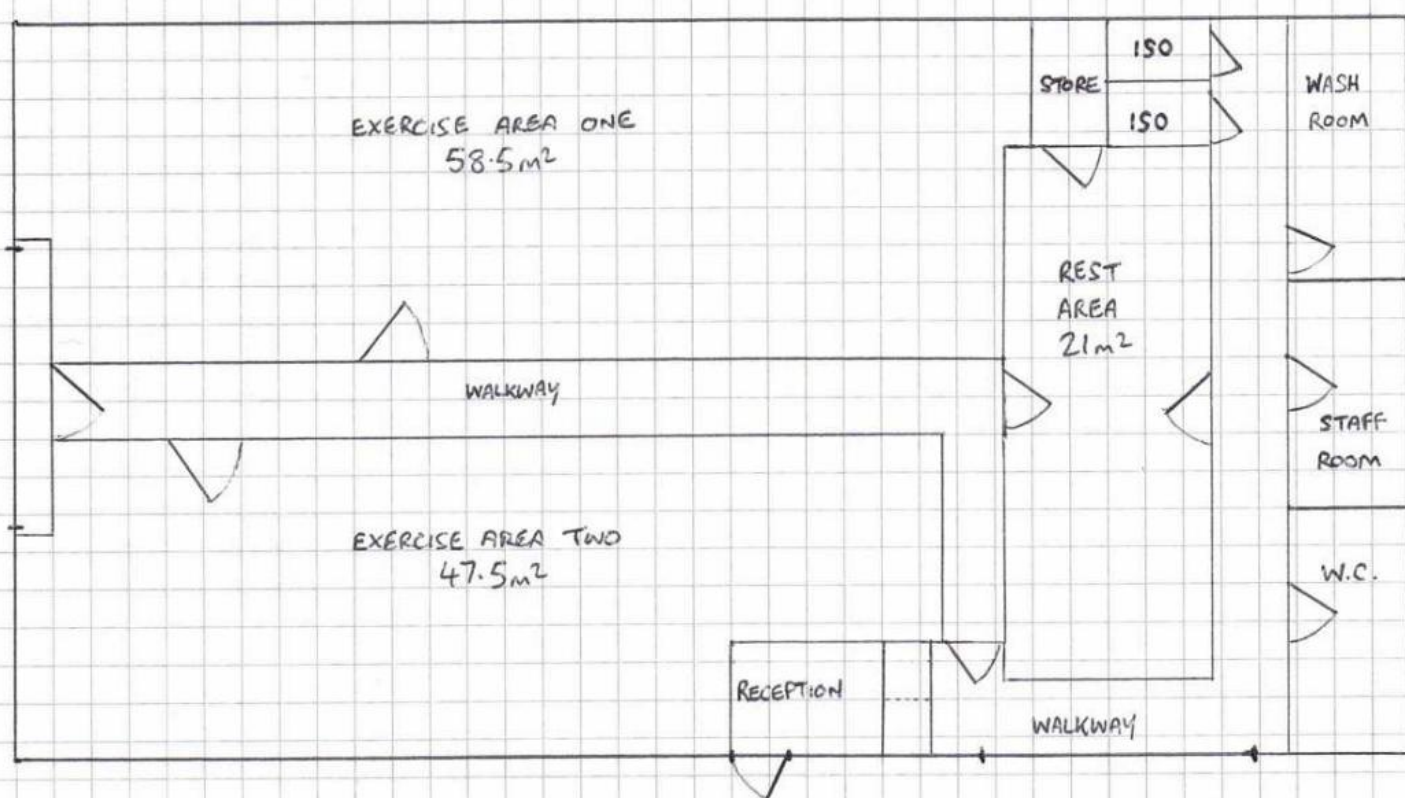


DAVID MCKENNA

11 MAY 2021

SCALE 1:100

PROPOSED TOP DOG DOGGY DAY CARE CENTRE - FLOOR PLAN (NEW)



ALL INTERNAL BOUNDARIES OF EXERCISE AREAS ARE 1200mm HIGH WASHABLE STRUCTURES EXCEPT AROUND RECEPTION/WASH ROOM/STAFF ROOM WHICH ARE 2100mm HIGH

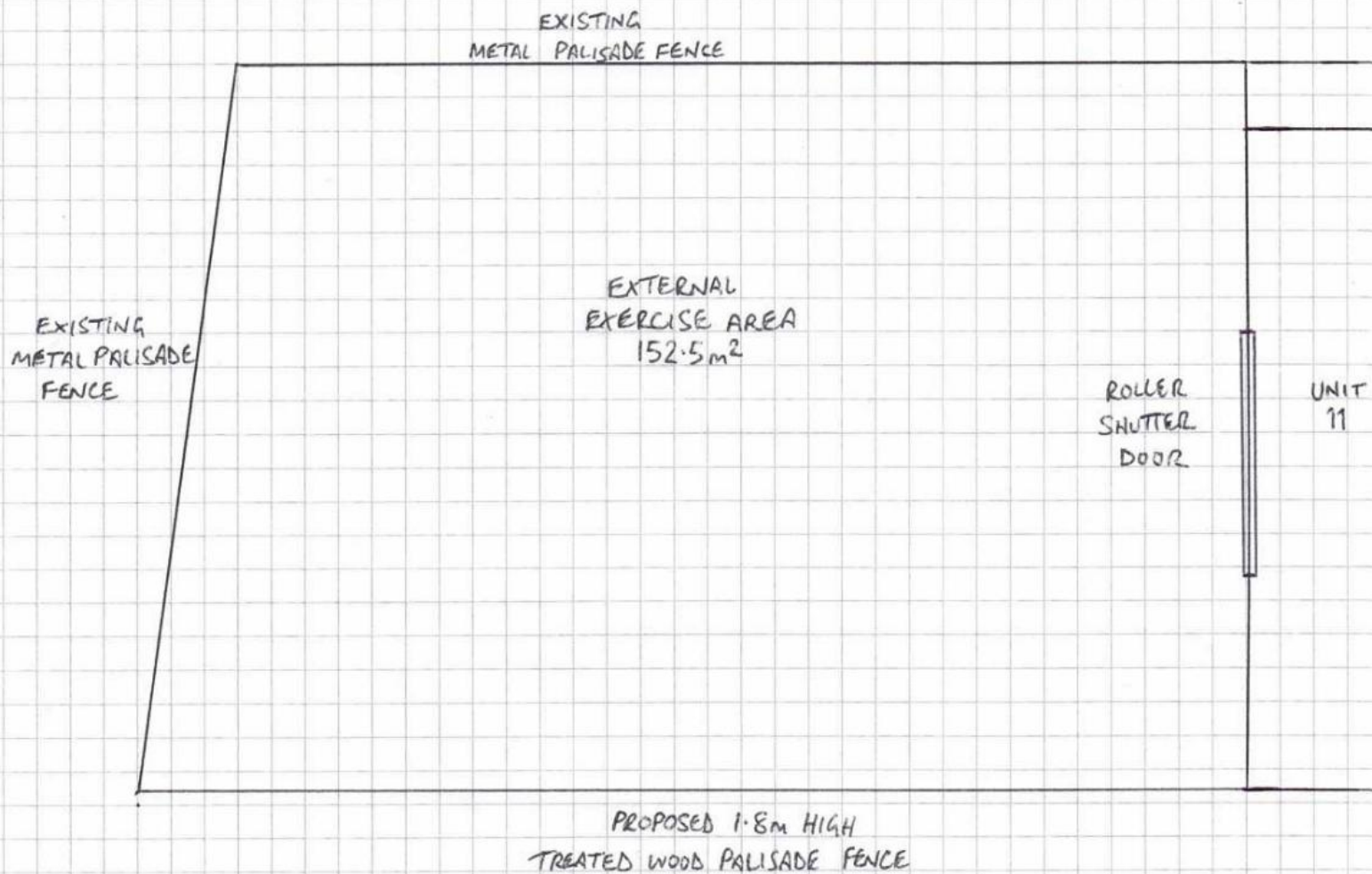
DAVID MCKENNA

11 MAY 2021

SCALE 1:100

REF: TD06

PROPOSED TOP DOG DOGGY DAY CARE CENTRE - EXTERNAL



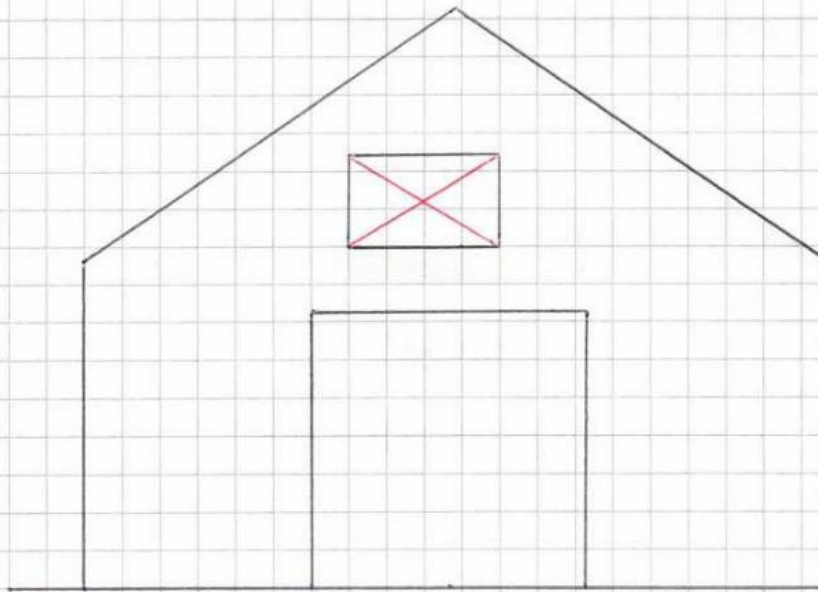
DAVID MCKENNA

11 MAY 2021

SCALE 1:100

REF: TDO7

PROPOSED TOP DOG DOGGY DAY CARE CENTRE - NORTH ELEVATION



SIGN LOCATION DESIGNATED BY RED CROSS

DAVID MCKENNA

11 MAY 2021

SCALE 1:100