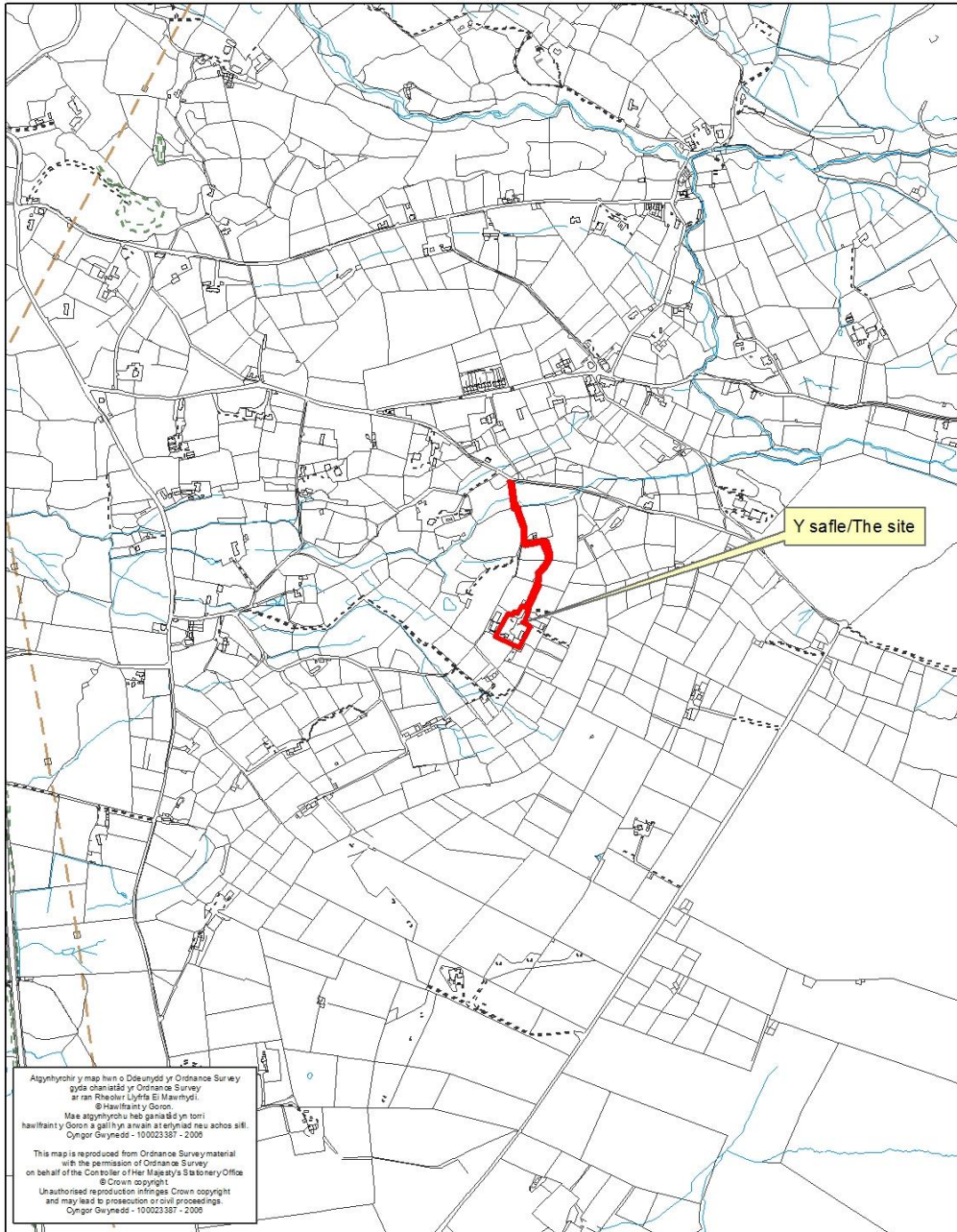


Number: 5.1



Rhif y Cais / Application Number : C14/1197/22/LL

Cynllun lleoliad ar gyfer adnabod y safle yn unig. Dim i raddfa.
Location Plan for identification purposes only. Not to scale.



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Application Number: C14/1197/22/LL
Date Registered: 20/01/2015
Application Type: Full - Planning
Community: Llanllyfni
Ward: Llanllyfni

Proposal: REPLACE EXISTING ANIMAL SHELTER FACILITIES WITH NEW FACILITIES TO INCLUDE RECEPTION, DOG KENNELS, CAT KENNELS, PARKING SPACES, CESSPIT AND ASSOCIATED FACILITIES

Location: BRYN MELYN, NASARETH, CAERNARFON, LL54 6DU

Summary of the Recommendation: TO APPROVE WITH CONDITIONS

1. Description:

1.1 This is a full application to replace (and demolish) the existing animal shelter facilities with new facilities to include a reception, dog kennels, cat kennels, parking spaces, cesspit and associated facilities at "Freshfields" (Bryn Melyn) holding on the southern outskirts of Nebo. North of the site are a number of scattered residential dwellings and further on is the village of Nebo. To the east is a public footpath and agricultural land (in the ownership of Bryn Melyn holding) that extends up towards Pen yr Yrfa and Bryn y Gog, to the south is Tan Drwfwl and west is agricultural land (designated as a Landscape Conservation Area in the Gwynedd Unitary Development Plan - GUDP) together with a public footpath and scattered residential dwellings.

1.2 The development can be split into the following elements:-

- Reception - the new reception will be located in the centre of the site (as existing) and will comprise toilets, offices, a shop and storage. It will measure 13.6m long, 10.3m at its widest section to a height of 4.3m and constructed of dark grey coloured profile steel, white painted blockwork walls together with aluminium doors and windows in a dark grey colour.
- Dog kennels - the existing dog kennels (for five dogs) are located across the public footpath that runs adjacent to the northern gable-end of Bryn Melyn cottage. The building where the kennels will be located will measure 15.7m long, 6.92m wide with a height of 3.2m and constructed of a dark grey coloured profile steel and insulated in order to reduce any noise that may emanate from the building itself. The roof, walls, windows and doors would be made of dark grey coloured aluminium. The building's front elevation (where the kennels will be located) will be galvanised steel bar panels. Internally, there will be eight dog kennels together with a food preparation room and a run situated at the rear of the building for the dogs themselves.
- Dog kennels - the existing dog kennels (for five dogs) are situated across the public footpath that runs opposite the northern gable-end of Bryn Melyn cottage. The building where the kennels will be situated will measure 15.7m long, 6.92m wide with a height of 3.2m and constructed of dark grey coloured profile steel and insulated in order to reduce any noise that may emanate from the building itself. The roof, walls, windows and doors would be made of dark grey coloured aluminium. The building's front elevation (where the kennels will be located) will be constructed of galvanised steel bar panels. Internally, there will be eight dog kennels together with a food

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preparation room and a run situated at the rear of the building for the dogs themselves.

- Cat Kennels - the new cat kennels will be located on the holding's southern boundary as existing, and will measure 37.3m long, 12.6m wide with a height varying from 3.4m to 6.6m, the building will be stepped and will follow the topography of the land. Externally, the construction would be insulated steel profile with a dark grey coloured roof, walls partly constructed of white painted blocks and dark grey coloured profile sheeting. A section of the walls where the cat kennels are located will be constructed of steel bar panels. Internally, the facility will comprise 16 separate kennels, inspection rooms, food room, toilet, storage together with 30 double kennels with a walking corridor running through the centre of the building.
- Parking spaces - the existing parking spaces will be formalised in order to create 15 parking spaces to include a disabled parking space. The parking spaces will be located near the access to the yard and in front of the proposed reception.
- Cesspit - the cesspit, with a capacity of 23,000 litres, will be located at the rear of the proposed reception on a plot of land earmarked for landscaping. It will operate by chemically breaking down the sewage and will be emptied periodically by a licensed waste treatment company.
- Associated facilities - these facilities will include a building for storage, food preparation rooms, 'small' animals room together with units for kittens. This building will be located below the proposed reception and would measure 20.25m long, 9.5m wide with a height varying from 3.2m to 4.5m and the construction will reflect the construction of the surrounding buildings. Opposite the northern gable-end of this building a detached purposeful building will be situated for feral cats and will measure 11.7m long, 3.8m wide with a height to the ridge of 2.9m. It will be constructed with a dark grey coloured steel profile on the roof and walls with galvanised steel panels together with acrylic panels.

1.3 The site currently has an extensive number of temporary structures and their construction is sub-standard for their purpose (i.e. as a shelter for animals that have been abandoned and mistreated). In the past the site has been developed in an ad hoc fashion and the intention of the latest plan is to set a strong foundation for the future organised development of the site, together with upgrading the existing facilities.

1.4 According to the information included in the application form, there are three full time members of staff and 15 part time staff who currently work at the animal rescue centre and the number of part time staff will increase to 17 if this application is approved. The centre will be open to the public between 10:30 and 13:00, seven days a week and during Bank Holidays as it currently is.

1.5 The following were submitted with the application:-

- Design and Access Statement
- Revised noise assessments in accordance with the requirements of the Public Protection Service.

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2. Relevant Policies:

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2.1.2 of Planning Policy Wales emphasise that planning decisions should be in accordance with the Development Plan, unless material considerations indicate otherwise. Planning considerations include National Planning Policy and the Unitary Development Plan.

2.2 Gwynedd Unitary Development Plan 2009:

POLICY A1 – ENVIRONMENTAL OR OTHER IMPACT ASSESSMENTS

Ensure that sufficient information is provided with the planning application regarding any environmental impacts or other likely and substantial impact in the form of an environmental assessment or assessments of other impacts.

POLICY A3 – PRECAUTIONARY PRINCIPLE

Refuse proposals if there is any possibility of serious or irreversible damage to the environment or the community unless it can be shown conclusively at the end of an appropriate impact assessment that the impact can be negated or mitigated.

POLICY B22 – BUILDING DESIGN

Promote good building design by ensuring that proposals conform to a series of criteria aimed at safeguarding the recognised features and character of the local landscape and environment.

POLICY B23 - AMENITIES

Safeguard the amenities of the local neighbourhood by ensuring that proposals conform to a series of criteria aimed at protecting the recognised features and amenities of the local area.

POLICY B25 – BUILDING MATERIALS

Safeguard the visual character of the Plan area by ensuring that only natural Welsh slates or slates that are similar in terms of their appearance, colour and weathering properties are permitted, other than in circumstances in which the type of building or its particular setting, or the sustainability benefits, are such that another material would be appropriate. In respect of other parts of the building, development will be required to use high quality building materials that complement the character and appearance of the local area. Proposals that introduce substandard or intrusive materials will be refused.

POLICY B33 – DEVELOPMENT THAT CREATES POLLUTION OR NUISANCE

Protect human amenities, the quality of public health and the natural or built environment from high levels of pollution.

POLICY CH29 – SAFEGUARDING AND IMPROVING LINKS FOR PEDESTRIANS

Proposals within Centres and Villages will be refused unless they provide safe, attractive and direct footpaths for pedestrians across and out of the site where there is a clear opportunity to make such a provision.

POLICY CH33 – SAFETY ON ROADS AND STREETS.

Development proposals will be approved provided they can conform to specific criteria relating to the vehicular entrance, the standard of the existing roads network and traffic calming measures.

POLICY CH36 – PRIVATE CAR PARKING FACILITIES

Proposals for new developments, extensions to existing developments or change of use will be refused unless off-street parking is provided in accordance with the Council's current

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parking guidelines, and having given due consideration to the accessibility of public transport, the possibility of walking or cycling from the site and the proximity of the site to a public car park.

POLICY D8 – EXPANSION OF EXISTING ENTERPRISES

Proposals to extend/expand/intensify industrial enterprises and existing businesses or other enterprises will be approved if they conform with specific criteria regarding the appropriateness of the existing use in relation to the surrounding area and adjacent uses and how relevant it is to the existing work.

Strategic Policy 4 - Development will be expected to be of a good design in order to ensure that it makes a positive contribution, wherever possible, to the landscape, built environment and sustainable development.

Gwynedd Design Guidelines (2003).

2.3 National Policies:

Technical Advice Note (TAN) 11 – Noise (1997)

TAN 12 Design (2014).

Planning Policy Wales - Edition 8, (2016).

3. Relevant Planning History:

- 3.1 Application number C08A/0044/22/LL – extension to house, demolish and re-erect external building together with re-erecting stables was withdrawn in 2008.
- 3.2 Application number C04A/0861/22/LL - retrospective application to re-locate an agricultural shed, approved in December 2005.
- 3.3 Application number C03A/0493/22/LL - agricultural shed, approved in September, 2003.
- 3.4 Application number C03A/0340/22/LL - Three shelters for horses (retrospective application, approved in September, 2003.
- 3.5 Application number C00A/0138/22/LL - extension to the existing dog kennels (five kennels) approved in June 2000.
- 3.6 Application number C97A/0251/22/LL - change of use of stables to a cat shelter approved in July, 1997.
- 3.7 The Public Protection Service have received complaints periodically since 2004, and have reported back by undertaking investigations, however, no enforcement action has thus far been taken. The last complaint concerning noise disturbance stemming from the site in September 2015 was closed as no statutory nuisance was proven.

4. Consultations:

Community/Town Council:

Object on the following grounds:-

- The former Arfon Council, when dealing with an application for storage, was

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concerned regarding complaints by neighbours if noise emanated from the site.

- Objections were received from local residents regarding this latest application on the basis of the implications of a serious nuisance with the development of the dog kennels.
- The issue of dogs straying.
- No objection to the housing of cats as they are not likely to bark during night time hours.
- The Transportation Department's comment regarding the use of the public footpath was a matter of concern to the community council.
- The site is seen from nearby public footpaths.
- They question how many dogs will be boarded on the site.
- The application causes huge concern bearing in mind those people who live in close proximity to the site.

Transportation Unit:

In response to the original concern, a revised plan was submitted which indicates that the building for the kennels has been re-located and therefore it no longer impairs upon the contour of public footpath number 73, Llanllyfni. It is deemed that the parking spaces for the scale of the development are acceptable and are not likely to have a contrary impact on the network of local roads, and as a result of the above the Transportation Unit has no objection.

Natural Resources Wales:

No objection but an Environment Licence will be required from NRW regarding the private sewage treatment tank.

Welsh Water:

No response

Public Protection Unit:

Submit the following observations following the receipt of a revised noise assessment:-

- The plan has been amended and no section of the building will now allow the dogs to go outside (for exercise) and consequently it will not be necessary to conduct an additional noise assessment regarding the external noise made by dogs.
- If the application is approved, a condition will have to be imposed to ensure that the walls and roof have sufficient noise insulation prior to the

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occupation of the building and such a plan will have to be submitted to the Local Planning Authority for approval.

- It will be a requirement to undertake an additional noise assessment if it is necessary to install mechanical ventilation equipment and this may be ensured by attaching an appropriate condition, if this application is approved.
- Restrict the numbers of dogs to eight only.
- Limit the time the facility is open to the public to between 10:00 in the morning and 13.00 in the afternoon.
- The applicant shall comply with the legislation operated by the Public Protection Service such as the Health and Safety in the Workplace Act etc., 1974, Council licensing conditions under the Animal Boarding Establishment Act, 1963, together with the Animal Welfare Act 2006.

Biodiversity Unit

No concerns regarding biodiversity.

Footpaths Unit:

It is requested that public footpath number 73 in the community of Llanllyfni is protected during and following the completion of the development.

Public Consultation:

Bearing in mind the nature of the proposal and its rural location, a notice was placed in the press and on the site and nearby residents were informed. Following the receipt of amended plans/information (three times) correspondence was received objecting on the grounds of material planning matters:

- A history of noise disturbance from the site due to dogs barking and this matter had been raised some years previously with the Public Protection Service.
- Increasing the number of dog kennels from five to eight would make the current situation worse on the grounds of noise disturbance.
- The applicant had ignored the planning conditions included in the historical consents.
- The existing kennels are located across a public footpath.
- The site is visible from public spaces such as footpaths and has an impact on visual amenities.
- Neither the nearby network of narrow roads, nor the private drive that serves the site, can cope with a development of such a scale as included in this application.

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- Negative effect on the privacy of local residents.
- The application site is vulnerable to flooding.
- The changes to the noise assessment are cosmetic and will not have much influence on the basic problem of noise from the dogs housed on the site itself.
- No mitigation measures are proposed by the applicant regarding the above concerns and objections.
- The original objections (see above) continue to be valid (despite receiving amended details).
- The human rights of local residents have to be considered on the grounds of the right to respect to privacy together with the right to enjoy a property.

As well as the objections noted above, objections were received which were not valid planning objections these include:

- The applicant has not informed the neighbours in the area, contrary to what is stated in the application form.
- Dogs from the holding foul the carriageway of nearby roads when walking under the supervision of 'Freshfields'staff.
- Sub-standard quality of the shelters and existing shelter facilities at the holding.
- Dogs escape from the site and run free, without control, on nearby agricultural fields and disturb livestock.
- Approving the application would have an impact on the value of nearby housing.
- Approving the site may have a detrimental impact on a similar business nearby.
- Pollution of the local rivers/ditches by animal faeces.
- If the proposal is approved, it would entail that more waste would be produced at the expense of health safety.

5. Assessment of the relevant planning considerations:

The principle of the development

- 5.1 The principle of expanding existing enterprises is based in Policy D8 of the GUDP, which states that proposals relating to extending/expanding/intensifying existing industrial enterprises and businesses will be approved subject to compliance with a number of guidelines relating to ensuring the existing use does not cause significant harm to the surrounding area, that the proposal is located within the existing

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development, that the proposal is ancillary to the work that exists there already, that the scale of the proposal will not significantly impact environmental amenities and the local roads network and that the proposal includes landscaping measures.

5.2 To this end, it is believed that this latest proposal is acceptable in principle given the following:-

- Given the contents of this entire assessment, it is not believed that the latest proposal will cause significant or substantial harm to the surrounding area, despite the receipt of objections that refer to existing problems that cause concern for local residents based on noise disturbance and possibly, the lack of control within the site itself together with sub-standard facilities to look after animals.
- The principle of establishing this type of shelter has already been established back in 1997.
- The latest proposal is located within the existing curtilage of the use between the applicant's dwelling and the agricultural shed below, that was approved in 2005.
- The proposal is ancillary and is an improvement to the current use/facilities.
- It is not believed that the scale of the proposal will significantly impact the environment given the impact and setting of the existing structures in the landscape together with the design and elevations/external materials of the new structures that will reduce the visual impact within the local landscape and will be an opportunity to improve the quality and appearance of the site.
- Further landscaping measures to those included in the current application may be ensured by including relevant conditions should this application be approved.

5.3 Having considered the above, it is deemed that the proposal, as amended, is acceptable in principle and will enable this to be an opportunity to upgrade the existing facility by developing purposeful buildings to give shelter to cats and dogs. Other material planning considerations are considered below and the proposal will also need to be acceptable in the context of these policies.

Visual amenities

5.4 Although the site is in the countryside, the local area is speckled with structures which include residential dwellings and agricultural buildings. The landscape rises up from the west to the east and comprises grazing and mountain land and has an open aspect with some woodland and singular trees here and there. The existing buildings include several different types of structures such as a modern agricultural shed below the site which is in the applicant's ownership. The proposal will involve erecting much larger sized structures than the existing, although they would be located within the site's existing yard. Bearing in mind the site's location, the applicant has sought to mitigate the impact of the proposed development on visual amenities by (i) siting the buildings as close to each other as possible to ensure they are not scattered within the landscape; (ii) ensuring that the external materials are in keeping with the nearby landscape by using dark colours on the external elevations, although a white render will be used on the buildings nearest to the cottage; and (iii) retaining the height of the structures as low as possible with the height of the existing structures 1.5m lower than the roof ridge of Bryn Melyn with the roof ridge of the cat kennels south of the cottages at an equal height.

5.5 Although there is a Landscape Conservation Area located west of the application site it is not believed that the proposal will have a detrimental impact on the designation because of the site's location in a hollow and the fact that the local area is speckled

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with residential and agricultural buildings of various scale and design. The site will be partly hidden from the north (Nebo) considering the topography of the surrounding area, and it will be partly visible from the south (Nasareth). However, the site will be most visible when walking along the public footpaths that traverse, run adjacent to and are below the site. To this end, it is considered that the proposal will not significantly impair the character of the landscape and consequently it complies with the requirements of Strategic Policy 4, Policies A1, A3, B22, B23, B25 and D8 of the GUDP as well as the advice given in TAN 12 Design.

General and residential amenities

- 5.6 As has been already mentioned, a number of residential dwellings are located in the vicinity of the application site. The nearest dwelling to the site is Tandrwfwl which is located 56m south with two sloping fields together with traditional dry stone boundary walls and a few trees in the space between both sites. There are other dwellings situated near the application site including Tu Hwnt i'r Afon (258m north-east), Glanrafon (194m north-west), Ty'n Pant (312m north-east) and Pen yr Yrfa (336m east). The main material objection to this latest application from the occupants of these dwellings is noise disturbance, currently stemming from the site, and the noise that may emanate from the proposal by increasing the number of dogs proposed to be boarded on the site itself. In consideration of this concern, the kennel building was amended and it now includes mitigation measures and insulation for the noise that may stem from the dogs by using special tiles known as Escorba. In addition to this, the Public Protection Service recommend that the walls and roof of the building are covered internally with this tile and a plan will need to be submitted to this end to be agreed with the Local Planning Authority prior to commencement of the work and prior to the occupation of the building. It will also be necessary to submit a plan of any mechanical ventilation equipment for any of the proposed buildings in order to safeguard the amenities of nearby residents from noise disturbance. The reason given for including these conditions is to ensure that the noise levels are lower than the area's background level when measuring from nearby sensitive dwellings.
- 5.7 Another element of the proposal that also causes concern to the local residents is ignoring the previous planning conditions - this latest proposal offers an opportunity to review the current situation regarding planning conditions imposed on previous applications together with updating and the submission of new current conditions to enable the proposal to proceed by safeguarding the area's general and residential amenities at the same time.
- 5.8 To this end, it is believed that the proposal, as amended, is acceptable based on the requirements of Policies A1, A3, B23, B33 and D8 of the GUDP together with relevant national guidance.

Transport and access matters

- 5.9 The site is served by a network of roads that include a private drive, unclassified county highway together with a third class county highway. It is proposed to formalise the existing informal parking spaces within the application site. Bearing in mind that the animal shelter use exists, and has been established on the site for some time, it is believed that the proposal will not have a detrimental impact on road safety as there will be no significant increase in the existing numbers of vehicles visiting the site. It is thought that the existing road network, despite the concerns of local

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residents, is of a sufficient quality and standard to be able to cope with the additional flow of traffic that may stem from this proposal.

- 5.10 The original concern was that the kennel building was located across public footpath number 73 in the community of Llanllyfni, and in order to respond to this concern an amended plan was submitted indicating that the building has been re-designed and re-located and that it does not now impair on the path of the footpath.
- 5.11 The Transportation Unit has no objection to the application as it is not anticipated that the proposal will detrimentally impair any road or proposed road and the parking facility will be sufficient for the size and type of business. To this end, it is believed that the proposal is acceptable based on the requirements of Policies CH 29, CH33 and CH36 of the GUDP.

Relevant planning history

- 5.12 This site has a lengthy planning history and the animal shelter is by now established on the site. The original application was granted back in 1997 for a cat shelter, and a number of different applications have been received since the submission of the first application which means that the original shelter/sanctuary has been extended with more intensive use. Therefore, to this end, it is deemed that the history of the site is a material planning consideration and is material whilst considering this current application.

Response to the public consultation

- 5.13 It is believed that the objections and concerns received that are based on relevant planning considerations, have received full consideration in the above assessment and there is no matter that outweighs the policy considerations and the relevant planning advice noted.
- 5.14 The objections include a reference to the Human Rights Act, 1998 and in this case it is considered that the human rights of local residents would be undermined on the grounds of the loss of privacy and the right to enjoy property (Article 8). Having discussed this application the concerns of local residents regarding safeguarding residential amenities and general amenities that were expressed in the form of objection letters were considered in detail. Court cases state that if matters that are usually material under the planning regulations (e.g. privacy, overlooking, noise disturbance etc.) then this type of consideration will not undermine human rights included within the above act.
- 5.15 Objections and concerns were also submitted by local residents that are the statutory responsibilities of other bodies, e.g. health safety and river/ditch pollution. The contents of Planning Policy Wales (2014) document clearly states *that the planning system should not be used to satisfy objectives that can be achieved under other legislation.*

6. Conclusions:

- 6.1 Planning Policy Wales (2014) states *"that imposing conditions on a planning permission can enable many development proposals to proceed where it would otherwise be necessary to refuse planning permission. Making appropriate use of conditions can improve the quality of a development and gain the public's confidence in the conclusions of the planning system."*

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6.2 Bearing this context in mind, there is an opportunity here, should this application be approved, to undertake mitigating measures to ensure that the new kennels building will reduce and avoid the noise disturbance that will stem from the building itself in order that the noise levels conform to statutory noise levels requirements, in the hope then of no significant and substantial impact on the residential and general amenities of nearby residents. The proposal would also be an opportunity to upgrade the animal shelters (for the welfare of the animals themselves) that are currently on site as well as providing a purposeful office to manage and run the site effectively.

6.3 Having considered this assessment and subject to the contents of the relevant planning conditions, it is believed that this current application is acceptable on the grounds of scale, location, design, materials, road safety, parking, visual and residential amenities and it complies with relevant local and national planning policies and guidance.

7. Recommendation:

7.1 To approve – conditions:-

1. Three years to commence the work
2. In accordance with the amended plans.
3. External materials
4. Landscaping
5. A kennel building insulation plan to be submitted and approved by the Local Planning Authority (LPA) prior to the commencement of any building work on this in accordance with the details approved and no dogs will be permitted to be boarded in any other building or on any other section of the site following this.
6. Noise assessment to be submitted and approved by the LPA prior to the installation of any mechanical ventilation equipment in any building.
7. Limit the number of dogs that require boarding on the site at any given time to eight only.
8. Restrict the time the facility is open to the public between 10.30 in the morning up to 13.00 in the afternoon.
9. The sewage treatment system will not be situated within 15m of any stream, ditch or water course and will be at least 50m away from any private water supply source.
10. The results of the porosity test shall be submitted prior to the commencement of any development on the site.
11. Development to be completed in phases with the details to be agreed with the LPA (to include details of buildings to be demolished, order of work on the site etc.) It will be necessary to complete each phase to the full satisfaction of the LPA.