

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mr M Attwell	Variation of condition 8 planning permission 19/01544/FUL - Variation of opening hours to visiting members of the public Attwell Farm Park, Seafield Farm, Seafield Lane, Portway, Redditch Worcestershire	09.12.2022	22/01241/S73

RECOMMENDATION: That planning permission be **GRANTED**

Consultations

Highways – Bromsgrove

No highway objection to the proposed variation of condition 8 for planning permission 19/01544/FUL. The variation of opening hours to visiting members of the public from 5:00pm to 6:00pm. No highway implications with the 6pm closing time being proposed.

It should be noted Highways would not be able to provide the appropriate evidence to support a refusal since this is a minor change to the operating hours with no suggestion that it increases the visitor numbers.

WRS – Noise

No objection to the variation of condition application in terms of noise. For your information; I have reviewed our nuisance database and can find no current nor historic nuisance complaints relating to the site.

Beoley Parish Council

We at Beoley Parish Council object to this application which, if granted, will inflict even more misery upon local residents. Seafield Lane is already over congested with traffic at the best of times, both with Attwell Farm Park and Oakland International, but with winter dark evenings approaching and no streetlights on a 60mph Lane, the risks are massive. The original granting of permission was based upon restrictions to both parking and opening hours and now this business simply wants to over-ride these restrictions. They were put there for valid and sensible reasons, which remain. We object.

Public Consultation

9 letters sent (10.10.2022)

Site notice posted 23.09.2022 (expires 17.10.2022)

Press notice published 23.09.2022 (expires 10.10.2022)

6 letters of objection have been received raising the following concerns:

- Currently open most days of the year.
- Allowing extended opening hours will only add to the frustrations and annoyance that this development has caused.
- Intrusion into our privacy
- Erode the residential amenities and the residents right to peaceful living.

- Traffic, noise, nuisance and light pollution etc caused by extending the opening hours will have a direct detrimental impact on the living conditions of the neighbouring residents.
- Children under 10 are not learning anything in the evenings, it is just money making venture whilst causing nuisance and inconvenience for the locals.
- Completely excessive for an educational facility.
- Whilst some might take the view it is only an hour, with all the lights on until 6:00pm and the traffic not leaving till 6.30:pm it makes a big difference summer and winter. In the summer just having an hour in the garden with it quiet or being able to walk the dog without excessive traffic on the lanes makes a big difference to our quality of life.
- Traffic levels and highway safety. This lane has a 60mph speed limit and has no street lighting.
- The lane is completely unsuitable for any traffic other than residents who are familiar with the lane, particularly in the dark.
- None of the reasons offered for justifying the need for extending the opening hours to meet attendees' requirements are supported by any factual evidence to show that any of the referenced users were unable to attend because of the existing agreed opening hours.
- The applicant claims that by extending hours he will be able to influence when families arrive and depart. There is no evidence to support how this is possible. In reality families will necessarily choose for themselves when to visit to suit their situation.

Visit Worcestershire

Anticipates the variation of the condition would lead to increased numbers of visitors to the area but over an extended period which could lead to opportunities for other local businesses and suppliers.

Councillor English - Attwell Farm Park was granted planning permission on 21st October 2020 but with various conditions including one to restrict opening hours so that they were from 9am - 5pm to 'safeguard the amenities of neighbouring residents'. These conditions were set by the planning committee in discussions with the planning officers. The Farm Park is a Bromsgrove business success but when looking to vary conditions we have to be mindful that the conditions will still safeguard the residents' amenities and also help the business in these difficult times.

With this in mind I would suggest the following opening hours:

9:00am – 5:00pm every day during (Worcestershire's) school term time

9:00am – 6:00pm Worcestershire school holidays during daylight saving hours.

I would not support an open-ended 9:00am – 6:00pm for special occasions as this could be open to interpretation and difficult to monitor and enforce.

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles

BDP4 Green Belt

BDP12 Sustainable Communities

BDP13 New Employment Development
BDP16 Sustainable Transport
BDP19 High Quality Design
BDP21 Natural Environment

Others

NPPF National Planning Policy Framework (2021)
NPPG National Planning Practice Guidance

Relevant Planning History

19/01544/FUL	Continued use of land and farm buildings as a farm based Rural Educational and Interpretation Visitor Centre with associated facilities including visitor parking, the retention of outdoor play equipment, toilet blocks, animal enclosures, shelters and fencing, the wall filling the formerly open sided elevation of the southernmost building, pedestrian link between the café/play barn and winter barn and steel walling adjacent to the visitor parking area. Retention of a mobile office building for a twelve month period.	21.10.2020
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Assessment of Proposal

EXISTING PLANNING CONDITION

Planning condition 8 of planning permission 19/01544/FUL states:

Visiting members of the public shall be limited to between 9:00am and 5:00pm.
Reason: To safeguard the amenities of neighbouring residents.

PROPOSAL

The application seeks to amend condition 8 attached to 19/01544/FUL to the following:

- 9:00am and 5:00pm school term time
- 9:00am and 6:00pm weekends and school holidays
- Special occasions hours to suit the requirements of various seasonal events for example:
 - Halloween
 - Easter
 - Christmas
 - And other national events that may be applicable eg. Jubilee

It has been clarified by the applicant that the indoor areas only would be open during the later hours during wintertime: the animals outdoors naturally go to their housing at dusk, outdoor lighting is not proposed.

Members will note this application relates to a Section 73 application. The procedure in Section 73 of the Town and Country Planning Act 1990 permits a developer to apply for planning permission to carry out development already authorised by an extant planning permission without complying with one or more of the conditions of that permission.

GREEN BELT

The essential characteristics of Green Belts are their openness and their permanence. The farm park already benefits from planning permission and operates within the Green Belt. No change of use or operational development is proposed. Although visitors would be on site longer than the current planning permission permits, this is not considered to be harmful with regard to Green Belt policy. NPPF para 145 explains that local planning authorities should plan to positively enhance the beneficial use of Green Belt, such as looking for opportunities to provide access. The application seeks to improve access to the farm park and to the Green Belt and therefore is considered to comply with Green Belt policy.

HIGHWAY MATTERS

The supporting information submitted with the application explains that the longer opening hours will spread out the times of visitors travelling to and from the park and avoid any peaks in traffic flow. There is no proposal to provide any additional parking facility as part of this application. Objectors have expressed concern at existing and future traffic on Seafeld Lane and nearby country lanes and consequences for highway safety. A Travel Plan was submitted and approved under condition 13 attached to planning permission 19/01954/FUL. However, it should be noted that there is no explicit control in the current planning permission on the number of visitors or vehicles (other than by the number of car parking spaces) at the site during the times of 9am-5pm and it would not be reasonable to seek to impose such control in determining this application. Access to the farm park is by ticket and therefore it can be expected that the owners can control the numbers and that the level of parking available at the site and the need to ensure site safety for visitors would be self-limiting.

The NPPF (para 111) sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Access to the site is achieved from the public highway network. The Highway Authority has been consulted and raised no objection to the application. In particular, the comments state that '*Highways would not be able to provide the appropriate evidence to support a refusal since this is a minor change to the operating hours with no suggestion that it increases the visitor numbers.*' Therefore, it is considered that a refusal based on highway considerations could not be substantiated.

ECONOMIC MATTERS

Para 81 of the NPPF states that decisions should help create the conditions in which businesses can invest, expand and adapt. Policy BDP12 is supportive of services and facilities that meet the need of the community and of enabling existing facilities to adapt to changing needs. BDP15 supports proposals that satisfy social and economic needs of rural communities, encourages diverse and sustainable rural enterprises and tourism related initiatives appropriate to the countryside. The proposal is consistent with these policies. Furthermore, a letter from Visit Worcestershire identifies the benefit of the farm park to the local economy.

The application represents an adaptation of the existing business and this is required by government policy to be given significant weight in support of the application in the planning balance. Economic considerations weigh in favour of the proposal.

IMPACT ON AMENITIES OF NEIGHBOURING RESIDENTS

The reason the condition was imposed by Planning Committee when it resolved to grant planning permission for this use was to safeguard neighbour amenity. Prior to the submission of the application residents have complained about noise from the site. In response to the application, concerns have been received from local residents regarding the adverse impact of increasing the opening hours on amenity, particularly with regard to noise and lighting detracting from the enjoyment of their property and the rural location.

WRS has been consulted and has raised no objection, adding that no complaints have been made to its service. The supporting information explains that visitor numbers are expected to be spread over a longer time period to 6pm, with lower concentrations of inbound and outbound traffic movements during the day and thus with the noise associated with these. It is noted that there is no limit or control over total visitor numbers at the site, or traffic movements under the approved planning permission. It would be unreasonable to impose a specific condition limiting the number of users on site as no indication of users has been provided and, in my view, would be difficult to enforce.

The Local Planning Authority cannot control the level of noise generated at the site under the planning permission that has been granted. An increase in time for the public to be present on the site from 5:00pm to 6:00pm at weekends and during school holidays is not considered to be excessive or unreasonable. It is likely that this would be at the later end of when families would leave the site considering that the applicant has advised that the main customer base is young families – children under 10 and grandparents. WRS has not identified any concern with this proposed increase. Therefore, whilst the later opening time can be expected to have some impact on neighbour amenity, in planning terms it is not considered to be significantly harmful to justify a refusal. School holidays can vary depending on the local education authority area. It seems reasonable to link these to the school holidays as they relate to Bromsgrove District.

With regard to concerns on lighting, there is an on-going investigation into an allegation of new lighting being installed at the site without planning permission.

No lighting is proposed as part of the application. The existing condition allows the public to be on site until 5:00pm i.e. after dusk during wintertime (no lighting was proposed or approved as part of the existing planning permission for the site). The applicant has also indicated that only indoor areas would be open during winter as the animals in the outdoor

pens naturally go into their shelters at dusk and it would be too dark to supervise outside in winter, though this would be difficult to enforce. Therefore, the proposal is considered to be little different to the extant permission with regard to lighting.

However, a removal of the condition to allow hours to suit various seasonal events does raise concern that the farm park could be open very late in the evening which could conflict with the time when residents could reasonably expect rural enterprises to close and to be able to enjoy a quieter time at home. No compelling evidence has been submitted to demonstrate that amending the condition to enable 'hours to suit' is necessary for the use of the site and would not be harmful to neighbouring amenity. Therefore, removal of the condition to allow hours to suit various seasonal events is not supported. Such an approach does not meet one of the tests for the imposing of conditions in terms of being precise. Members will note the comments from Councillor English on this point.

An appropriate revision to condition 8 is considered to be:

Visiting members of the public shall be limited to between:

9:00am and 5:00pm Monday – Friday on non-official school holidays authorised by the Local Education Authority in the Bromsgrove District Council area (currently Worcestershire County Council).

9:00am and 6:00pm Saturday and Sunday and official school holidays authorised by the Local Education Authority in the Bromsgrove District Council area (currently Worcestershire County Council).

PLANNING BALANCE

Allowing the public to visit the farm park till 6:00pm rather than 5:00pm may increase the total number of vehicles on surrounding roads compared to the existing authorised hours however Highway Authority has made clear that it has no concern with the proposal. It may result in lower noise levels during part of the day if visitors spread out their visits as suggested in the supporting evidence put forward by the applicant. However, this cannot be guaranteed. It may also prolong the timescale over which visitors can be heard at the farm park, though at 6:00pm this is not considered to be significantly harmful to amenity.

The proposal would offer increased access to the Green Belt, to local facilities, an education opportunity, tourist provision and economic benefits, all of which are material planning considerations and weigh in favour of the proposal. Planning policy also requires significant weight to be given to economic considerations in determining the application.

To conclude in terms of the planning balance, it is considered that a variation of the condition to 9:00am and 6:00pm on Saturday, Sundays and during local school holidays would be acceptable. The removal of the hours restriction to allow for seasonal and other national events is not supported for the reasons set out above.

If Members are minded to approve this application, this will result in a new and independent planning permission to carry out the same development as previously permitted but subject to the new and amended conditions as specified. Any new consent does not amend the pre-existing planning permission but rather establishes a new consent, leaving the original planning permission (19/01544/FUL in this case) intact and unamended.

RECOMMENDATION: That planning permission be **GRANTED**

Conditions:

- 1) The development hereby approved shall be carried out in accordance with the following plans and drawings -
 - WAA 061/P/201 Rev H - Site Plan
 - WAA061/P/400 - PROW Boundary Confirmation
 - Car Park - 09.02.2020
 - WAA 061/P/204/Rev B - Detailed Floor Plans
 - WAA 061/LP01/401 - Proposed Elevations
 - WAA 061/LP01/402 - Proposed Elevations 2

Reason: To define the permission and to ensure that the development meets the design quality and environmental
- 2) There shall be no excavation or raising or lowering of levels within the prescribed root protection areas of retained trees and hedgerows unless previously approved in writing by the Local Planning Authority. The scheme of hard and soft landscaping to be applied to the Overspill Parking Area, that includes:
 - (a) planting plans (to a recognized scale and to be of native species appropriate to the character of the area) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting;
 - (b) the method and specifications for operations associated with planting establishment, protection, management and maintenance of all retained and new tree, hedge and shrub planting;
 - (c) written specifications including cultivation and other operations associated with tree, plant and grass establishment;
 - (d) any existing trees and hedges, which are to be retained, accurately plotted;
 - (e) Overspill Parking Area layout;
 - (f) Sympathetically constructed and drained hard surfacing of the Overspill Parking Area. The location, type and materials to be used for the Overspill Parking Area permeable hard surfacing including details of sustainable drainage integration and including specifications and details of manufacturer, type and design of the proposed surfacing. Samples may be required to be submitted and approved;
 - (g) a timetable for the implementation of the soft and hard landscaping scheme.) shall be carried out strictly in accordance with the approved details and timetable of implementation approved on 7th January 2022 and shall thereafter be protected, maintained and managed in accordance with the approved details.

shall be carried out strictly in accordance with the approved details and timetable of implementation approved on 7th January 2022 and shall thereafter be protected, maintained and managed in accordance with the approved details.

Reason: To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to ensure the Overspill Parking Area can be used for visitor access and parking during wet weather conditions in the interests of highway safety.

- 3) The acoustic fence shall be erected in accordance with the details and implementation timetable that have been approved in writing by the Local Planning Authority on 22nd June 2021 and shall remain on site in accordance with the approved details thereafter.

Reason: To safeguard the living conditions of the residents of Seafield Lodge from noise generated by the approved visitor car park.

- 4) There shall be no external lighting provided in connection with this development.

Reason: To safeguard the rural character of the area.

- 5) The approved plans, specification and management scheme for the enhancement of the site for biodiversity and ecology through the provision of features including native hedgerow reinstatement, native tree planting and new bat and bird roosting/nesting boxes, implementation timetable approved by the Local Planning Authority on 7th January 2022. The scheme shall be completed in accordance with those details and implementation timetable that have been approved in writing by the Local Planning Authority and shall be subsequently managed and maintained in accordance with the approved specification and scheme.

Reason: To ensure a net gain in biodiversity and ecology is achieved.

- 6) If within a period of five years from the date of completion of the tree, hedgerow and shrub planting scheme pursuant to conditions 2 and 5, any tree, hedge or shrub plant is/are felled, removed, uprooted, destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged, diseased or defective, it/they shall be replaced by planting as originally approved, unless the Local Planning Authority gives its written approval to any variation. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.

Reason: To ensure the environment of the development is improved and enhanced.

- 7) Visiting members of the public shall be limited to between:

9:00am and 5:00pm Monday – Friday on non-official school holidays authorised by the Local Education Authority in the Bromsgrove District Council area (currently Worcestershire County Council).

9:00am and 6:00pm Saturday and Sunday and official school holidays authorised by the Local Education Authority in the Bromsgrove District Council area (currently Worcestershire County Council).

Reason: To safeguard the amenities of neighbouring residents.

- 8) In addition to the 5 electric vehicle charging spaces provided in accordance with a specification approved by the Local Planning Authority on 13th May 2021, a further 5 electric vehicle charging spaces shall be provided by 21 October 2023 and following their provision, such spaces and power points shall be kept available and maintained for the use of electric vehicles as approved.
Reason: To encourage sustainable travel and healthy communities
- 9) The accessible car parking spaces required to be provided in accordance with the details approved on 1st April 2021 thereafter shall be kept available for disabled users as approved.
Reason: To provide safe and suitable access for all.
- 10) The 10 secure motorcycle parking spaces to be provided in accordance with the details agreed in writing by the Local Planning Authority on 1st April 2021 thereafter shall be kept available for motorcycle parking as approved.
Reason: To provide safe and suitable access for all
- 11) The 8 sheltered, secure and accessible cycle parking to be provided in accordance with details approved in writing by the Local Planning Authority on 1st April 2021 thereafter the approved cycle parking shall be kept available for the parking of bicycles only.
Reason: To encourage sustainable travel and healthy communities.
- 12) The development shall continue to be in accordance with the details previously approved under condition 13 of planning permission 19/01554/FUL on 21st June 2021. The approved Travel Plan shall continue to be implemented, monitored and reviewed in accordance with the approved details.
Reason: To reduce vehicle movements and promote sustainable access.

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