

<b>Application No:</b>	<a href="#">3/39/17/028</a>
<b>Parish</b>	Williton
<b>Application Type</b>	Variation of conditions
<b>Case Officer:</b>	Elizabeth Peeks
<b>Grid Ref</b>	Easting: 308789    Northing: 142982
<b>Applicant</b>	Mr A Pring and Mrs A Cottrell
<b>Proposal</b>	Variation of Condition No. 10 (opening hours) of application 3/39/14/002
<b>Location</b>	Doniford Farm Park, Doniford Road, Watchet, TA23 0TQ
<b>Reason for referral to Committee</b>	<b>The application is considered to be controversial and the recommendation is contrary to the views of the Parish Council</b>

## Recommendation

Recommended decision: Grant

### Recommended Conditions

- 1 The development hereby permitted shall be carried out in accordance with the approved drawings: Drawing Numbers: 1840-04, 1840-05, 1840-09, 1840-10, 1840-11, 1840-12, 1840-13, 1840-18, 1840-19 and Wildlife Assessment, Building Structure Report, Heritage Statement and Design & Access Statement entered on 26/07/2011. Drawing Numbers: 1840-1A, 1840-2B, 1840-20, 1840-21, 1840-31A, 1840-34 entered on 07/10/2011. 1840-16A, 1840-15A, 1840-02, 1840-01 entered on 17/01/2014 and the Quantock Ecology Bat Activity Survey and lighting assessments reports dated 26 February 2018 and 5 September 2018

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 Retail sales from the farm shop hereby approved shall comprise at least 85% of farming food products grown, packaged or processed directly from land within a 30 mile radius of Doniford Farm. The sale of products sourced, manufactured and processed from outside this area shall be limited to no more than 15% of total products sold from the farm shop.

Reason: To ensure the predominant goods sold within the shop are those produced within the locality of Doniford Farm.

- 3 No gates, fences, walls or other means of enclosure (other than that approved by this permission) shall be erected, constructed or placed within the site, without prior written approval from the Local Planning Authority.

Reason: The Local Planning Authority considers that further development could cause detriment to the character of the surrounding area. For this reason the Local Planning Authority would wish to control any future development.

- 4 The access which has been constructed in accordance with details shown on the submitted plan, drawing number HBHT 11027/D04 rev B shall be maintained in that condition at all times.

Reason: To ensure suitable access to the site is provided and retained, in the interests of highway safety.

- 5 There shall be no obstruction to visibility greater than 600mm above the adjoining carriageway level within the visibility splays shown on the approved plan no HBHT 11027/D04 rev B. The visibility shall thereafter be retained in the approved form.

Reason: To ensure suitable visibility is provided and retained at the site access, in the interests of highway safety.

- 6 The area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.

Reason: To ensure that sufficient provision is made for off-street parking, turning, loading and unloading of vehicles in the interests of highway safety.

- 7 Any gates erected at the access on the western side of the site shall be erected so that they only open into the site and shall be set back a minimum of 6 metres from the edge of the adjacent carriageway.

Reason: To ensure vehicles entering the site can fully clear the highway to ensure that the free flow of traffic is retained, in the interests of highway safety.

- 8 Bicycle stands for not less than 12 staff and visitors bicycles and parking with ground anchors for not less than 3 motorcycles shall be provided (as described within the Measures only Travel Statement). The bike parking facilities shall be maintained thereafter at all times.

Reason: To ensure that sufficient provision of bicycle parking/storage is provided.

- 9 The mitigation measures in relation to the bats identified in the Bat Emergency/Activity Survey and Supporting Statement by Country Contracts shall be incorporated into the development in accordance with the schedule of implementation identified in these reports dated September 2011 and 9th November 2011 and subsequently retained.

Reason: To ensure that suitable mitigation measures are incorporated into the development to minimise the impact on species protected by law.

- 10 The use hereby approved shall not be carried on outside the hours of 8am

-11pm Monday to Sunday inclusive. No customer shall be served or remain on the premises outside of these hours. There shall be a maximum of 10 live/amplified music events per calendar year.

Reason: To safeguard the amenities of nearby occupiers.

- 11 The site operator or owner shall maintain an up to date register of the dates when the live/amplified music events are held and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: To ensure compliance with condition 10.

- 12 The provision made within the site for the disposal of surface water along the new access, to prevent its discharge onto the highway shall be retained in a good state of repair at all times.

Reason: To ensure that water is not discharged onto the public highway, in the interests of highway safety.

- 13 Soft landscape works carried out to provide screening of the proposed parking area in accordance with details shown on the submitted plan drawing number 1840-2 revision A shall be carried out in accordance with the approved programme of implementation. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure that an adequate landscaping scheme to screen the parking area of the hereby approved development is implemented and maintained.

- 14 Within 2 months of the date of the permission all the recommendations with regards to external lighting made in Quantock Ecology's Lighting assessment report (dated 5 September 2018) shall be completed and photographic evidence of the new lighting provided to the Local Planning Authority.

Reason: To protect bats

- 15 Prior to the next active bat season, a scheme for the monitoring of bats and how contingencies and/or remedial action will be identified, shall be submitted to and agreed in writing by the Local Planning Authority. The agreed monitoring shall be carried out for a minimum of three consecutive nights including one night when the venue is being used during the next active season (May -September). The results of the agreed monitoring scheme shall be submitted to the Local Planning Authority within two months of the monitoring being undertaken together with any identified contingencies and/or remedial action. Any contingencies and/or remedial action and an implementation plan shall be agreed in writing with the Local Planning Authority, and then implemented so that the development permits the maintenance of bat activity in the area. The monitoring strategy will be implemented in accordance with the approved

details.

Reason: To assess the impacts on bats and to maintain bat activity in the area.

- 16 a) Prior to the use of the cafe/restaurant and farm shop building for events up to 11pm commencing details of a noise assessment by a suitable consultant shall be submitted to and agreed in writing by the Local Planning Authority and a suitable noise limiter to control sound pressure levels at source shall be installed . The sound pressure levels of the limiter are to be determined by the approved noise assessment . For the purposes of this noise assessment, background levels shall be those levels of noise which occur in the absence of noise from the development to which this permission relates, expressed in terms of an A-Weighted, 90th percentile level, measured at an appropriate time of day and for a suitable period of not less than 10 minutes.
- b) Prior to the use of the cafe/restaurant and farm shop building for events up to 11pm commencing a noise management plan (NMP) shall be submitted to and approved by the Local Planning Authority that restricts the number of events of live and recorded music to no more than 10 events per calendar year. The NMP must also set out the agreed noise limits.

Reason: To ensure the amenity of residential premises is not adversely affected by noise.

## **Informative notes to applicant**

### **1 STATEMENT OF POSITIVE WORKING**

In determining this application the Local Planning Authority considers it has complied with the requirements of paragraph 38 of the National Planning Policy Framework. Although the applicant did not seek to enter into pre-application discussions with the Local Planning Authority in advance of submitting the application, for the reasons given above and expanded upon in the planning officer's report, the application was considered acceptable and planning permission was granted.

- 2 In terms of hours of operation, the licensing authority have already set out that in terms of all live music, recorded music and anything of a similar description must be reduced from 22:30 to the terminal hour of 23:00.
- 3 Planning permission has been granted for operation up to 11pm only. Any events that are carried on beyond 11pm will require planning permission even if a Temporary Events Notice has been granted or the hours are extended under the premises licence.
- 4 It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should

ensure that any activity they undertake on the application site (regardless of the need for planning permission) must comply with the appropriate wildlife legislation

All British birds (with exceptions) are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended). No work should proceed while birds are building a nest, on a nest, or until the young become fully independent. Generally, this will be from April until September.

## **Proposal**

The proposal is to amend the opening hours (Condition 10) on planning permission 3/39/14/002. Condition 10 covers the whole of the existing Doniford Farm Park and part of the adjoining property, Doniford Farm. This application covers the area within the applicants' ownership and excludes the area owned by Doniford Farm. It is proposed to amend the wording from:

*The use hereby approved shall not be carried on and no customer shall be served or remain on the premises outside the hours of 10am and 6pm Monday to Sunday inclusive.*

to:

The use hereby approved shall not be carried on and no customer shall be served or remain on the premises outside the hours of 8am and 11pm Monday to Sunday inclusive.

The reason for the original condition being imposed is: To safeguard the amenities of nearby occupiers having regard to the provisions of saved policy PC/2 of the West Somerset District Local Plan (2006).

The reason for the submission of this application is because the applicants have obtained a premises licence that includes having live and recorded music in the restaurant/farm shop building until 11pm but no licenced activities to the rear or side of the building after 10pm and this application seeks to ensure that the closing time is similar to the premises licence. Originally the proposal was to amend the hours to 8am - 12am but this time was amended through the course of this application to finishing at 11pm.

## **Site Description**

Doniford Farm Park includes a collection of three modern wood and metal clad agricultural buildings, two of which have been converted. One of the converted barns is used as a cafe/restaurant and farm shop and another converted barn is being

used as a play barn, the use of which is the subject of a current application. The third agricultural building accommodates animals such as rabbits, goats and guinea pigs. There are also two stone curtilage listed building buildings (a barn and single storey storage building). Doniford Farm to the west of the application site is a Grade II listed building and includes the farm house and a number of stone barns, some of which abut the application site. Doniford Farm used to form part of the Farm Park.

To the north of the site is a field used by the Farm Park for the grazing by animals such as donkeys, alpacas, chickens, ducks and ponies. Part of this field forms part of a County Wildlife Site and is part of a Site of Special Scientific Interest. Beyond the field is a beach and the Bristol Channel.

A car park is provided to the east of the barns with access from Doniford Road.

## Relevant Planning History

Case Ref	Proposal	Decision	Decision Date
3/39/11/023	Change of use to farm park with six craft workshops, shop, cafe, exhibition area and animal enclosures	Grant	20 December 2011
3/39/11/024	External and internal alterations to buildings associated with the change of use to a farm park with six craft workshops, shop, cafe, exhibition area and animal enclosures.	Grant	20 December 2011
C/39/13/006	Approval of details reserved by condition 4 (relating to soft landscaping works ) in relation to planning permission ref: 3/39/11/023	Grant	26 November 2013
C/39/13/007	Approval of details reserved by condition 3 (relating to window joinery details) and condition 4 (relating to a schedule of materials) in relation to planning permission ref: 3/39/11/024	Grant	26 November 2013
C/39/13/008	Approval of details reserved by condition 6 (relating to access), condition 11 (relating to sheffield-type stands) and condition 12 (relating to a travel statement) in relation to planning permission ref:	Grant	19 February 2014

	3/39/11/023		
3/39/14/003	Internal and external alterations to Barn H	Grant	27 February 2014
3/39/14/002	Variation of condition 2 on planning permission 3/39/11/023 in order to regularise the building of Barn H	Grant	27 February 2014
RUD/39/17/001	Prior approval for proposed change of use from retail shop (Use Class A1) to dwelling house (Use Class C3) and associated building operations	Refuse	12 June 2017
3/39/17/037	Erection of a timber fence with concrete posts, concrete block wall and alterations to lean to including installation of side hung doors (retention of works already undertaken)	Grant	16 February 2018
3/39/17/036	Various internal and external alterations (retention of works already undertaken)	Grant	12 April 2018
3/39/18/002	Siting of a static caravan and installation of a metal fence (retention of works already undertaken)	Refuse	27 July 2018
3/39/18/021	Change of use and alterations to form a play barn (retention of works)	Not yet determined.	

The 2011 and 2014 applications relate to the use of the site as a farm park including a cafe, shop, craft work shops and animal enclosures. The variation of condition 2 application (3/39/14/002) concerned internal and external alterations to the cafe/restuarant /farmshop building including a revised layout for the toilets, store and kitchen and change of materials for the cladding of the building and changes to and additions of doors and an accessible ramp. The 2017 applications relate to dividing the Farm Park into two as the farmhouse and associated barns (Doniford Farm) have been sold off and no longer form part of the Farm Park. In addition, the application for the retention of works to the play barn advises that the opening hours are to be 10am - 6pm Monday to Sunday and bank holidays.

## Consultation Responses

*Williton Parish Council* - Objection on basis of Bats - ecologist report felt it would damage their environment and they are a protected species

*Highways Development Control* - No observations.

*Wessex Water Authority* - No observations received.

*Environment Agency* - No observations received.

*SERC* - No observations received.

*Natural England* - Natural England currently has no comment to make on the variation of condition 10.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us any further consultations regarding this development, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

*Environmental Health Officer* - After consideration of this application, Environmental Health have no objection in principle to this planning application to vary the operating hours, subject to the following;

- **Noise:** It is understood from the premises licence that the intention is to have both live and recorded music at this premises to the hours as proposed. Given the potential for noise emissions and absence of specific information on the number of events, I must recommend the following condition;  
Condition Noise: There must be installed a suitable noise limiter to control sound pressure levels at source. The sound pressure levels of the limiter to be determined by a noise assessment carried out at this premise and by a suitable consultant.

For the purposes of this permission background levels shall be those levels of noise which occur in the absence of noise from the development to which this permission relates, expressed in terms of an A-Weighted, 90th percentile level, measured at an appropriate time of day and for a suitable period of not less than 10 minutes.

Note: A noise management plan should also be prepared recording these events and any complaints arising by the designated premises supervisor. The plan should be reviewed on a regular basis and at least annually, and any changes found necessary by the review shall be implemented accordingly. A copy of the reviewed plan shall be submitted to the local licensing authority.

Further to the comments previously provided (03<sup>rd</sup> Nov 2017) on review I would like to amend the previous request for a planning condition to be imposed, and request the following:

- **Condition noise:** To install a suitable noise limiter to control sound pressure levels at source. The sound pressure levels of the limiter to be determined by a noise assessment by a suitable consultant and submitted to and approved



by the LPA. For the purposes of this noise assessment, background levels shall be those levels of noise which occur in the absence of noise from the development to which this permission relates, expressed in terms of an A-Weighted, 90th percentile level, measured at an appropriate time of day and for a suitable period of not less than 10 minutes.

There must also be a suitable noise management plan (NMP) submitted to and approved by the LPA that restricts the number of events of live and recorded music to no more than 10 events per calendar year. The NMP must also set out the agreed noise limits.

**Note:** In terms of hours of operation, the licensing authority have already set out that in terms of all live music, recorded music and anything of a similar description must be reduced from 22:30 to the terminal hour.

Reason: To ensure the amenity of residential premises is not adversely affected by noise.

*Council's Bioiversity and Landscape Officer* - Amended scheme - The application is a variation of condition 10 (opening hours) of application 3/39/14/002.

The four buildings on site were initially surveyed for the assessment. No evidence of bats was noted on site, with the buildings appearing to provide little or no suitable roosting features due to their design or developed state. It is also proposed to erect lighting on three of the buildings.

Quantock Ecology carried out a further assessment of the site to consider the impact of additional lighting on bats which are known to be present in the locality. Two static detectors were used. The report confirms that bats use the site with key activity times being between 22.00 and 23.00.

(Previous surveys carried out in July and September 2011 also confirmed the presence of -brown long eared bats, pipistrelle, and possibly serotine Bats are known to be still foraging in the area but I am unaware of any bats roosting close by.)

The Quantock Ecology report makes no reference to the impact of bats by noise likely to emit from the venue, which is a matter of concern for the neighbour. The surveyor's report focuses on lighting and concludes that the key area of the site sensitive to lighting would be the western boundary.

I agree that lighting should be controlled across the site and so support the recommendations made by Quantock Ecology.

I cannot comment on the impact of noise on bats as there is little data. The only research, I am aware of, that has been carried out is concerning the impact of road noise on bats. This is a different situation. I have asked several ecologists for advice and so consider that, should permission be granted, then the continued use of the site by bats is monitored thereby providing valuable research information I suggest the following conditions

**Condition for protected species:**

The applicant shall undertake all the recommendations with regards to external lighting made in Quantock Ecology's Lighting assessment report (undated) and provide photographic evidence of the new lighting.

The works shall be implemented in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

**Reason:** to protect bats

**Monitoring Condition**

Monitoring for bats following the granting of any planning permission shall be carried out for a minimum of three consecutive nights including one night when the venue is being used during the next active season (May –September).

A short report describing the results of monitoring shall be submitted to the Local Planning Authority. The report shall also set out how contingencies and/or remedial action will be identified, agreed with the Local Planning Authority, and then implemented so that the development permits the maintenance of bat activity in the area. The monitoring strategy will be implemented in accordance with the approved details.

Reason: To assess the impacts on bats in accordance with Core Strategy policy CP8.

**Informative Note**

It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation

All British birds (with exceptions) are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended). No work should proceed while birds are building a nest, on a nest, or until the young become fully independent. Generally, this will be from April until September.

*Somerset Wildlife Trust* - We have noted the above mentioned Planning Application requesting a variation to the Condition of the original Application from 2011. We are concerned about the proposal to extend closing time until 24.00. At the time of the original Application a Bat Emergence/Activity Survey was carried out and there was concern about lighting being in use after sunset because of bats in the area. We also understand that there are bats in adjacent properties. An updated bat survey should therefore be carried out which includes not only Doniford Farm Park but also adjacent properties and countryside. This survey should be carried out at an appropriate time, i.e. sometime next spring or later. Depending on the results of that survey we may be able withdraw our objection.

*Comments following receipt of Bat Activity Survey* - Whilst the September survey does indicate that the possible impact of the development on bats (in terms of lighting) ON the site has been addressed, it does not appear to have addressed the issue of bats OFF the site and using the neighbouring property and you will be aware that we had particular concerns about that.

Barbara has suggested that, if the Application is approved, there should be a requirement for further bat monitoring and we would support that. However that does beggar the question of what would happen if a negative impact is identified and cannot be remedied, in that case would the activity/use of the premises be required to cease completely?

In the circumstances therefore, I'm not able to withdraw our objection at this time.

## **Representations Received**

27 residents have objected on the original proposal for amending the opening hours to 8am - midnight on the following grounds:

- Late night traffic would cause disturbance to this quiet area.
- Access to the site is restricted as there are no footpaths or street lighting making the area potentially dangerous.
- Noise and light pollution
- The applicants have incorrectly filled in the application form as there is no permission for the high fence. This fence and any other planning infringements should be dealt with before this application is determined.
- Contravenes saved policy PC/2 of the local plan
- The floor plan shows no provision for a shop and now appears to be a cafe/late night entertainment venue. This is against the reason for the original permission which was granted as the proposal benefits economic activity
- The application does not safeguard the neighbours or adjoining land users.
- The proposal will not benefit tourism
- The traffic dynamic will be changed as the traffic will arrive and leave at the same time rather than arriving and leaving at different times.
- Part of the reason people come to stay in the holiday accommodation is for the quiet. The proposal will therefore affect our business turnover
- Increase in taxis and car horn noise as not everyone will be able to drive home as they have consumed alcohol
- How will the animals cope with loud music? They will be sleepy bad tempered so will not be up to being petted which is not conducive to a successful business.
- Drunk people are likely to feed the animals with alcohol, vomit and urinate in areas where the animals roam
- There is no suitable hospital or A&E facilities in this area
- We do not have the number of police to cope with the increase in crime and anti social behaviour
- Light and noise pollution will be detrimental to wildlife. There are bats in the area including Doniford Farm. Bats should not be disturbed and it is an offence to do so. Any contravention of the relevant legislation would require a Natural England licence.
- There is no advantage to this small community
- Very few vehicles keep to the 30mph limit.
- Have no objection to there being a business on site but object to the licenced venue.

- The car park is not large enough to accommodate all of those at the licenced venue
- No evening bus service
- No positive changes to the Transport Statement or measures only travel statement used to support the previous application
- The proposal does not fit in with the quiet rural hamlet which has a predominantly retired population.
- Increase in traffic leaving the car park will lead to the blind bend making the exit of the car park more dangerous.
- The roads will not support an increase in traffic.
- This proposal is also a change of use. This application should not be determined unless such an application is submitted.
- On the previous application it is noted that there are bats in the surrounding area. A bat survey should be submitted to assess the effect of the bats before the application is determined.
- The impact on health should be looked at due to increase in noise and light pollution, waste and particulate emissions from vehicles.
- Noise will travel along way.
- Anti social behaviour of customers
- The proposal will not lead to economic benefit. It will be less beneficial to the community in terms of tourism and those tourists spending more money in the area
- If the venue is to become a bar/venue it would employ a very small number of people and would not attract new visitors in the area which would be contrary to the West Somerset Economic Plan.
- The areas of the community that will benefit are the residents of Warren Bay Holiday Village as they do not have a premises licence
- A correct map should be submitted prior to a decision being made
- Regard must be taken of local plan policies SP/1 and SP/5 and PC/2
- The beach will be interrupted by the sounds of music rather than the sounds of crashing waves together with drunken behaviour and litter.
- There are enough establishments in Watchet and Williton that provide late entertainment - one is not needed in Doniford
- I wont feel safe
- Should be rejected using the following policies: NC/1, NC/3, NC/4, SP/1 18, PC/2, T/3, STR6 and more
- I would not have moved here if the business had already been established.
- Cars will turn round in Watery Lane.
- Where will any overflow car parks be?
- This is the wrong place for such a venue.
- The reason for condition 10 can not be rescinded without a convincing justification so an extension of time of the opening hours can not be granted.
- As the property has now been split in two the immediate residence is no longer part of a commercial farm
- Increase in anxiety of those living nearby.
- There is insufficient parking and no application to create extra parking has been submitted so there will be parked on the narrow, unlit roads
- Environmental Health in their response to the premises licence application had no concerns provided insulation was installed but some events will be held outside. The report also fails to address the issue of people leaving the site late

at night and having spoken to an independent Environmental Health Consultant they have serious doubts about their conclusions.

21 residents support the original proposal for amending the opening hours to 8am - midnight on the following grounds:

- It appears that the owners want to continue the successful business with a new improved format that complements the local area's need for economic growth especially tourism and services for local residents and visitors.
- Due to the recession many similar small businesses are still having to diversify their business to row and thrive
- Do not consider there will be any issues of the licence requirements are adhered to
- Has the potential to provide a vital community space for people of all ages and with community engagement would be able to offer a variety of activities/events that would benefit local residents and tourists.
- It will not encourage drink driving or anti social behaviour
- Provide much needed year round and seasonal employment.
- Provides a venue which nothing else in Watchet and Williton can compare to.
- The venue will only be open but request and not every night
- Whilst many local retail outlets continue to close it is good to see a multi functional site looking to reopen to the local community
- The owners of the Farm Park are local people whose other business interests are beneficial to the area
- As the applicants have experience in the tourist and hospitality industries it is suggested that there is no intention to cause a disturbance to neighbours or local people.
- The farm is likely to be redundant if it does not get planning permission
- The places of interest in the area have been reducing and so looks forward to it opening.
- Extending the hours outweighs the negatives.
- This a positive move of Watchet which has few venues for communal meals and as there is little to do at night any business boost to the local economy is welcomed.
- Always used to use the facilities at Doniford Park and have missed having them on our doorstep.
- Considers that late night bookings is a great idea provided noise levels are controlled.
- Writing to support after reading comments from people who live in Bristol etc as there is a desperate need for rejuvenation and this project is a step in the right direction. The project is not far off what its always been.
- The argument of wildlife disturbance is null and void, it will in fact encourage a range of wildlife due to the nature of the business.
- It will not increase traffic to any great degree.
- Recalls that medieval banquets being held at West Midland Safari Park did not disturb the animals
- I live next to the village hall in Stogumber for 13 years and there has never been an issue with noise.

16 residents object to the amended opening hours of 8am - 11pm reiterating the objections already made.

1 resident reiterates their support to the amended opening hours of 8am - 11pm.

A petition has also been received signed by residents of 8 properties at Bridge Park stating that they are happy to support the licence variation. This is dated prior to the submission of the planning application and appears to relate to the premises licence application but has been submitted for this application as well.

## **Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for the West Somerset planning area comprises the West Somerset Local Plan to 2032, retained saved policies of the West Somerset District Local Plan (2006) Somerset Minerals Local Plan (2015) and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

### **West Somerset Local Plan to 2032**

NH1	Historic Environment
NH2	Management of Heritage Assets
NH9	Pollution, contaminated land and land instability
NH6	Nature conservation & biodiversity protection & enhancement
SC1	Hierarchy of settlements
OC1	Open Countryside development
NH13	Securing high standards of design
CF2	Planning for healthy communities
CC2	Flood Risk Management

### **Retained saved policies of the West Somerset Local Plan (2006)**

BD/3	Conversions, Alterations and, Extensions
E/4	Small Scale Employment Conversions Outside Settlements
TO/3	Tourism Development in Watchet
ID1	Infrastructure delivery
T/7	Non-Residential Development Car Parking
NC/1	Sites of Special Scientific Interest
CC2	Flood Risk Management

## Determining issues and considerations

The determining issue is whether the proposal to amend the opening hours is a minor material amendment and if so is the extension of the opening hours for the whole site of Doniford Farm Park acceptable. There is no statutory definition of a minor material amendment but is likely to include any amendment where its scale and /or nature results in a development which is not substantially different to the one which has been approved ( advice contained at paragraph 031 Reference ID: 21a-031-20180615 of the National Planning Policy Guidance document). In deciding the application the Local Planning Authority must only consider the disputed condition. It is not a complete reconsideration of the application. Additional conditions can be imposed provided they do not materially alter the development the subject of the original permission and are conditions that could have been imposed on the earlier planning permission. Account also needs to be taken account of other minor material amendments that have been granted. In this instance one was granted in 2014 for internal and external alterations to the cafe/restuarant and farm shop building

There are two main considerations that need to be taken into account in determining whether the proposal is a minor material amendment. These are the effect of noise and the effect on bats.

### Effect of noise

As the proposal is to extend the opening hours from 8am - 11pm Monday - Sunday for the whole of the site this would mean that the public could be on site for this time period either in the car park, any of the buildings where they are allowed access or in the adjoining field unless the owner restricts access. It is considered that the main areas which could attract noise would be the car park and the cafe/restaurant and farmshop building.

With regard to the cafe/restaurant and farmshop building the applicant has stated that the building will be used as a cafe, restaurant and farm shop. The applicant has also clarified that their intention is, " for the Restaurant to be open daily from Monday to Sunday for Coffee's, Light Lunches, Sunday Carvery, Cakes and drinks. Also the Farm Shop will be open daily from Monday to Sunday stocking local produce and gifts. The Restaurant will be organised to offer private evening gatherings for meals and entertainment to 11pm in - line with the licensing hours. Mainly for people to enjoy the coastal views within a Farm Park environment".

There has been a significant number of objections to the use of this building for events up to 11pm including noise including noise pollution, disturbance so that they can not sleep, turning a quiet area in to one which is not, the issues of noise will reduce the numbers of tourists staying in Doniford, on health grounds such as anxiety and that the animals will be affected and so it will not be conducive to them being petted which could affect the business.

Environmental Health have looked at the possible noise issues and has no objection in principle subject to conditions relating to to the provision of a noise assessment, the installation of a noise limiter, a noise management plan and limiting the number

of events to 10 events a year. The applicant has confirmed that they are happy to accept a condition limiting the number of live music events to 10 per year providing that in about 2 years this could be extended to about 15. It should be noted that any increase in the number of events involving music would require a new application. The conditions suggested by Environmental Health have been recommended to be imposed on the permission. In addition it should be noted that the premises licence which is only for the cafe/restaurant and farm shop building (including the area to the immediate area to the north and east) includes conditions to help limit noise and disturbance that also need to be adhered to. These include:

- All live and recorded music and anything of a similar description must cease at 23:00 with sound levels in respect of all live and recorded music and anything of a similar description being reduced from 22:30 to the terminal hour.
- All the patrons must leave the site by 23:15 and signs advising patrons to leave in a quiet, orderly and respectful way so as not to disturb neighbours in the vicinity
- No licenced activities are to take place on the area to the side or rear of the building after 22:00

It is therefore considered that the recommended planning conditions together with the licencing conditions will ensure that the amenities of the locality will not be adversely affected from the use of this building up to 11pm.

With regard to the use of the other buildings and the field for the activities such as looking at the animals of the Farm Park up to 11pm these are not considered to be noisy activities that would need any planning control to safeguard the amenities of the neighbours.

The other main source of noise relates to the use of the car park, including the banging of car doors and the noise created by patrons entering or leaving the car park, particularly if the patrons are all leaving and arriving at similar times. Should there be a nuisance created by the use of the car park this can be dealt with under other legislation.

Overall it is considered that changing the opening hours to 11pm but limiting the number of live and amplified music events to 10 per year with further controls through planning conditions over noise in relation to the cafe/restaurant and farmshop building and other activities that are carried out by the farm park will not so adversely affect the amenities of neighbours by noise that this proposed change to the opening hours is a minor material amendment that is acceptable.

### Effect on bats

As part of the application the site and the four buildings on the site were surveyed for bats. No evidence of bats was found on site and the buildings appeared to provide little or no suitable roosting features. Seven bat species were recorded however through their calls and were heard towards the western boundary/ area of the site. It is known that the barn to the west of the play barn (and in different ownership) has a roost and that another barn in the buildings to the west of the



application site has the potential for roosts. A further survey was carried out with regard to the impact of additional external lighting as bats are found in the area (and as noted in the 2011 surveys carried out for the original planning application to create the farm park). The survey found that the bats key activity times was between 10pm and 11pm. Recommendations from Quantock Ecology concerning lighting have been submitted which the Council's Biodiversity Officer is satisfied with subject to a condition. The recommendations include the use of narrow spectrum light sources, emit minimal ultra-violet light, lights do not point up and the spread of light is kept in line or below the horizontal together with the use of PIR sensors and to avoid the use of white and blue wavelengths to reduce insect attraction.

Comments have been received by local residents concerning the effect of noise on bats. The Council's Biodiversity Officer has discussed this aspect with other ecologists but there does not appear to be much information on the effect of noise on bats. For this reason a condition is recommended on monitoring the bats in the next active bat season (May - September) when there is an event and that any remediation action identified be undertaken.

Somerset Wildlife Trust objects to the proposal as the issue of the effect on bats off of the application site does not appear to have been addressed but notes and supports that a monitoring condition is recommended. The question is raised in what happens if there is a negative impact that can not be remedied. It is considered that this would be controlled by other legislation as all species of bats and their roosts are protected including under the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2017, the Countryside and Rights of Way Act 2000 and the Wild Mammals Protection Act 1996 or by the proposed monitoring condition as the remediation could be that the events are not held until 11pm.

It is considered that with the imposition of the recommended conditions that the bats are protected with extended opening hours until 11pm particularly as the number of times the Farm Park can be open until 11pm is proposed to be limited by condition to 10 events per year.

### Accumulation of Minor Material Alterations

With regard to the minor material amendment that was granted in 2014 it is considered that that amendment together with this proposed amendment to Condition 10 will not result in a material change to the original permission that was granted to form the farm park with six craft workshops, shop, cafe, exhibition area and animal enclosures.

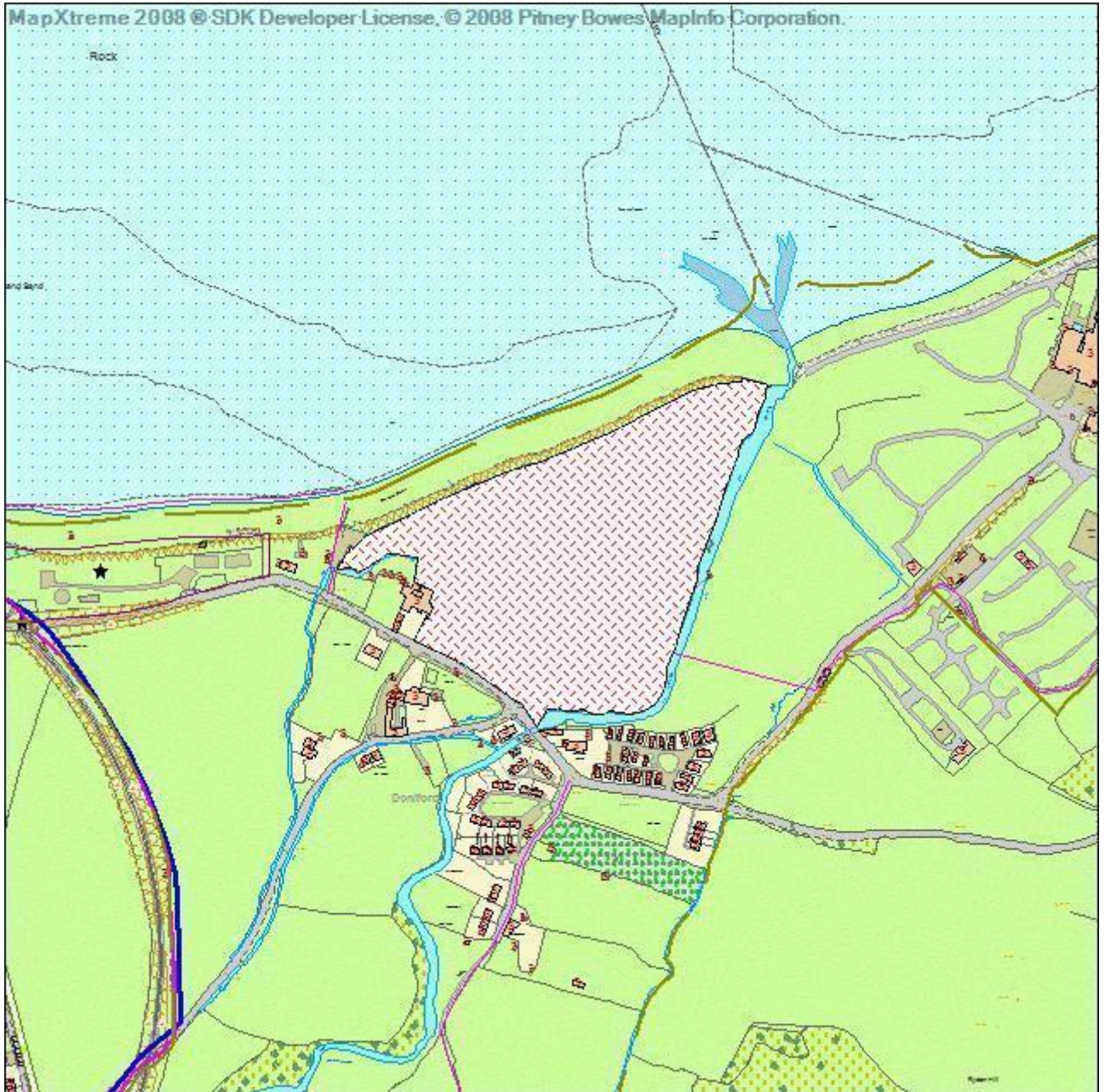
### Conclusion

In conclusion it is considered that a change in the wording of condition 10 to, "The use hereby approved shall not be carried on and no customer shall be served or remain on the premises outside the hours of 8am and 11pm Monday to Sunday inclusive" as proposed is not acceptable for the reasons given above but that subject

to the imposition of additional conditions relating to noise, bats and the number of live/amplified music events that the proposed change in the opening hours under condition 10 to :

The use hereby approved shall not be carried on outside the hours of 8am -11pm Monday to Sunday inclusive. No customer shall be served or remain on the premises outside of these hours. There shall be a maximum of 10 live/amplified music events per calendar year.

is a minor material alteration that is acceptable. It is therefore recommended that the wording of condition 10 be amended to read "The use hereby approved shall not be carried on outside the hours of 8am -11pm Monday to Sunday inclusive. No customer shall be served or remain on the premises outside of these hours. There shall be a maximum of 10 live/amplified music events per calendar year."



Application No 3/39/17/028  
Variation of Condition No. 10  
(opening hours) of application  
3/39/14/002  
Doniford Farm Park, Doniford,  
Watchet

Planning Manager  
West Somerset Council,  
West Somerset House  
Killick Way  
Williton TA4 4QA  
West Somerset Council  
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