

<b>APPLICATION NO.</b>	<a href="#">P22/S2192/FUL</a>
<b>APPLICATION TYPE</b>	FULL APPLICATION
<b>REGISTERED</b>	9.6.2022
<b>PARISH</b>	DORCHESTER
<b>WARD MEMBER(S)</b>	Robin Bennett
<b>APPLICANT</b>	Keith Ives
<b>SITE</b>	Bishop Court Farm 93 High Street Dorchester-on-Thames, OX10 7HP
<b>PROPOSAL</b>	Variation of condition 6 (Hours of operation) on application P21/S1411/FUL- to extend opening hours.  Internal and external alterations to existing agricultural building and change of use to cafe. (Use class E(b))
<b>OFFICER</b>	Will Darlison

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**1.0 INTRODUCTION AND PROPOSAL**

- 1.1 The application is referred to planning committee because the Officer's recommendation for approval conflicts with the views of Dorchester on Thames Parish Council, who object to the proposed development.
- 1.2 The application site forms part of the wider Bishops Court Farm complex, which is located within Dorchester on Thames. It is bounded to the north by Abingdon Road, to the east by the High Street with the River Thames to the south and west.
- 1.3 The site is within the Dorchester on Thames Conservation Area and the Oxford Green Belt. A plan identifying the site is attached at **Appendix 1** to this report.
- 1.4 This is an application under Section 73 of the Town and Country Planning Act for the variation of condition 6 (hours of operation) of planning permission P21/S1411/FUL. The changes sought would see the hours of operation for the café extended to 08:00 – 23:00 Thursday to Saturday and 08:00 – 22:00 on Sundays. For Monday to Wednesday, it would remain as previously approved: 08:00 – 17:00.
- 1.5 Reduced copies of the plans accompanying the application are attached at **Appendix 2** to this report. All the plans and representations can be viewed on the Council's website [www.southoxon.gov.uk](http://www.southoxon.gov.uk) under the planning application reference number.

**2.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

**2.1 Dorchester Parish Council – Objection**

- The area is identified in the neighbourhood plan as being a relatively quiet environment separated from the centre of the village.
- The opening of a small family café and farm shop does not have a big impact on the neighbouring properties; however, this would change as the café opens in the evening with music and additional entertainment such as film nights.
- It would put at risk the quiet characteristics identified in the neighbourhood plan.

**Crime Prevention Design Adviser – Comments provided**

- The National Planning Policy Framework 2021 paragraph 92(b); which states that Planning policies and decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.
- The National Planning Policy Framework 2021, paragraph 130(f) which states that “Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible... and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience”.
- I am unable to locate a lighting plan within this application. It is important for pedestrian safety and vehicle security that the car park is adequately lit in hours of darkness. Whilst acknowledging the rural location of this development, In order to reduce the risk of crime and pedestrians coming into conflict with reversing vehicles, I ask that the car park, and route to and from it is adequately lit. All entrance and exit points to buildings should also be lit. Lighting should be designed in conjunction with landscaping and CCTV to prevent conflict, and areas of shadowing or pooling of light.

**Env. Protection Team** – No comments in relation to Environmental Protection matters.

**Neighbour representations** - Neighbour objections x (8)

- The extension of opening hours to a café in this location would lead to harmful impact on neighbouring properties through increased noise and light emissions the latter would be particularly bad in the winter months.
- There will be a greater level of activity and movement of employees, customers and vehicles as well as music played from speakers. We believe this would lead to a public nuisance. It would be in breach of Policy DoT 14 of the neighbourhood plan.
- The potential to impact on a sensitive area for wildlife through light and noise is a concern.
- The village already has three pubs of historical interest serving the community and adding another will compromise their viability.
- It would erode the peaceful character of this part of the village.
- The café is not a large venue and the overflow of customers to outside space would increase the noise impact.

Neighbour support x (1)

- It will add cultural value to our community by providing a different experience to the existing pubs in the village.

3.0 **RELEVANT PLANNING HISTORY**

3.1 [P21/S4805/DIS](#) - Approved (13/12/2021)

Discharge of conditions- 3 (Window and Door specifications), 5 (Foul drainage) & 6 (Proposed hours of operation) in application P21/S1411/FUL.

Internal and external alterations to existing agricultural building and change of use to cafe. (Use class E(b)).

[P21/S1411/FUL](#) - Approved (07/10/2021)

Internal and external alterations to existing agricultural building and change of use to cafe. (Use class E(b)) (as amended by drwgnos C225.01, C225.02A and C225.12 to provide parking received on 30 July 2021).

**4.0 ENVIRONMENTAL IMPACT ASSESSMENT**

4.1 N/A

**5.0 POLICY & GUIDANCE**

**5.1 National Planning Policy Framework and Planning Practice Guidance**

**5.2 South Oxfordshire Local Plan 2035 (SOLP) Policies:**

CF2 - Provision of Community Facilities and Services

DES1 - Delivering High Quality Development

DES10 - Carbon Reduction

DES2 - Enhancing Local Character

DES8 - Promoting Sustainable Design

EMP10 - Development in Rural Areas

EMP2 - Range, Size and Mix of Employment premises

ENV1 - Landscape and Countryside

ENV3 - Biodiversity

ENV7 - Listed Buildings

ENV8 - Conservation Areas

ENV9 - Archaeology and Scheduled Monuments

EP4 - Flood Risk

STRAT1 - The Overall Strategy

STRAT6 - Green Belt

TRANS5 - Consideration of Development Proposals

**5.3 Dorchester on Thames Neighbourhood Plan Policies:**

DoT 1 - Historic Environment

DoT 12 - Tourism

DoT 14 – Peace and Tranquillity

DoT 15 - Business and Employment

**5.4 Supplementary Planning Guidance/Documents**

5.5 South Oxfordshire and Vale of White Horse Joint Design Guide 2022

**5.6 Other Relevant Legislation**

5.7 Human Rights Act 1998

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

5.8 Equality Act 2010

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

**6.0 PLANNING CONSIDERATIONS**

6.1 When assessing section 73 applications the Council can only consider the original condition and the reasons for applying the condition; new conditions can be attached but only in so far as they apply to the original condition. If the Council decides that

planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.

- 6.2 Paragraph 15 of NPPG notes where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact. It further advises that to assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.
- 6.3 The key considerations are therefore:
- **Whether there has been any material change in site circumstances or planning policy in the intervening time between the grant of planning permission and now.**
  - **Impact on neighbours.**
  - **Impact on parking.**
  - **Community Infrastructure Levy.**
- 6.4 **Whether there has been any material change in site circumstances or planning policy in the intervening time between the grant of planning permission and now.** Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the local planning authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 6.5 The substantive planning permission was granted on 7 October 2021 and in the intervening months there have not been any alterations to the Development Plan which would alter the assessment of the principle of the development approved.
- 6.7 **Impact on neighbours.** Policy DES6 of the SOLP sets out that development should demonstrate that there would not be significant adverse impacts on the amenity of neighbouring uses with respect to loss of light, dominance or visual intrusion, noise, emissions, pollution or external lighting. In addition, policy DoT 14 of the neighbourhood plan requires that development respect and take account of the peace and tranquillity of the village and provide mitigation to significant noise and traffic.
- 6.8 The proposal does not propose any alterations to the built form of the approved café or its surroundings. The variation of condition seeks to extend the opening hours to include evening opening for Thursday through Sunday. The evening hours would to have sit down table service and that this would be similar to the daytime seating arrangements currently in operation. It is confirmed that in addition to this the café is intended to be offered for hire for private functions such as private dinner parties and other events afforded by the premises licence that has been obtained.
- 6.9 The provision of the sit-down table service in the evenings is considered to represent a reasonable activity at the premises given the significant overlap it would have with the daytime operational activities of the café. This combined with the modest size of the café and the number of covers (some 24 covers are currently provided) that it can offer would in my opinion be unlikely to result in excessive amounts of noise. However, the issue of noise does not simply cover that from customers at the café during the serving of food during the evening hours but of noise from specific activities such as music, sport broadcasts and film nights. Therefore, the proposal has been the subject of

consultation with our Environmental Protection team. The subsequent response from the Environmental Protection team set out that they have no comments to make on the expansion of the hours of operation. In the absence of any objection on environmental protection grounds I conclude that the development accords with Policy DES6 of the SOLP and DoT14 of the neighbourhood plan, particularly as there are not any records of noise complaints having been received since the café opened. In addition, the neighbouring properties on the Bishop Court Farm site: 91 and 93 High Street are both situated over 50 metres away and those outside the site are at an even greater level of separation.

- 6.10 With that being said it is important to acknowledge that noise nuisance is subject to separate legislation and, although noise it is a material planning consideration, it is not the role of the planning system to duplicate efforts in this respect. Any unneighbourly noise issues from the use of the café at any time of the day should be reported to the Environmental Protection team so that they can be investigated and resolved through the Environmental Protection Act 1990.
- 6.11 The matter of increase in traffic to and from the site during the expanded opening hours is noted. However, it needs to be considered in light of what activities have historically taken place at the site and that continue to be possible to this day. The site has been used for agricultural purposes and there are still elements of this use present. It is therefore possible for large agricultural machinery to operate on the site with there being no restriction to the hours of operation under the planning system. I consider that under such circumstances the traffic impact from the proposals do not represent a form of impact that would exceed what is possible under the lawful operation of the farm.
- 6.12 Lighting has been highlighted as a both a requirement and a concern by consultees. Thames Valley Police Crime Prevention Design Advisor has requested lighting to be provided in order to properly light the car park area and the entrance/exits of the café building to comply with the NPPF and achieve healthy, inclusive and accessible spaces. Concerns have been expressed by the Parish Council and local residents on the basis that lighting would negatively impact on neighbours and the peaceful rural character of this part of the village. Lighting is not a totally incompatible feature at this site, whether it is for the existing farmhouse or for the operating an agricultural farmyard. I therefore do not view that lighting in the interest of public safety is objectionable subject to mitigation in terms of its timings, activation method and measures to avoid light spillage through cowling and similar sensitive design features. A condition has therefore been recommended that a lighting scheme detailing the above be submitted for approval prior to the first use of the extended opening hours.
- 6.13 **Impact on parking and access.** Policy TRANS5 seeks to ensure that development does not harm highway safety and provides for sufficient parking and turning areas.
- 6.14 The proposed expansion of the hours of operation as previously established would not increase the size of the café and as such the same number of covers would remain available through into the evening. The provision of parking for the café would also remain as originally approved and on that basis, I do not view the change in opening times would result in a substandard level of parking at the site. The access route to the café would also remain unaltered as part of this application.
- 6.15 **Community Infrastructure Levy.** In this case CIL is not liable for the proposal, this is on the basis that it does not include development set out in the charging schedule.

**7.0 CONCLUSION**

7.1 Officers recommend that planning permission is granted for the variation to the hours of operation condition of the planning permission because the proposed development continues to comply with the relevant policies in the Development Plan. It is considered that, subject to the attached conditions, the development would be acceptable in terms of the impact on neighbouring properties and the village as a whole.

**8.0 RECOMMENDATION**

8.1 **To grant Planning Permission subject to the following conditions**

8.2 **1 : Commencement 3 years - Full Planning Permission**

**2 : Approved plans \***

**3 : Joinery Details as approved**

**4 : Parking & Manoeuvring Areas Retained \***

**5 : Foul Water Drainage as approved**

**6 : Hours of operation**

**7 : External lighting**

8.3 **Author:** Will Darlison

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Delegated Authority Sign-Off Officer