

1.0 Application Number – [WD/D/19/001069](#)

Site address: Land At Shakes Hole, Southover Farm Access Road, Tolpuddle

Proposal: Variation of conditions 2 & 3 of reference APP/F1230/C/07/2056624 to allow activities (excluding clay pigeon shooting) to take place on four days per week (excluding Sundays) plus a variation of hours of operation to 8am - 18.30pm between 1st April - 30th September in any calendar year.

Applicant name: Max Events Ltd.

Case Officer: Ms Charlotte Haines

Ward Member: Cllr. E Parker

REASON APPLICATION IS GOING TO COMMITTEE: At request of Head of Planning.

2.0 Summary of Recommendation: APPROVE subject to conditions

3.0 Reason for the recommendation:

- The noise assessment submitted with the application adequately demonstrates that the proposed use would not cause significant noise and disturbance to occupants of residential properties within the surrounding rural area.
- It is considered that the concerns of the previously refused application have been overcome.
- It is therefore considered that the use of the site for following activities:- archery, off-road buggy racing, 4x4 vehicle driving and blind driving on an additional two days of the week would not cause significant harm to neighbour's living conditions in terms of unreasonable noise or disturbance.
- The proposal would have an acceptable impact on highway safety.

4.0 Table of key planning issues

Issue	Conclusion
Impact of the noise from the extended hours of activities at the site on the amenity of surrounding neighbouring residential occupiers and the peace and tranquillity of the area.	The submitted noise assessment adequately demonstrates that the proposed use would not cause significant noise and disturbance to occupants of residential properties within the surrounding rural area.
Highway Safety	The proposed changes would not have a significant adverse impact on highway safety.

5.0 Description of Site

The application site consists of an area of land uses for the following leisure purposes which involved the following activities: - archery, off-road buggy racing, clay pigeon shooting, 4x4 vehicle driving and blind driving. The use of the land for these leisure purposes was granted planning permission on appeal in 2008 (appeal reference: - APP/F12301C10712056624). The appeal decision also specifically excluded clay pigeon shooting, however a further planning permission was granted for that activity on 25 March 2009, Ref. 1/D/08/002220. That consent was subject to a condition limiting the activity to a period expiring on 19 March 2010. A further consent, Ref. 1/D/10/000305, dated 6 May 2011, was granted for clay pigeon shooting to take place permanently on one of the two days a week permitted for other leisure uses but not on a Sunday.

The application site is in a remote location within the open countryside to the south of the settlement of Tolpuddle. The site is access from the B3390 (Affpuddle to Moreton Road) via an unmade woodland track which gives vehicular access to the site. The site is sandwiched between woodland areas known locally as Sares Wood, Marl Pits Wood and Pallington Heath to the east and south east respectively; and Southover Heath to the west. The unmade woodland track giving vehicular access essentially runs along a ridgeline such that the land to the north falls gently away downwards to the villages/settlements of Affpuddle and Southover. Land to the south meanwhile falls gently downwards to the villages/settlements of Pallington and Tingleton. Although woodland areas contain the application site to the south, east and west there is no such containment north. The application site has an open aspect north/northeastwards towards the direction of the settlements at Affpuddle and Southover.

To the south west of the site at a lower level and separated by woodland are Clyffe House and a number of other dwellings adjoining. These are about 550m from the site and the village at Tingleton (also to the south west) is about 1.5km from the site. To the north of the site, approximately 1.2km away, is Southover and beyond that to the north is the village of Tolpuddle. To the north east of the site is Affpuddle which is approximately 1.4km away and to the south east is the hamlet of Pallington about 1km from the site.

The site is in close proximity to public footpaths and bridleways within the adjacent woodland areas and adjacent to the north.

6.0 Description of Development

This application seeks the variation of 2 conditions attached to planning permission that was granted on appeal to allow the change the use of the agricultural land to use for leisure purposes which included the following activities:-

- Archery
- Off-road buggy racing
- 4x4 vehicle driving
- Blind driving

The clay pigeon shooting activity was dismissed and enforcement notice was upheld for this. A separate planning permission was subsequently granted for the clay pigeon shooting with a condition restricting this activity to take place on only one day of the two days. The application is not varying conditions of this permission but rather those of the appeal which did not allow for the clay pigeon shooting.

Those conditions (2 and 3) placed restrictions on the permitted use for these activities:-

Condition 2: The leisure uses hereby permitted shall take place on no more than 2 days in any one week.

Condition 3: The leisure uses hereby permitted shall not take place between 1730 hrs and 0900 hrs.

The application is now seeking to vary the above conditions to extend the operation for 4 days a week excluding Sundays and extend the hours of operation to be between 9:00 and 18:30 between 1 April - 30 September in any calendar year.

This application follows a previously refused application for the same proposed variation of conditions as set out above. The reason for refusal was:-

Extending the days of operation beyond those times currently permitted would be prejudicial to the amenity of the occupants of the residences in this tranquil rural area and would impact negatively on the residential amenity of the nearby dwellings. Granting consent would be contrary to Criteria (i) Local Plan Policy ENV16 and paragraph 123 of the NPPF It is considered that limiting days of operation to those currently permitted would serve to preserve the general amenities of the area. The operation of the site for 4 days of the week would result in the amenities that are currently enjoyed by the dwellings of the area being adversely affected by potential noise and general disturbance beyond that which could normally be expected in a rural location.

A noise assessment has been submitted with the current application in support of the proposals.

7.0

Relevant Planning History

Application No.	Application Description	Address	Decision
1/D/07/001707	Change of use of land at Shakes Hole from agricultural to use in connection with crossbows/archery, quad biking, off road buggy racing, clay pigeon shooting, 4X4 driving and blind driving	Land at Shakes Hole, Southover Farm Access Road, Tolpuddle	Refused
1/D/08/002220	Use as clay pigeon shooting facility (retrospective application)	Land at Shakes Hole, Southover Farm Access Road, Tolpuddle	Approved
1/D/10/000305	Vary condition 1 of application no. 1/D/08/002220 to allow the site to be used permanently for clay pigeon shooting	Land at Shakes Hole, Southover Farm Access Road, Tolpuddle	Approved
WD/D/17/000210	Variation of conditions 2 & 3 of reference APP/F1230/C/07/2056624 to allow operation of the site on 4 days per week (excluding clay pigeon activities - to remain as 1 day per week) & to allow the hours of operation to be permitted up to 18.30 between 1 April - 30 September in any calendar year.	Land at Shakes Hole, Southover Farm Access Road, Tolpuddle	Refused

APP/F1230/C/07/2056624 – Following the refusal of 1/D/07/001707, an appeal was lodged against Enforcement Notice (ENF/07/287). The breach of planning control alleged in the notice was the change of use of the land from agricultural to use for leisure purposes including archery, off road buggy racing, clay pigeon

shooting, 4x4 vehicle driving and blind driving with related equipment and structures without planning permission.

The appeal was allowed subject to conditions including the following conditions 2 & 3 which this current application seeks to vary.

Condition 2 – The leisure uses hereby permitted shall not take place on no more than 2 days in any one week.

Condition 3 – The leisure uses hereby permitted shall not take place between 1730 hrs and 0900hrs.

The appeal decision specifically excluded the clay pigeon shooting.

1/D/08/002220 – Planning permission was granted for the use of the site as clay pigeon shooting facility (retrospective application) for a temporary period expiring on 19 March 2010 (as set out in condition 1 of the decision).

1/D/10/000305 – Planning permission was granted for to vary condition 1 of application no. 1/D/08/002220 to allow the site to be used permanently for clay pigeon shooting.

Condition 2 of the decision:-

The clay pigeon shooting use hereby permitted at the application site shall not take place other than on one of the 2 days a week permitted for the other leisure uses permitted at Shakes Hole authorised by the planning permission granted on appeal (ref APP/F1230/C/07/2056624 dated 27th February 2008). At all times a register detailing the dates and times when the use hereby approved (clay pigeon shooting) takes place and incorporating details of each gun's serial number and details of the cleaning and maintenance of each gun shall be maintained for inspection during all reasonable hours at the request of a duly authorised officer of the Local Planning Authority.

WD/D/17/000210 – Planning permission was refused for an application to vary conditions 2 & 3 of reference APP/F1230/C/07/2056624 to allow operation of the site on 4 days per week (excluding clay pigeon activities - to remain as 1 day per week) & to allow the hours of operation to be permitted up to 18.30 between 1 April - 30 September in any calendar year.

8.0

List of Constraints

Outside a defined development boundary
Contaminated Sites Buffer
Historic Land Fill Sites Buffer (250m)

9.0

Consultations

Puddletown Parish Council: Objection

- The Parish Council supports the original rejection of this application by WDDC, who were very clear in their reasons for making that decision.
- There appear to be no significant changes in this amended application to justify over-riding that original rejection.

Knightsford Parish Group: Objection

- The above application is remarkably similar to WD/D/17/000210 dated 12 April 2017 which requested an extension of operation from 1 to 4 days a week. That application was refused.
- The reasons for refusal still apply to this application. Here is an extract:
- ' Extending the days of operation would be prejudicial to the amenity of the occupants of the residences in this tranquil rural area and would impact negatively on the residential amenity of the nearby dwellings The operation of the site for 4 days a week would result in the amenities that are currently enjoyed by the dwellings being adversely affected by potential noise and general disturbance beyond that which could normally be expected in a rural location.'
- There are 23 houses and flats at Clyffe the nearest of which is 500m from Shakes Hole. The potential noise of revving engines for 4 days a week would be intolerable.
- The area is widely used by hikers and horse riders. The latter would be particularly affected by the increase in traffic along the by-ways which access the site.
- No material change to the application of 2017 and objects to this application.

Affpuddle Parish Council (adjoining parish): Objection

- The intensification of operations at the site would result in a further loss of amenity of the surrounding countryside. The area is extensively used by walkers and horse riders and noise from the site impacts the enjoyment of these activities. Maintaining the days of operation to those currently permitted would preserve the remaining general amenity of the area. The application would therefore be contrary to the Policy ENV16 of the adopted Local Plan and the NPPF.
- Parish Councillors were concerned that the sound survey was limited in its scope. It was conducted over a limited time period of 72 hours which may not be representative of the noise created by activities during peak times of the year.
- It is well-known that extensive areas close to the site are being returned to heathland with large areas of forestry being cleared. It is likely that the effect of the noise emanating from the site will have a greater impact on the surrounding countryside with a further loss of amenity value to local residents and recreational users. Further evaluation is needed.

- Concerns were expressed about litter. Visitors of the site are directed from Rye Hill towards the site. Regular Parish Litter Picks reveal high levels of sandwich wrappers, crisp packs, beer and soft drinks cans etc which appear to have been thrown from vehicles. This profile of litter is totally different from anywhere else in the Parish and is considered to be as a result of visitors to the site. Any intensification of operations at the site is likely to increase the already unacceptable amounts of rubbish along this route.
- There was no certainty offered in the application about which days are proposed as an extension to existing operations. Maintaining this flexibility means that other users of the area for amenity purposes will not know when they can enjoy the surrounding countryside without noise coming from the site, with any degree of certainty (apart from Sunday).
- Councillors could not understand from the application how the proposed hours of operation compared with the existing.

Natural England – No objection

Dorset Council Environmental Health – No comment.

Previous comments were made on the application on 16th July 2019 which was as follows:-

I have re-read the noise assessment which forms part of this application and am of the opinion that it demonstrates that noise should not be an issue. Therefore, there is no reason for me to object to this application.

Dorset Council Highways – No comment.

Mineral Planning Authority – No comment to make on the current application.

10.0 Representations

Letters of objection have been received from 12 individuals. The following main concerns are raised within these letters:-

- Increased hours and days would result in noise and disturbance in this quiet rural area.
- Noise and disturbance to residents in vicinity including Clyffe;
- Significantly reduces residents' normal enjoyment of their own private property and gardens and an increase in days when this noise occurs would be a horrible prospect;
- Application is not materially different to the application made in 2017 which both aim to extend the operating time and number of days each week for the shooting and driving activities;
- Consider previous reason for refusal still applies;

- Current conditions provide a fair compromise to allow the use to continue without harm to neighbouring amenity;
- New application has been justified solely on basis of new acoustic report but unclear what weight can be given to it;
- Acoustic report was carried out between 26 September and 16 October 2018 which is not the applicants' peak season and only covers a period of 3 weeks;
- Report should cover the peak season i.e. summer months;
- Acoustic report does not set out how many people were carrying out the activities on the site during the assessment – the noise will vary depending on numbers of people on site;
- Residential properties excluded from noise assessment;
- Clay pigeon shooting causes noise and query how much shooting during acoustic assessment;
- Incorrect description which states that application is seeking to vary start time to 9am from the current start time of 9am but this is not the applicants' intention from the submitted information;
- 8am is too early for the operations to start on any day.
- Increased hours and days of opening could attract an increase in visitors;
- Detrimental noise impact on wildlife and habitats in the immediate area;
- Resident herds of red deer and white tailed deer would be affected by increased traffic as well as safety of vehicle users;
- Quiet enjoyment of countryside of horse riders and walkers making use of the bridleways would be affected;
- Activities are not in keeping with rural pastime in the area including riding and walking and any increase would minimise enjoyment of the countryside for residents and visitors alike;
- No evidence to support the statement that there are 11,000 leisure users per annum as based on opening for two days a week, this would mean 106 visitors per day;
- No evidence to support the statement as to the number of full and part time jobs;
- The data submitted with this application has not been updated and is the same as the data submitted in support of the 2017 application;
- Access to Shakes Hole is off an unclassified road which leads off from B3390 – the road is very narrow and well used by walkers, cyclists and horse riders;
- Events cause traffic issues through visitors accessing the site through Affpuddle and Tolpuddle/Southover lane and the track leading south to the site;
- Number of traffic movements (at 13) is too high given the track is a public and used by riders and walkers;
- Access not suitable for the increased volume of traffic;
- No consultation with Historic England regarding impact on neighbouring significant tumuli;

- Dorset council has agreed an Environmental Emergency as set out in the draft Dorset Plan 2020-2024 which states as a high priority the need to protect and conserve Dorset's main asset – its countryside. Proposal would conflict with this by increasing pollution, adding to greenhouse gases and doing nothing to safeguard and enhance local ecology.

The following concerns were also raised but are not relevant to the consideration of this application:-

- Poor driver behaviour;
- Litter.

Case officer comment: *A number concerns have also been raised by residents regarding the impact of the existing use of the land as currently operating in accordance with planning permission as granted at appeal in 2008. A query has been made regarding the need to consult Historic England in respect of a nearby scheduled ancient monument. However, no development is proposed and this application solely relates to the variation of conditions of a planning permission for the use of the land.*

Letters of support have been received from 9 individuals. The main points raised in support within these letters are:-

- Occasionally hear the site but not to the extent that it means we do not enjoy sitting in our garden;
- No disturbance caused by the events to resident and do not hear any noise from the site;
- Noise is only evident on site and can rarely hear much from Southover Lane;
- Current location of site is appropriate due to it being surrounded by trees on three sides and no immediate residential properties;
- Site is sufficiently remote that the proposed use is well placed to cater the individuals attending without causing disruption to the wider area;
- Numerous other activities within the local area which generate noise;
- Use of the site brings in visitors and money into the area;
- Generates local employment and business to the area;
- Increase to 4 days would further create employment opportunities as already brings part time work to the area;
- Events tend to take place mostly on a Saturday which is a day most people are normally out and about;
- Additional days will be in weekdays when unlikely to attract stag parties and will be suited for small local groups including scouts;
- Proposed increase in days and hours of operation would allow the business to grow;

- Site is well maintained and there has been an increase in wildlife generated as a result of land management, bird feeders and professional deer and venison management;
- Would not affect cyclists, horse riders and walkers as use takes place within the site which is on private land;
- No traffic issues as access is well away from Tolpuddle.

The following points are also raised but are not relevant to the consideration of this application:-

- Personal character reference of the applicant/business (as planning permission is granted to the land and not the person) e.g. business supports local fund raising events.

11.0 Relevant Policies

Adopted West Dorset and Weymouth & Portland Local Plan (2015)

INT1- Presumption in favour of Sustainable Development

ENV 16 – Amenity

National Planning Policy Framework (2019)

1. Introduction
2. Achieving sustainable development
4. Decision-making
12. Achieving well-designed places
15. Conserving and enhancing the natural environment

Supplementary Planning Guidance

NPPG

Noise Policy Statement for England (NPSE) March 2010

Design and Sustainable Development Planning Guidelines (adopted 2009)

12.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property

This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

13.0 Public Sector Equalities Duty

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

Arrangements would be made to ensure people with disabilities or mobility impairments are accommodated in order to comply with Building Regulations.

14.0 Financial benefits

Increased employment would be generated from the increase in hours and days of operation. Greater economic benefit.

15.0 Climate Implications

There are no climate implications.

16.0 Planning Assessment

Background

The activities on site are currently restricted via planning condition for 2 days a week excluding Sundays and for hours between 9:00 and 17:30 on any given day (conditions 2 and 3 of APP/F1230/C/07/2056624). These were suggested by the council in their appeal statement with the reason for the imposition of the condition being 'in the interests of amenity'. The application is now seeking to vary the conditions to extend the operation for 4 days a week excluding Sundays and extend the hours of operation to be between 8:00 and 18:30 between 1 April - 30 September in any calendar year. This current application follows a previously refused variation of condition application. The refused application related to a proposal to vary condition 2 to increase the activities from 2 to 4 days in any given week and to vary condition 3 to extend the opening hours from 09:00-17:30 to 09:00 to 18:30 between 1 April - 30 September in any calendar year.

The application is seeking to vary conditions imposed on an appeal that was allowed for the change of use of the land for leisure purposes including archery, quad biking, off buggy racing, 4x4 vehicle driving. A number of concerns raised by neighbours also related to the clay pigeon shooting on the site and whether the above variation would apply to this. Furthermore, it is noted that the acoustic report includes an assessment of the shooting activities on the site. However, the clay pigeon shooting activity was dismissed and enforcement notice was upheld for this. A separate planning permission was subsequently granted for the clay pigeon shooting with a condition restricting this activity to take place on only one day of the two days. The application is not varying conditions of this permission but rather those of the appeal which did not allow for the clay pigeon shooting.

The key question therefore is whether the increase in the number of days when the activities at the site (excluding the clay pigeon shooting) and the extended hours of operation between 08:00 and 18:30 between 1 April - 30 September in any calendar year would have an acceptable impact upon residential amenity.

The NPPG sets out that decision taking should take account of the acoustic environment and in doing so should consider whether or not a significant adverse effect is occurring or likely to occur, whether or not an adverse effect is occurring or likely to occur and whether or not a good standard of amenity can be achieved. The NPPG advises that the factors that influence whether noise could be a concern include the non-continuous sources of noise, the number of noise events and the frequency and pattern of occurrence of the noise.

Variation of Condition 2: Impact on Residential Amenity as a result of the increase of activities for 4 days in any given week

A noise assessment has been prepared and accompanied this application. No noise assessment was submitted with the previously refused application. It is therefore considered that the current application is materially different to the previously refused application as it presents new information. The noise impact assessment has been conducted following guidance approved by the councils environmental health officer and follows the British Standard 4142:2014 (BS 4142) guidance for assessing commercial operations. On this basis, it is considered that significant weight can be afforded to the noise impact assessment.

The noise assessment identified the rating level which is defined objectively as the specific source noise level as 26dB. The background sound level at Position 1 for Clyffe House as 28dB and at Position 2 for Southover Lane was 30dB. In applying the guidance, the background sound level is subtracted from the rating level to establish the excess rating over background. The assessment states that the following results following this subtraction would evaluate the likelihood of complaint:-

- Where there is a difference of around +10 dB, it is likely to be an indication of a significant adverse impact, depending on context;
- Where there is a difference of around +5 dB is likely to be an indication of an adverse impact, depending on context; and
- A difference of +0 dB or less is an indication of the specific sound source having a low impact, depending on the context.

In this case, the calculation found that there would be an excess of rating over background of -4 dB. Applying the above guidance, this falls into the latter category where the difference is less than +0 dB and as such indicates that the specific sound source would have a low impact. On this basis, the acoustic report concluded that the assessment indicates that the motorsport noise should not have an adverse impact on the receptor during the normal daytime operation periods. The noise assessment objectively demonstrates that there is no significant noise impact generated from the existing activities on the site that currently take place on two days of the week to the nearest residential properties. Furthermore, from observations made by the assessors at the receiver locations during the survey, they found that the Motorsport activities and Assault Rifle shootings were not audible or perceptible for all tested scenarios.

Environmental Health initially responded to the consultation of the application raising no comment. Further to this, the case officer sought further clarification of their comments having particular regard to the submitted noise assessment. Environmental health advised that “having re-read the noise assessment which forms part of this application and am of the opinion that it demonstrates that noise should not be an issue. Therefore, there is no reason for me to object to this application.”

It is noted that Puddletown parish council as well as the two adjoining parish councils (Knightsford including Tincleton and Affpuddle) have all objected to the application. Furthermore, a number of objections have also been received from the residents in the vicinity of the site. Whilst a number of concerns have been raised, the main concern relates to the potential noise and disturbance that would result from the additional days and hours of operation having particular regard to the previously refused application. In terms of the submitted acoustic report, Affpuddle parish councillors were concerned that it was limited in its scope as it was conducted over a limited time period of 72 hours which may not be representative of the noise created by activities during peak times of the year. Furthermore, objectors raised concerns regarding the accuracy of the submitted acoustic report. The key concerns in this respect related to the time period in which the assessment was carried out which was not in the applicants peak season and covered a period of 3 weeks; did not describe how many people carrying out the activities and residential properties were excluded from the assessment.

In respect of the above concerns, officers sought further advice and clarification from Environmental Health. In respect of the locations where the noise was measured from in relation to the residential properties, they advised that there would be an insignificant difference in noise levels between the measurement location (Positions 1 and 2) and the residential properties closest to the application site. In respect of the period in which the assessment was carried out, the specific noise levels for the motorsport activities have been predicted by the noise model and a worst-case scenario has been assumed. This worst case scenario is based on the maximum number of vehicles using the tracks and therefore, is an assessment of noise that would be generated during peak times of the year. Environmental Health have confirmed that the predicted assessment which is based on an accepted methodology is acceptable.

In terms of the length of time for the assessment of 72 hours, the noise levels generated are representative of the activities that would take place during daytime hours on any given day of the week and as stated above the assessment captures what the noise levels would be at peak times.

The noise assessment clearly demonstrates that the existing activities currently take place on the site during daytime hours for two days of the week without generating a significant noise impact. It is therefore reasonable to conclude that the same activities taking place during daytime hours for a further two days of the week would not impact negatively on the residential amenity of the nearby dwellings.

The use would still be restricted as it would only be able to operate for 4 days of the week and would not be able to operate on Sundays. Furthermore, the operations can take only place during sociable and daylight hours for the summer and winter months. The hours of operation when noise would be generated are within the daytime and therefore, at a less sensitive time of day when noise would better assimilate with the ambient noise levels.

Variation of Condition 3: Impact on Residential Amenity as a result of extended opening hours to allow the use to operate between the hours of 08:00 and 18:30 between April and September in any calendar year

It is considered that the additional hours of opening in the summer months would not result in unacceptable noise and disturbance to neighbours as this would operate during daylight hours during the summer months. This is because the harm caused by noise during the additional hour into the morning and additional hour into the evening is not considered to be significant.

Impact on Highway Safety

A number of concerns have been raised regarding the increase in traffic along the access track on two additional days of the week. However, the conclusion

reached by officers at the time of considering the change of use originally in 2007 (reference: - 1/D/20071707) remains relevant. This stated that:-

The access track to the site from the B road is an adopted road and therefore any vehicle can use it anyway. The highways authority does not object to the proposal. With regards to Public Rights of Way there are very few in the vicinity of the site. Anyone can use the access track but other than that there is a bridleway to the south east of the site on the opposite side of the county road. There is also a bridleway in the woods to the north-east/east of the site but even at its nearest point to the site it is still some considerable distance away. A lot of the representations refer to paths in the area however these are permissive paths rather than public rights of way.

In addition, the highway authority has raised no concerns in respect of the proposed changes to the conditions. It is therefore considered that the proposed changes would not have a significant adverse impact on highway safety; given the highway authority advice and that it would not adversely impact on public rights of way given their distance from the site.

s73 Variation of Conditions

Where an application under section 73 is granted, the effect is the issue of a new permission, sitting alongside the original permission, which remains intact and unamended. The decision notice describing the new permission should set out all of the conditions related to it. 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 satisfactorily discharged.

The following conditions on the previous approval would need to be added, repeated and/or amended.

1. Leisure uses hereby permitted shall not take place on Sunday – **Repeated as necessary to safeguard the living conditions of neighbouring residential properties.**
2. Leisure uses hereby permitted shall take place on no more than 2 days in any one week – **Amended to “leisure uses hereby permitted shall take place on no more than 4 days in any one week”.**
3. Leisure uses hereby permitted shall not take place between 1730hrs and 0900hrs – **Amended to “leisure uses hereby permitted shall not take place between 18.30 hours and 08.00 hours during the period 1 April to 30 September in any one calendar year and for the remainder of the year will not take place between 17.30 hours and 09.00 hours”.**

4. The catering van shall only be sited on the land when the land is in use for leisure purposes. When such use takes place the van shall only present on the land between the hours of 08.30 and 18.00 – **Amended to reflect the extended hours of operation as set out above for condition 3.**

5. Within 1 month of the date of this decision, a scheme setting out details for the painting of the catering van and portaloos shall be submitted to the local planning authority for their approval. The agreed painting scheme shall be implemented within 1 month of the date of the approval – **Not considered necessary to condition the painting/finish of the catering van and portaloos which are located within the site and not visible within the public realm.**

6. Within 2 months of the date of this decision, a land remediation scheme shall be submitted to the local planning authority for approval and associated implementation with a timetable to be agreed with the local planning authority - **Environmental Health have reviewed their contaminated land/historic land use records and confirm that there is no record that would indicate that the land had a potentially contaminative land use. On this basis, it is not considered to repeat this condition.**

Procedural Matters

The original location plan submitted with the application showed a larger site area than the application site as marked by the red line on the location plan as approved at appeal. Any location plan accompanying an application to vary the condition of an original permission must have the exact same red line and thus, site as the approved location plan for that permission. In the absence of this, the application would be invalid.

Furthermore, the red line area covered additional land in the form of a track which was identified as a byway open to all traffic (BOAT) and as such is an adopted highway albeit an unclassified road (D21305). The applicant has submitted Certificate A which implies that they are sole owners of the application site. However, the unclassified road is in the ownership of the highway authority.

For the reasons above, the application was found to be invalid. In order to make the application valid, the red line was required reduced to reflect the site area as shown on the location plan approved at appeal. This clearly shows the area of land to which planning permission was granted for the change of use. A revised location plan was therefore submitted reflecting this change. Given that this reduced site area omitted the unclassified road (D21305), the land within the red line is now all within the applicants' ownership and as such the previously submitted certificate A relates to the revised location plan.

On this basis, the application was made valid. Once valid, it was necessary to undertake fresh consultation with necessary interested parties and the necessary publicity of the application via the erection of a site notice. These comments are summarised in the relevant sections above.

17.0 Conclusion

Having regard to the above, it is considered that the noise assessment adequately demonstrates that the proposed use would not cause significant noise and disturbance to occupants of residential properties within the surrounding rural area. It is considered that the concerns of the previously refused application have been overcome. It is therefore considered that the use of the site for following activities:- archery, off-road buggy racing, 4x4 vehicle driving and blind driving on an additional two days of the week would not cause significant harm to neighbour's living conditions in terms of unreasonable noise or disturbance. Thus, the change of use accords with adopted policy ENV16 of the Adopted West Dorset and Weymouth & Portland Local Plan (2015). The proposal would have an acceptable impact on highway safety and would therefore accord with policy COM7 of the Adopted West Dorset and Weymouth & Portland Local Plan (2015).

18.0 RECOMMENDATION Grant, subject to conditions.

CONDITIONS:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan received on 21st November 2019

Block Plan received on 21st November 2019

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

2. The leisure uses hereby permitted on this land shall not take place on a Sunday.

REASON: In order to safeguard the living conditions of neighbouring residential properties.

3. The leisure uses hereby permitted shall take place on no more than 4 days in any one week.

REASON: In order to safeguard the living conditions of neighbouring residential properties.

4. The leisure uses hereby permitted shall not take place between 18.30 hours and 08.00 hours during the period 1 April to 30 September in any one calendar year and for the remainder of the year will not take place between 17.30 hours and 09.00 hours.

REASON: In order to safeguard the living conditions of neighbouring residential properties.

5. The catering van shall only be sited on the land when the land is in use for leisure purposes. When such use takes place the van shall only present on the land between the hours of 07.30 and 19.00 during the period 1 April to 30 September in any one calendar year and for the remainder of the year between the hours of 08.30 and 18.00 hours.

REASON: To accord with terms of application and in the interests of neighbouring amenity.