

Application Number	21/00410/VARCO
Site Address	Manor Farm, Worcester Early Years Centre, Malvern Road, Worcester, WR2 4BS
Description of Development	Application to vary condition 5 of planning approval P14C0106 to allow for the use of the facility by community groups during specified hours.
Expiry Date	28 March 2022
Applicant	Worcester Early Years Centre
Agent	Mr Ben Greenaway
Case Officer	Andrew Thompson
	andrew.thompson@worcester.gov.uk
Ward	Bedwardine Ward
Reason for Referral to Committee	Ward Member referral
Key Issues	The principle of development and whether the proposal would be sustainable form of development having regard to the 3 dimensions of sustainable development in terms of its economic role, social role and environmental role.
Web link to application	https://plan.worcester.gov.uk/Planning/Display/21/00410/VARC
Recommendation	The Corporate Director - Planning and Governance recommends that the Planning Committee grants planning permission subject to the Conditions set out in Section 9 of this Report.

1. Background

- 1.1 The application was registered on 26 April 2021 and was due for a decision on 21 June 2021. An extension of time has been agreed to 28 March 2022 following the receipt of the Amended Plan in February 2022.
- 1.2 The application has been referred to the Planning Committee at the request of Councillor Alan Amos.

2. **The site and surrounding area**

- 2.1 The site forms part of Manor Farm. The site is located on the southwestern outskirts of the City and is accessed from Malvern Road via an access shared with a glamping site, early years centre and caravan park, all of which are sited on the now-diversified Manor Farm. A public house and units in office use lie further north. Beyond the farmland the surrounding area becomes more residential in character with residential properties further north and east of the application site. To the south is open farm land (cattle) beyond which lies the River Teme.
- 2.2 Manor Farm is a dairy farm which in recent years has diversified in a response to changing market conditions in the dairy industry and the site is bordered by a childcare facility and ice cream shop, caravan and glamping sites. The site borders (and has planning consent for) a temporary yurt style marquee which is used for wedding and other events as well as use of a permanent barn building for weddings and events. The site borders a pond and is located in flood zone 3 within the functional floodplain. The site is designated as 'Green Space' in the adopted South Worcestershire Development Plan.

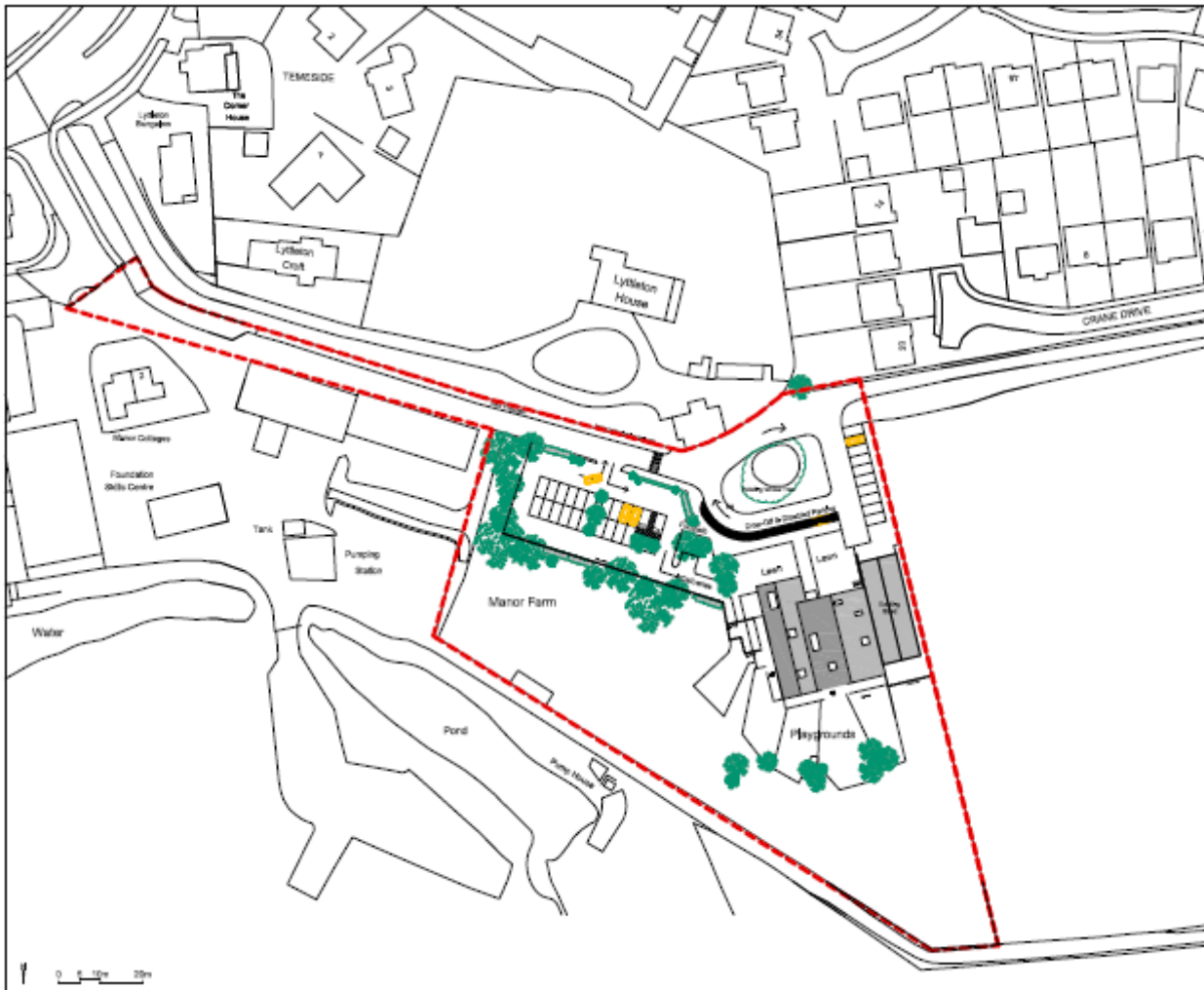


Figure 1 – Location Plan

3. **The proposals**

- 3.1 The application proposal relates to an application to vary Condition 5 of planning permission P14C0106 which approved the creation of a new Early Years Centre on land

at Bennetts farm and Change of Use of adjacent agricultural land to D1 (Educational) on 21 August 2014.

- 3.2 For the avoidance of doubt Condition 5 currently states:
Full details of the following matters including any details shown on the submitted plans shall be submitted to and approved by the local planning authority in writing before the development is commenced. Schedule :-
- i. all security measures to be incorporated into the scheme;
 - ii. proposed community use of building, including hours of operation;
 - iii. all renewable energy measures to be incorporated into the scheme, and;
 - iv. all fencing, including colour and finish

The development shall not be undertaken other than in full accordance with such approved details.

For the following reason:- Insufficient details were submitted for these matters to be fully and properly considered in respect of the approval hereby granted and policy BE1 of the City of Worcester Local Plan 2004.

- 3.3 The application seeks to vary part ii of the above condition to read:
- ii) 'The Development shall be used only for pre-school education and for community facilities by community groups. The development will only operate during the following hours: -
Monday – Friday: 06:30 – 22:00
Saturday and Sunday: 08:00 – 22:00
- 3.4 The application is accompanied by a location plan and a supporting planning statement.
- 3.5 In accordance with Article 15 (7) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), full details of the application have been published on the Council's website. As such, Members will have had the opportunity to review the submitted plans and documents in order to familiarise themselves with the proposals prior to consideration and determination of the application accordingly.

4. Planning Policy

- 4.1 The Town and Country Planning Act 1990 ('the Act') establishes the legislative framework for consideration of this application. Section 70(2) of the Act requires the decision-maker in determining planning applications/appeals to have regard to the Development Plan, insofar as it is material to the application/appeal, and to any other material consideration. Where the Development Plan is material to the development proposal it must therefore be taken into account. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application/appeal to be determined in accordance with the Plan, unless material considerations indicate otherwise.
- 4.2 The application is submitted under Section 73 of the Town and Country Planning Act 1990 that allows an application to be made to vary conditions associated with a planning permission. Section 73 of the Town and Country Planning Act confirms that on such applications the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and:
- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or

that it should be granted unconditionally, they shall grant planning permission accordingly, and

- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application

- 4.3 In terms of decision making a Section 73 application should be treated just like any other application, and in making their decisions Local Planning Authorities should focus their attention on national and development plan policies, conditions attached to the existing permission and other material considerations which may have changed significantly since the original grant of permission. A successful application to amend conditions results in the issue of what is in effect a new planning permission, but does not cancel the old permission.
- 4.4 Guidance for determining s73 applications is set out in the NPPG which states that a minor material amendment is one "whose scale and nature results in a development which is not substantially different from the one which has been approved". It is further stated that the development which the application under s.73 seeks to amend will by definition have been judged to be acceptable in principle at an earlier date. Consequently, the extent of the material planning considerations are somewhat restricted and only the amendments being applied for should be considered at this stage in light of current policy. In terms of decision making a Local Planning Authority therefore has to make a decision on the amendments being applied for with regard to relevant national or local policies which may have changed significantly since the original grant of planning permission as well as the merits of the changes sought.
- 4.5 The key legal provisions relating to the consideration of heritage assets in the planning system are s72 (1) and s66 (1) of the Planning Listed Buildings and Conservation Areas Act 1990 which state that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area" and "have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".
- 4.6 The Development Plan for Worcester now comprises:
- The South Worcestershire Development Plan (SWDP) which was adopted February 2016, and;
 - The Worcestershire Waste Core Strategy, which was adopted on December 2012.

South Worcestershire Development Plan

- 4.7 The following policies of the SWDP are considered to be relevant to the proposal:

SWDP 6 Historic Environment
SWDP 21 Design
SWDP 24 Management of the Historic Environment
SWDP 37 Community Facilities

The Waste Core Strategy for Worcestershire - Adopted Waste Local Plan 2012-2027

- 4.8 The Waste Local Plan was adopted by Worcestershire County Council on 15 November 2012 and is a plan outlining how to manage all the waste produced in Worcestershire up to 2027. The following policies are relevant to this application:

WCS1 (Presumption in favour of sustainable development)

WCS3 (Re-use and recycle)

WCS17 (Making provision for waste in new development)

Material Considerations

1. National Planning Policy Framework

2. National Planning Practice Guidance

3. Supplementary Planning Documents

4.9 The following Supplementary Planning Documents (SPD) are relevant to the application proposals:

- South Worcestershire Design SPD
- Planning for Health in South Worcestershire SPD

4. Other relevant documents

4.10 The following other documents are relevant to the application proposals:-

- Worcestershire's Local Transport Plan (LTP4) 2018 – 2030
- Worcestershire County Council Streetscape Design Guide (2018)

5. Relevant Planning History

5.1 The site has been the subject of a number of planning applications. The following are considered relevant to the determination of the application:

P97C0153 - Convert and extend existing farm buildings to ice cream production.
Approved 5 June 1997

P97C0156 - Erection of a farm shop and tea room building. Approved 5 June 1997

P10C0447 - The creation of a new early years centre on land at Bennetts Farm. Change of use of the agricultural land to D1, educational, is sought. Refused – 20 January 2011

P10C0556 - Proposed demolition of existing packaging section of ice cream factory and construction of new packaging storage, cold store and bulk ingredients store along with associated works. Approved 12 April 2011

P11C0069 - The creation of a new Early Years Centre on land at Bennetts farm and Change of Use of adjacent agricultural land to D1 (Educational). Approved 9 May 2011

P14C0106 - The creation of a new Early Years Centre on land at Bennetts farm and Change of Use of adjacent agricultural land to D1 (Educational). Approved 21 Aug 2014

P15C0111 - Full Planning Application for reconfiguration of approved hard landscaping areas of Worcester Early Years Centre (Ref: P14C0106) And Ice Cream Factory (Ref: P10C0556) Approved 20 May 2011

19/00094/FUL - Erection of a single storey events venue and farm cafe. Installation of decking over pond, outdoor seating and children's play area. Approved 4 December 2019

19/00195/FUL - Retrospective application for the erection of an antique lamppost and 6 low level lighting bollards. Approved 22 August 2019

19/00197/DOC - Retrospective application for discharge of conditions - P14C0106 – Withdrawn 3 July 2019

21/00411/VARCO – Variation to condition 3 of planning permission 19/00195/FUL. Under consideration

6. Consultations

6.1 Formal consultation, including display of site notices, has been undertaken in respect of the application. The following comments from statutory and non-statutory consultees and interested third parties have been received in relation to the original and amended proposals and are summarised as follows:

Neighbours and other third party comments: 10 Objections have been received from the occupants of neighbouring and nearby residents on grounds relating to the following matters:

- Existing controls should be applied
- The proposals are vague as to the type of community use
- Impact on neighbouring amenity – e.g. from noise, light and disturbance.
- There are plenty of other community facilities
- Impact of traffic movement

30 supporting comments have also been received from a wider local area but including local residents and from users of the facility highlighting the social support offered by the facility and wider social and community benefit.

Worcester City Council Archaeological Officer: No archaeological implications

Worcester City Council Landscape and Biodiversity Adviser: No objection

Worcestershire County Council (Highway Authority): No objection

6.2 Members have been given the opportunity to read all representations that have been received in full. At the time of writing this report no other consultation responses have been received. Any additional responses received will be reported to members verbally or in the form of a late paper, subject to the date of receipt.

6.3 In assessing the proposal due regard has been given to local residents comments as material planning considerations. Decisions should not be made solely on the basis of the number of representations, whether they are for or against a proposal. The Localism Act has not changed this, nor has it changed the advice that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission unless it is founded on valid planning reasons.

7. Planning Assessment

- 7.1 Policy SWDP1 of the South Worcestershire Development Plan sets out overarching sustainable development principles and these are consistent with the Framework. The various impacts of the development have to be assessed and the benefit and adverse impacts considered, to establish whether what is proposed is sustainable development. Taking the above matters into account I consider the main issues raised by the proposal relate to the principle of development and whether the development would be sustainable, having regard to the 3 dimensions of sustainability set out in the Framework

The Principle of Development

- 7.2 Since the grant of planning permission the Council has adopted the South Worcestershire Development Plan in 2016 and the National Planning Policy Framework has been revised twice. Neither document fundamentally or significantly alter the consideration of the original planning permission and support the provision of community facilities in assisting community cohesion. It is noted that some residents have objected to the use of the site.
- 7.3 It should also be noted that the Use Classes Order has also been updated since the original planning permission. The use would now fall under Use Classes F.1 (a) and (e) and F.2 (b).
- 7.4 Policy SWDP 37 in particular Part A states
- A. The provision of new community facilities or the enhancement of existing facilities will be permitted, particularly where the proposals have resulted from neighbourhood planning, subject to satisfying the sequential test in the Framework where applicable. Applicants will be required to consider whether the combining or rationalisation of existing facilities would be more appropriate than the provision of a new facility.*
- 7.5 Therefore, in using an existing and supporting an existing facility the proposed application would be in accordance with Policy SWDP37. As an established community facility it is therefore not necessary to consider the need or other community facilities. The supporting comments from users of the facility are noted.
- 7.6 As an existing facility the use of the facility was outlined within the approved Design and Access Statement to the original application which states that the build will consist of a single-storey building with a small first floor store suitable for children of pre-school years and community use by all age groups.
- 7.7 Condition 5ii anticipated the use of the building for such uses in requesting details of the proposed community use of building, including hours of operation.
- 7.8 In updating the submission and varying the Condition the proposed wording would not alter the purpose of the condition and would add certainty.
- 7.9 There is therefore considered that the proposals in principle are in accordance with Policy SWDP 37 and the aims and objectives of the NPPF.

Impact on neighbouring amenity

- 7.10 The comments of the nearby and neighbouring residents are noted and have been given full and careful consideration. Policy SWDP 21 requires development to have regard to the amenity of neighbours.
- 7.11 The application site already exists and there is a range of uses on the site. There is also a nearby public house and other commercial uses nearby which will include late night uses. It is noted that planning permission under 19/00094/FUL for the erection of a single

storey events venue and farm café on land adjoining the site included hours of 0700 and 0000 (midnight) and up to 0100 on New Year's Eve.

- 7.12 The application site proposal is an appropriate distance (approximately 60m) from neighbouring and nearby residents and therefore it is considered that the proposed hours Monday – Friday: 06:30 – 22:00; Saturday and Sunday: 08:00 – 22:00 would not be significant or out of keeping with other uses. Further the use of the building in the evening would also support the use of the building by people working through the day.
- 7.13 Whilst the concerns of residents have been given full and careful consideration, the proposals are considered to be acceptable and would be in accordance with the requirements of the Development Plan and the aims and objectives of the NPPF,

Historic Environment

- 7.14 The key legal provisions relating to the consideration of heritage assets in the planning system are s72 (1) and s66 (1) of the Planning Listed Buildings and Conservation Areas Act 1990 which state that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area” and “have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”. Policy SWDP 6 is the relevant policy of the Development Plan and the requirements of Paragraph 200-204 of the NPPF are also relevant.
- 7.15 As set out by the Conservation Officer there are no impacts on heritage assets and the Council’s Archaeological Advisor there is no impact on the heritage assets. As such the proposals are considered to be in accordance with Policies SWDP 6 and 24.

Access and Highway Safety

- 7.16 The application proposals utilise car parking and access arrangements to Manor Farm which have been provided. The amendment to the planning condition would not significantly alter the use of the building or result in issues in relation to highway safety. It is noted that the County Council Highways Officer raises no objection.
- 7.17 As such the proposals are in accordance with the Policies of the Development Plan and would not be detrimental to highway safety.

Original Planning Conditions

- 7.18 The original planning application was approved with a number of planning conditions. As the application is to consider Condition 5 under s73 process it would grant a new planning permission, it is appropriate to consider the original planning conditions and whether there are alterations to the consideration of the application or it is necessary to reimpose such conditions.

Condition 1 - The development was commenced within three years of the planning permission.

Condition 2 - The development was carried out in accordance with the approved plans and documents.

Condition 3 – Waste and recycling provision is provided on site.

Condition 4 – Archaeology officers raise no concerns with regard to the submission and the condition has been satisfied.

Condition 5 - Under consideration but in respect of other parts of the condition these elements have been satisfied.

Conditions 6 and 9 –Planting and landscaping is considered appropriate on the site.

Condition 7 – Materials – are considered to be acceptable.

Condition 8 – lighting has been provided on site. It is noted that new lighting installed in late 2021 was removed following enforcement action.

Condition 10 – The planting was managed for the first 5 years.

Condition 11 – The landscape is being managed appropriately.

Condition 12 - All roadways, footpaths, driveways and other hard surfaced areas have been appropriately surfaced.

Condition 13 - Demolition and construction works have been completed.

Condition 14 - Parking for site operatives and visitors has been provided

Condition 15 – Wheel washing through construction. The development works have been completed.

Condition 16 - Foul and surface waters drainage is operational.

Condition 17 – The access route, footpath, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and constructed. It is necessary to pull forward the second half of the condition that parking and access facilities shall be safeguarded for this use.

- 7.19 Overall other conditions attached to the original planning permission have been satisfied. Other than the requirement to continue to retain parking, footpath and access areas there is no other condition required as the physical development is now completed.

8. Conclusion and planning balance

- 8.1 The NPPF identifies a series of the components that are considered critical to achieving sustainable development. In my opinion, the above assessment of the planning application proposals against the planning policy framework demonstrates that the application responds to, and is in accordance with, the requirements of the adopted planning policy within the development plan and material considerations relevant to the determination of the application.
- 8.2 Community facilities provide some economic benefits in terms of supporting the local community, local services, groups and facilities. For this role of sustainable development, the balance would clearly be in favour of granting planning permission.
- 8.3 There would be also significant social benefits in supporting the use of the building for community groups. The supporting comments received evidence the value of the proposal to the wider community.
- 8.4 In respect of potential adverse impacts, the proposal has generated objections which are to be given appropriate weighting in the determination of this application. Accordingly, whilst these concerns have been given careful consideration, in light of the application site, approved planning uses and hours, the proposals would be considered acceptable.

- 8.5 On balance, it is considered that the proposed amendment to Condition 5 of P14C0106 would be acceptable.
- 8.6 Overall it is considered that the proposals constitute an environmentally, socially and economically sustainable form of development that accords with the Framework and the Development Plan as a whole.

9. Recommended Planning Conditions

- 9.1 In the event that Members resolve to grant planning permission the following conditions are recommended:

1. The Development shall be used only for pre-school education and for community facilities by community groups. The development will only operate during the following hours: -

Monday – Friday: 06:30 – 22:00
Saturday and Sunday: 08:00 – 22:00

Reason: In order to ensure that the development does not significantly and adversely affect the amenities of neighbouring residents in accordance with Policy SWDP 21 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework.

2. All existing footpath, parking and access routes shall be retained for their approved use and for no other purpose.

Reason: To ensure the satisfactory functioning of the site and to promote sustainable modes of travel in accordance with Policy SWDP 4 of the South Worcestershire Development Plan.