



Report to South Area Planning Committee

Application Number:	PL/23/3905/VRC
Proposal:	Variation of condition 3 (hours of lighting) of planning permission PL/23/0004/FA (The construction of two outdoor all weather floodlit padel tennis courts) to allow extension of evening floodlight hours
Site location:	The South Buckinghamshire Golf Course Park Road Stoke Poges Buckinghamshire SL2 4PJ
Applicant:	UK Padel Ltd
Case Officer:	Richard Regan
Ward affected:	Stoke Poges & Wexham
Parish-Town Council:	Stoke Poges Parish Council
Valid date:	4 December 2023
Determination date:	4 April 2024
Recommendation:	Conditional permission

1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 Planning permission is sought for a variation to condition 3 (Hours of lighting) of planning permission PL/23/0004/FA to allow an extension of the evening operating times.
- 1.2 The specific purpose of condition 3, and the reason why it was included on the previous permission, was to ensure that the proposal would not adversely impact upon bats.
- 1.3 It is proposed to extend the hours within which the floodlighting can be operated for, as well as use an alternative type of lighting that reduces the amount of light spillage.
- 1.4 All other elements of the scheme remain the same as previously approved.
- 1.5 The proposed amendments are considered acceptable. The proposed extended hours of floodlighting are not considered to adversely impact upon wildlife and biodiversity, including bats. In addition, it is also considered that the proposal would not adversely impact upon the open and undeveloped nature of the Green Belt, or the general character and appearance of the site itself. Nor is it considered that the proposal would lead to any adverse impacts on the amenities of neighbouring properties, or adverse highway implications.

- 1.6 The planning application is being referred to the South Area Planning Committee as Buckinghamshire Council has an interest in the land, being the landowner.
- 1.7 Whilst Buckinghamshire Council has an interest in the land (subject of the application), the Council are the Local Planning Authority with responsibility for regulating the development of land. Members will be aware of the need to consider planning applications under the legislative framework, in coming to a decision on the proposals, and to only determine the proposals on the basis of the relevant planning issues.
- 1.8 Recommendation – Conditional Permission.

2.0 Description of Proposed Development

- 2.1 Planning Permission PL/23/0004/FA allowed for the construction of two outdoor all weather floodlit padel tennis courts, subject to a number of conditions. Condition 3 requires the floodlighting to be switched off at specific times throughout the year. The specific reason for the inclusion of this condition was to prevent unacceptable impacts on bats.
- 2.2 This application has been submitted as the applicant wishes to amend the approved development. The proposed amendments can be summarised as follows:
 - Extend the operating hours of the floodlighting
 - Install improved lighting technology
- 2.3 With regard to the proposed extended hours of operation for the floodlighting, currently condition 3 reads as follows:

The floodlights lights hereby permitted shall not be illuminated except between the hours of:

- 8.00 and 22:00 daily within the months of November, December, January and February
- 8.00 and 18:30 GMT/ BST: 19:30 daily within the month of March
- 8.00 and 20:30 daily within the month of April
- 8.00 and 21:15 daily within the month of May
- 8.00 and 21:45 daily within the month of June
- 8.00 and 21:30 daily within the month of July
- 8.00 and 20:45 daily within the month of August
- 8.00 and 19:45 daily within the month of September
- 8.00 and 18:45 BST/ 17:45 GMT daily within the month of October

The floodlights shall not operate outside these hours.

Reason: In the interests of biodiversity in accordance with NPPF, Core Policy 9 of the South Bucks District Core Strategy (2011) and Local plan Policy EP3 of the South Bucks District Local Plan (1999)

- 2.4 It is proposed to extend the switch off time until 21:30 for all of the months (currently March, April, May, August, September and October) where it is currently required to be switched off before this time. The remaining months would remain as previously approved.
- 2.5 With regard to the proposed new lighting technology, it is proposed to use an alternative type of lighting that results in a reduced level of light spill.
- 2.6 All other aspects of the application are the same as previously approved, therefore it

is considered that it is appropriate that this report will only concentrate on determining whether or not the above variation is acceptable.

2.7 The application is accompanied by:

- a) Lighting Design document
- b) Bat Survey data

3.0 Relevant Planning History

3.1 The site has a long planning history. The most relevant planning permission is however listed below:

- PL/23/0004/FA – Conditional Permission, 20 September 2023 - The construction of two outdoor all weather floodlit padel tennis courts.
- PL/23/3088/CONDA – Condition Accepted, 11 October 2023 - Approval of conditions 6 (LEMP), 8 (Construction Traffic Management Plan) and 9 (CEMP) of planning permission PL/23/0004/FA - The construction of two outdoor all weather floodlit padel tennis courts.

4.0 Summary of Representations

4.1 The Parish Council have raised objections to the proposals on the grounds of policy R8 of the Local Plan, in relation to floodlighting and that the light timings should not be changed due to impact on bats. The Parish Council also make reference to the draft Neighbourhood Plan and guidance on dark skies. A summary of consultation responses and representations made on the application can be viewed in Appendix A.

5.0 Policy Considerations and Evaluation

- National Planning Policy Framework (NPPF), February 2023.
- Planning Practice Guidance
- National Design Guidance, October 2021
- South Bucks Core Strategy Development Plan Document - Adopted February 2011
- South Bucks District Local Plan - Adopted March 1999 Consolidated September 2007 and February 2011;
- South Bucks District Local Plan Appendix 5 (Conservation Areas)
- Chiltern and South Bucks Townscape Character Study 2017
- Chiltern and South Bucks Community Infrastructure Levy (CIL) Charging Schedule
- Burnham Beeches Special Area of Conservation (SAC) Mitigation Strategy, March 2020
- Buckinghamshire Council Biodiversity Net Gain SPD
- Buckinghamshire Countywide Parking Guidance 2015
- Draft Stoke Poges Neighbourhood Plan 2020-2040 (Only limited weight can be attributed to this document due to its draft status)

Principle and Location of Development

Core Strategy Policies:

CP5 (Open Space, Sport and Recreation)

Local Plan Saved Policies:

GB1 (Green Belt boundaries and the control over development in the Green Belt)

5.1 This application is submitted under Section 73 of The Town and Country Planning Act 1990 and seeks a variation of Condition 3 of planning permission PL/23/0004/FA. Applications made under Section 73 must be considered against the Development Plan

and any other material considerations, under Section 38(6) of the 2004 Act, and conditions attached to the existing permission. The NPPG also states that "local planning authorities should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission".

- 5.2 There have been no changes to the national or local development plan policies that would affect the principle of the previous decision of the Planning Authority in relation to the erection of padel courts and floodlighting previously approved. As such the principle of the development is agreed.
- 5.3 As set out earlier within this report, the specific reason for the inclusion of condition 3 was to prevent harm to bats. At the time of the determination of the previous application, insufficient bat survey data had been collected and submitted to enable a full assessment of the existing bat activity within the vicinity of the application site to be analysed. In the absence of this additional survey data, condition 3 was considered necessary to ensure that harm would not be caused to bats, by the lighting.
- 5.4 This additional survey data has now been compiled and submitted as part of this current application.

Ecology

Core Strategy Policies:

CP9 (Natural Environment)

CP13 (Environmental and resource management)

Local Plan Saved Policies:

EP3 (The use, design and layout of development)

- 5.5 Based on the level of evidence that was submitted as part of the previous application, it was considered that the proposed floodlighting had the potential to impact on bats within the area. In order to mitigate the impact of the lighting on bats, condition 3 was attached to the decision notice, which requires specific switch-off points for the lighting.
- 5.6 As part of the current application, additional bat survey information has been submitted which provides further evidence of the potential presence, or lack of, bats within the area. In addition to this, as part of the current application, it is also proposed to use more technologically advanced lighting, which leads to a reduction in light spillage.
- 5.7 When reviewing these details and evidence, the Councils' Ecology Officer has advised that a dark corridor can be maintained to the west of the courts for commuting and foraging bats, and as such, there would be no adverse impacts on bats as a result of these current proposals.
- 5.8 As such, it is considered that the proposed development would not adversely impact upon existing wildlife and biodiversity, including protected species.

Green Belt

Local Plan Policies:

GB1 (Green Belt boundaries and the control over development in the Green Belt)

R8 (Floodlighting)

- 5.9 It was previously considered that the proposed floodlighting would not adversely impact upon the openness of the Green Belt or its undeveloped character. It should

be noted that condition 3 was not included on the previous permission on grounds relating to protecting the Green Belt, but rather it was included to ensure that bats were protected.

- 5.10 The current proposals do not involve any physical alterations to the approved lighting in terms of its height, size, or location. The only difference would be the type of actual bulbs being used as well as length of time that the lighting would be operational.
- 5.11 In terms of the alternative bulbs, these would have less of an impact than the previously approved bulbs due to the fact that they would result in less light spillage. As such, the spread of light from the floodlighting would be contained to a smaller area. This is considered an improvement over the previously approved lighting and would be beneficial in terms of minimising their impact on the Green Belt.
- 5.12 In terms of the extended hours of operation, it is considered that the additional time that the floodlighting would be lit over and above that of the approved scheme would be limited, and when taking into consideration the use of the wider site and the fact that there is lighting already serving the site, it is not considered that an objection could reasonably be raised in terms of the impact on the Green Belt in terms of visual impact and illumination.
- 5.13 In summary therefore, it is considered that the current proposal would not adversely impact upon the Green Belt and can be considered an appropriate form of development within the Green Belt.

Transport matters and parking

Core Strategy Policies:

CP7 (Accessibility and transport)

Local Plan Saved Policies:

TR5 (Access, highways work and traffic generation)

TR7 (Traffic generation)

- 5.14 Whilst the proposed extended floodlighting times would enable the courts to be used for longer, the intensity at which they could be used would not change. The facility would remain unchanged at providing 2 padel courts, and therefore the number of people able to use the courts at any one time, and therefore potentially drive to and park at the site, would also remain unchanged.
- 5.15 As such, the proposed would not lead to any new highway or parking implications.

Raising the quality of place making and design

Core Strategy Policies:

CP8 (Built and historic environment)

Local Plan Saved Policies:

EP3 (The Use, Design and Layout of Development)

EP4 (Landscaping)

EP6 (Designing to Reduce Crime)

- 5.16 Physically, the development remains unchanged from that previously approved. Whilst it is proposed to install new, more advanced floodlighting, this would be on the already approved lighting columns, with only the lighting bulbs themselves changing. In terms of their size and design, they would not appear materially different from that already approved.
- 5.17 It is not considered that the extended hours of floodlighting would adversely impact

upon the visual amenities of the area or the character of the area. There is existing lighting within the golf club site, including within its carpark, that is operational during the evenings. Given the presence of existing lighting and the currently approved floodlighting hours, it is not considered that the slightly extended hours of floodlighting would cause an adverse impact on the character of the area.

- 5.18 It is acknowledged that the Parish Council make reference to policy SP12 'Dark Skies' which is set out within their draft Neighbourhood Plan. This policy seeks to ensure that all development proposals should be designed to prevent or minimise the occurrence of light pollution wherever possible. Given the draft status of the Neighbourhood Plan, only limited weight can be attributed to this policy. Notwithstanding this, whilst the current proposals seek to extend the length of time that the lighting is lit, as set out above, the new bulbs would reduce the level of light spill over that previously approved, and the site is set in a location where lighting is already present. In addition to this, the provision of floodlighting on the site has already been found acceptable, and the inclusion of condition3 relates solely to the protection of bats as opposed to potential light pollution.

Amenity of existing and future residents

Local Plan Saved Policies:

EP3 (The use, design and layout of development)

EP5 (Sunlight and daylight)

- 5.19 Whilst the floodlighting would be lit for a longer period than that previously approved, the light spill would be less due to the improved lighting technology that it is proposed to use. When combining this with the significant distances retained to the nearest neighbouring properties, it is considered that the extended hours of lighting would not adversely impact upon the amenities of these neighbouring properties.
- 5.20 Given the distances retained to the neighbouring properties, it is also considered that the extended floodlighting would not result in any unacceptable levels of noise and general disturbance.

Flooding and drainage

Core Strategy Policies:

CP13 (Environmental and resource management)

- 5.21 The proposals do not involve any revisions to the construction of the development, or the materials used on its surfaces. The current proposals would not therefore have any flooding or drainage impacts.

6.0 Weighing and balancing of issues / Overall Assessment

- 6.1 In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:
- a. Provision of the development plan insofar as they are material,
 - b. Any local finance considerations, so far as they are material to the application (such as CIL if applicable), and,
 - c. Any other material considerations

- 6.2 As set out above it is considered that the proposed development would accord with the development plan policies.
- 6.3 Taking all of the above into account it is considered that the proposal would provide for a sustainable form of development that meets the requirements of the NPPF and relevant Development Plan policies.

7.0 Working with the applicant / agent

- 7.1 In accordance with paragraph 38 of the NPPF (2023) the Council approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments.
- 7.2 The Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.
- 7.3 In this instance, during the course of the application, the applicant has submitted updated lighting details which offer a betterment to the previously approved lighting.

8.0 Recommendation: Conditional Permission, subject to the following conditions:

1. The exterior of the development hereby permitted shall only be constructed in the materials specified on the plans hereby approved and the submitted application form.
Reason: To ensure that the external appearance of the development is not detrimental to the character of the locality.
2. The floodlights lights hereby permitted shall not be illuminated except between the hours of:
 - 8.00 and 21:30 daily within the months of March, April, May, July, August, September, and October
 - 8.00 and 21:45 daily within the month of June
 - 8.00 and 22:00 daily within the months of November, December, January and February

The floodlights shall not operate outside these hours.

Reason: In the interests of biodiversity in accordance with NPPF, Core Policy 9 of the South Bucks District Core Strategy (2011) and Local plan Policy EP3 of the South Bucks District Local Plan (1999)

3. The padel courts hereby permitted shall not be used in conjunction with the extended hours of illumination, as set out in condition 2 of this permission, until the floodlights have been erected in accordance with the details set out in the lighting design document titled 'Aron Light' 'Site 1145-00 South Bucks, received 14.03/2024. The floodlighting shall be maintained in accordance with these details thereafter.
Reason: In the interests of residential amenity and biodiversity in accordance with NPPF, Core Policy 9 of the South Bucks District Core Strategy (2011) and Local plan Policy EP3 of the South Bucks District Local Plan (1999)
4. The development shall be implemented in accordance with the agreed mitigation plan (Non licensed method statement for Great Crested Newts, South Bucks Golf Course, Sylvatica, August 2023). Any variation to the agreed plan shall be agreed in writing with the local planning authority before such change is made. The condition will be considered discharged following; a written statement from the ecologist acting for the

developer testifying to the plan having been implemented correctly.

Reason: In the interests of improving biodiversity in accordance with NPPF and Core Policy 9 of the South Bucks District Core Strategy.

5. The development hereby permitted shall be implemented in accordance with the details and requirements of the Landscape and Ecological Management Plan (LEMP), submitted and approved as part of application PL/23/3088/CONDA.

Reason: In the interests of improving biodiversity in accordance with NPPF and Core Policy 9 of the South Bucks District Core Strategy.

6. The development shall be implemented in accordance with the arboricultural method statement submitted and approved as part of planning application PL/23/0004/FA and under the supervision of a retained arboricultural specialist in order to ensure that the phasing of the development accords with the stages detailed in the method statement and that the correct materials and techniques are employed. (ST18)

Reason: To maintain the visual amenity of the area. (Policies EP4 and L10 of the South Bucks District Local Plan (adopted March 1999) refer.)

7. The development hereby permitted shall be carried out in accordance with the Construction Traffic Management Plan submitted and approved as part of application PL/23/3088/CONDA.

Reason: To prevent danger, obstruction and inconvenience to users of the highway and of the development.

8. The development hereby permitted shall be undertaken and maintained in accordance with the Construction Environmental Management Plan (CEMP), submitted and approved as part of application PL/23/3088/CONDA.

Reason: To safeguard habitats and species of conservation importance.

9. The development to which this planning permission relates shall be undertaken solely in accordance with the following drawings:

List of approved plans:

<u>Received</u>	<u>Plan Reference</u>
4 Sep 2023	2022 CAS 047 017
3 Jan 2023	2022 CAS 047 010 Rev A
3 Jan 2023	2022 CAS 047 011
3 Jan 2023	2022 CAS 047 013
3 Jan 2023	2022 CAS 047 015
3 Jan 2023	2022 CAS 047 016

APPENDIX A: Consultation Responses and Representations

Councillor Comments

None received at time of drafting report.

Stoke Poges Parish Council Comments

Object. Policy R8 of the Local Plan/Floodlighting.

The Planning approval for application PL/23/0004/FA states:

3. The floodlights lights hereby permitted shall not be illuminated except between the hours of: - 8.00 and 22:00 daily within the months of November, December, January and February - 8.00 and 18:30 GMT/ BST: 19:30 daily within the month of March - 8.00 and 20:30 daily within the month of April - 8.00 and 21:15 daily within the month of May - 8.00 and 21:45 daily within the month of June - 8.00 and 21:30 daily within the month of July - 8.00 and 20:45 daily within the month of August - 8.00 and 19:45 daily within the month of September - 8.00 and 18:45 BST/ 17:45 GMT daily within the month of October The flood lights shall not operate outside these hours. Reason: In the interests of biodiversity in accordance with NPPF, Core Policy 9 of the South Bucks District Core Strategy (2011) and Local plan Policy EP3 of the South Bucks District Local Plan (1999)

Also:

10. The development to which this planning permission relates shall be undertaken solely in accordance with the following drawings:

Drawing No.(s): 2022 CAS 047 017 received on 4 September 2023, 2022 CAS 047 010 Rev A received on 3

January 2023, 2022 CAS 047 011 received on 3 January 2023, 2022 CAS 047 013 received on 3 January 2023, 2022 CAS 047 015 received on 3 January 2023, 2022 CAS 047 016 received on 3 January 2023, and in accordance with any other conditions imposed by this planning permission.

The lighting timings have been done to accommodate bat movements and should not be changed.

We would like to draw your attention to the Stoke Poges Design and Guidance Codes of the Neighbourhood Plan September 2023 page 45 Dark Skies. This has now been completed via regulation 14. Which can be found on our website via this link. <https://www.stokepogeparishcouncil.gov.uk/files/np/stoke-poges-design-guidance-and-codes.pdf>

4. Decision-making

48. Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given).
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given) 24.

Consultation Responses

Ecology Officer:

1st comments received 18th December 2023

I viewed the plans of application PL/23/3905/VRC - The South Buckinghamshire Golf Course.

Artificial lighting needs to be designed in accordance with the 'Guidance Note 08/23: Bats and artificial lighting in the UK' (Institute of Lighting Professionals, 2023).

It should be noted that during the determination period of application PL/23/0004/FA the proposed lighting was thoroughly discussed and the recommended times of switching off lighting were based on emergence times of bats and the survey data collected (N.B. surveys were not in strict accordance with Bat Conservation Trust (BCT) Bat Surveys for Professional Ecologists Good Practice Guidelines). It was also understood that if the lighting operating times were to be changed additional bat surveys would be carried out.

It was noted from the survey data that common pipistrelle bats are likely to be roosting on site or in the immediate surrounding area given the times that were detected (within emergence times). Although it is a species that can tolerate some levels of lighting, the increased lighting from the floodlights may cause abandonment of roost. It is stated in the CIEEM Bat Mitigation Guidelines (2023): "Removal or modification of a feature used as a flight-line, including introducing lighting where it was not previously present, could therefore result in abandonment or reduction in the size of a colony, or in delayed emergence leading to reduced foraging success."

It is stated in the document UK PADEL: Request to Amend Floodlighting Conditions "It should be noted that the Padel facility is situated next to a carpark with non-directional lighting that is on late into the evening all year round." However, cumulative lighting can have an effect on bats. The CIEEM Bat Mitigation Guidelines state:

"A commuting route where the existing light levels are tolerated by bats, augmented by additional light which seems to be relatively low as modelled, may cumulatively render the post-development commuting route unattractive to light-averse species." In this instance the additional lighting is not 'relatively low' with the spread over 3 lux within about 10m (estimated distance from aerial photography) into the Priority Woodland.

It should be noted that switching off times before bat emergence time is a sufficient mitigation measure that was applied to mitigate the effects of the proposed floodlighting on bats. This mitigation measure was in line with the mitigation hierarchy as detailed in the CIEEM Bat Mitigation Guidelines (2023) : "MITIGATE Where options for avoidance have been exhausted and a negative effect remains, incorporate measures or methods to minimise/reduce adverse effects e.g. timing of works, working methods, lighting design."

Therefore, changing the operating times so floodlights can be on after bat emergence time is contrary to the mitigation measure that was already taken to avoid adverse effects on the local bat populations.

The need of floodlighting at a sports facility is understood however it should be accepted that the padel courts were proposed within an ecologically sensitive area; a priority woodland. As the changes in lighting operation times are likely to affect bats which are European Protected Species I object to the proposal. Under the Conservation of Habitats and Species Regulations 2017 the favourable conservation status of bats needs to be maintained post development. Conservation status is defined as 'the sum of the influences acting on the species concerned that may affect the long term distribution and abundance of its population within its territory'.

Should you be minded to approve this application further bat activity transect and static detector surveys will be required prior to determination of the application in line with the Bat Conservation Trust (BCT) Bat Surveys for Professional Ecologists Good Practice Guidelines (4th Edition) to provide complete survey data.

Legislation, Policy and Guidance:

Bats

All bat species and their roosts are protected under the Wildlife and Countryside Act 1981 (as amended) and are European Protected Species, protected under The Conservation of Habitats and Species Regulations 2017 (as amended). It is therefore illegal to kill, injure or handle any bat or obstruct access to, destroy or disturb any roost site that they use.

European Protected Species Licensing

A High Court ruling (2009 Woolley Judgement) concluded that local authorities must consider all applications where European Protected Species are likely to be affected and a European Protected Species licence is required, by considering the three tests applicable to the Habitats Directive. The ruling stated the following:

"When dealing with cases where a European Protected Species may be affected, a planning authority... has a statutory duty under Regulation 3(4) to have regard to the requirements of the Habitats Directive in the exercises of its functions. Further the Directive's provisions are clearly relevant in reaching planning decisions, and these should be made in a manner which takes them fully into account ..."

NERC Act Section 41 Habitat and Species of Principal Importance - Priority Habitat and Species

Local planning authorities have a duty to conserve and enhance biodiversity under the Natural Environment and Rural Communities Act 2006 (NERC Act 2006).

The NERC Act 2006 requires that the Section 41 habitats and species list be used to guide decision-makers, such as public authorities, in implementing their duty under Section 40 of the NERC Act 'to have due regard' to the conservation and enhancement of biodiversity when carrying out their normal functions.

2nd Comments received 14th March 2024:

I viewed the amended lighting report (Aron Light, submitted on 13th March 2024) and the details are acceptable.

According to the amended lighting scheme there will be lower levels of lighting into the surrounding woodland and by comparing the lux level plans in pages 20-21 with aerial photography a dark corridor can be maintained to the west of the courts for commuting and foraging bats.

I have no objection to the variation of condition 3 given the latest information submitted.

Representations

None received at the time of drafting report.