



Report to South Area Planning Committee

Application Number:	PL/23/0527/VRC
Proposal:	Variation of condition 1 (Operating hours) of planning permission PL/20/3842/FA (Retrospective permission to change site use to mix use (Sui Generis) to comprise storage or distribution (Use Class B8), offices (Use Class E (g)(i)) and light industrial (Use Class E (g)(iii))) to allow for an extension to operating hours.
Site location:	Church Farm Church Road Iver Heath Buckinghamshire SLO ORA
Applicant:	Ms Jo Essex
Case Officer:	Alex Armour
Ward affected:	Iver
Parish-Town Council:	Iver Parish Council
Valid date:	16 February 2023
Determination date:	19 September 2023
Recommendation:	Conditional permission

1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 The application seeks to vary Condition 1 of Planning Permission PL/20/3842/FA to allow for an extension to the approved operating hours of the site.
- 1.2 The application is required to be determined by Planning Committee due to a three-member call-in by Cllrs Griffin, Wood and Sullivan. Material planning reasons were cited relating to the impact upon neighbouring amenities.
- 1.3 The recommendation is that permission is granted subject to condition.

2.0 Description of Proposed Development

- 2.1 The application site is located to the west of Church Road in Iver Heath. The immediate area is predominately residential, with a verdant feel emphasised by generous spacing between properties and tree lined front boundaries.

A range of businesses operate from within the application site, with activities mostly taking place from four separate buildings, located to the rear of the plot. Access to the site is secured through a gated entrance, set back from the road.

- 2.2 The application follows planning permission PL/20/3842/FA for 'retrospective permission to change site use to mix use (Sui Generis) to comprise storage or distribution (Use Class B8), offices (Use Class E (g)(i)) and light industrial (Use Class E (g)(iii))', and seeks to vary Condition 1 of the permission to allow for an extension of opening hours for the B8 use to 07.00am and 19.00pm Monday to Friday, and 08.00am and 13.00pm on Saturdays, no time Sundays or Bank Holidays.
- 2.3 Condition 1 of PL/20/3842/FA states that; any activities associated with the site use hereby approved shall only take place between the hours of 8:00am and 17:00pm on Monday to Friday and at no time on Saturday, Sunday or Bank Holidays. No personnel or customers shall be on site outside of these times.
- 2.4 The previous lawful use of the site was as a paper conversion business, including storage and distribution of paper, manufacture, machining and re-use of paper.
- 2.5 The application is accompanied by:
 - a) Covering letter
 - b) Consolidated Noise Assessment (09/06/23) superseding Noise Assessment (16/02/23).

3.0 Relevant Planning History

82/00909/APPLIC - Construction of two tennis courts. – Refused Permission.

82/00545/APPLIC - Construction of three tennis courts. – Refused Permission.

02/00872/EUC - Application for a certificate of lawfulness for: An existing use of land and buildings for paper conversion business, including storage and distribution of paper, manufacture, machining and re-use of paper. – Certificate Granted.

05/00515/FUL - Replacement storage building. – Conditional Permission 06/01670/FUL - Replacement storage building. – Refused Permission.

07/00457/FUL - Replacement storage building. – Conditional Permission.

PL/20/3842/FA - Retrospective permission to change site use to mix use (Sui Generis) to comprise storage or distribution (Use Class B8), offices (Use Class E (g)(i)) and light industrial (Use Class E (g)(iii)). – Conditional Permission.

4.0 Summary of Representations

- 4.1 Five letters of support were received from neighbouring residents and an occupier of the site.
- 4.2 No objections were received in the representations received.

5.0 Policy Considerations and Evaluation

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Design Guidance, October 2019
- 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 6 (Parking standards)

- Chiltern and South Bucks Townscape Character Study 2017
- Chiltern and South Bucks Community Infrastructure Levy (CIL) Charging Schedule.

Principle and Location of Development

Core Strategy Policies: CP10 (Employment)

Local Plan Saved Policies:

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

GB2 (Re-use of buildings in the Green Belt)

GB3 (Residential infilling in Green Belt settlements)

GB4 (Employment generating and commercial development in the Green Belt (excluding Green Belt settlements))

- 5.1 This application is submitted under Section 73 of The Town and Country Planning Act 1990 and seeks a variation of Condition 1 of planning permission PL/20/3842/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 The application follows a recently granted permission, reference PL/20/3842/FA, and the application seeks to vary Condition 1 of the previous permission to allow for an extension of operating hours. As such the principle of development is acceptable.

Principle of development in the Green Belt

Local Plan Saved Policies:

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

GB2 (Re-use of buildings in the Green Belt)

GB3 (Residential infilling in Green Belt settlements)

GB4 (Employment generating and commercial development in the Green Belt (excluding Green Belt settlements))

GB5 (Employment generating and commercial development in Green Belt settlements)

- 5.3 The application site is located within the Metropolitan Green Belt. Proposals within the Green Belt are assessed against the guidance set out in Section 13 of the NPPF in addition to the Councils own Green Belt Policies. There is a strong presumption against inappropriate development in the Green Belt, as advised by the NPPF. Inappropriate development is, by definition, harmful to the Green Belt and afforded substantial weight. If the development is considered inappropriate development a case of special circumstances can be demonstrated which may outweigh this harm and justify approval.
- 5.4 Paragraph 150 of the NPPF states that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes the re- use of buildings provided that the buildings are of permanent and substantial construction. This exception outlined in national policy is supported by local policy, including Policy GB1 of South Bucks District Local Plan (1999) which outlines that change in use of existing buildings or land in the greenbelt will be granted planning permission. Policy GB2 of the South Bucks District Local Plan (1999) addresses re-use of existing buildings in the Green Belt specifically. This policy elaborates that re-use of buildings would be acceptable subject to a number of criteria. Policy GB4 of the South Bucks District Local Plan (1999) also supports this policy criteria.
- 5.5 Therefore, as the proposal comprises the re-use of existing buildings on site, with no

additional built form proposed, it is considered appropriate development in the Green Belt. Thereby, the main issues to consider in terms of Green Belt policy are the effect on the openness of the Green Belt and impact to purposes of the Green Belt.

- 5.6 The Planning Practice Guidance (Green Belt) states that the courts have identified a number of matters which may need to be taken into account in assessing openness. These include, but are not limited to: openness is capable of having both spatial and visual aspects - in other words, the visual impact of the proposal may be relevant, as could its volume; the duration of the development, and its remediability - taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and the degree of activity likely to be generated, such as traffic generation.
- 5.7 No additional built form is proposed as part of this variation of condition application. The Council's Highways Team were consulted on the previous application and stated that:
- 'given that the buildings on site are not being increased in size, which would allow any additional movements outside of what is already permitted, it is not considered that the proposals would result in an intensification in use nor would the proposals change the nature of vehicles associated with the site'.
- 5.8 The previous application stated no restrictions of operating hours which were imposed as a condition due to insufficient information regarding potential noise levels and the impacts upon neighbouring residents. As such the comments from the Highways Team are considered relevant in addressing that there would be no significant intensification of the site's use. It is also relevant that the Highways Team have also raised no objection in this instance and that the previous use of the site was not subject to similar conditions.
- 5.9 As with the previous permission, no harm is identified to the purposes of the Green Belt. It is considered reasonable to impose a condition restricting outdoor storage within the site given the permitted storage use. As open storage has the potential to result in harm to the openness of the Green Belt and can become permanent in nature.
- 5.10 In summary, the proposed variation of condition is considered to comprise an appropriate form of development in the Green Belt which does not impact upon the openness or Purposes of the Green Belt function. The change in use is considered acceptable in the Green Belt, in accordance with relevant paragraphs in the NPPF and Policies GB1, GB2 and GB4 of the South Bucks District Local Plan (1999).

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)

TR10 (Heavy goods vehicles)

The Ivers Neighbourhood Plan 2021-2040 Policy IV8: Managing Traffic

Policy IV9: Reducing Heavy Goods Vehicles

- 5.11 The NPPF states that applications for development should take into account appropriate opportunities to promote sustainable transport modes, safe and suitable access to the site and any significant impacts of the development on the transport network.
- 5.12 Policies CP7 of the Core Strategy (2013) and TR5 of the South Bucks Local Plan (1999) sets out the local transport requirements. Policy TR10 of the South Bucks Local Plan (1999) refers to the assessment of development which is likely to generate heavy goods vehicle trips. This necessitates that new development must have regard to their effect on safety, congestion and the environment.

- 5.13 The Ivers Neighbourhood Plan has also been made since the granting of the previous permission.
- 5.14 Neighbourhood Plan Policy IV8 sets out that any development proposal that will generate an increase in traffic in the Richings Park, Thorney, Shreding Green, Wood Lane, Iver Village, Iver Lane and Iver Heath areas will be required to contribute to public realm improvements and traffic mitigation measures provided they directly relate to the impact of the proposed development. It will have to be demonstrated that the measures are necessary to make the development acceptable in planning terms, that they are directly related to the development and that they are fairly and reasonably related in scale and kind to the development.
- 5.15 Neighbourhood Plan Policy IV9 states that proposals for the development of new businesses, or for the intensification of existing businesses, that will lead to an increase in HGV that would have an unacceptable impact on highway safety, or which would result in a severe cumulative impact on the road network movements will not be supported.
- 5.16 As set out within the Green Belt section of this report, the proposed change to the hours of operation was not considered to result in an increase to vehicular movements beyond the previous lawful use of the site, which was unrestricted. As such in this instance there would also be not an increase in HGV movements which would have an unacceptable impact on highway safety or give rise to a need for public realm improvements and traffic mitigation measures necessary to make the development acceptable in planning terms.
- 5.17 The levels of parking provision were also previously found acceptable under the previous application and no change is proposed.
- 5.18 As such the proposed development would comply with the transport provisions of the NPPF, Core Policy 7, Local Plan Policies TR5 and TR10, and the Neighbourhood Plan Policies IV8 and IV9.

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)

The Ivers Neighbourhood Plan 2021-2040 Policy IV2: Design in Iver Heath

- 5.19 The NPPF sets out Core Planning principles for the operation of the planning system. One of the principles set out is that authorities should always seek to secure high quality design.
- 5.20 C1 of the National Design Guide places important on local identity, stating that well-designed new development should respond positively to the features of the site itself and the surrounding context beyond the site boundary. New development should integrate well with the wider surroundings including an understanding of existing built form and layout within the local area.
- 5.21 Local Plan policy EP3 states that development will only be permitted where its scale, layout, siting, height, design, external materials and uses are compatible with the character and amenities of the site itself, adjoining development and the locality in general. Poor designs which are out of scale or character with the surroundings will not be permitted.
- 5.22 Neighbourhood Plan Policy IV2 relates to design in Iver Heath. The Policy identifies a

number of prominent buildings within the area and an Area of Special Character which do not include the application site and are located a distance away. IV2 also requires that regard is given to the Townscape Character Principles however, the site is not included within a Townscape Character Area. IV2 also requires that development preserves the design features considered essential to the significance of the village character including the layout of the area and the presence of landscaping features.

- 5.23 The proposed variation proposes no additional built form as such there would be no significant impact in terms of appearance, especially given that outdoor storage may be controlled by condition. Given that the previous lawful use of the site as a 'conversion business, including storage and distribution of paper, manufacture, machining and re-use of paper' was subject to no control over the hours of operation, the proposed increase to the hours of operation is not considered to be detrimental to the character of the area.
- 5.24 The proposed variation would not result in any loss of green landscaping. There would be no impact upon layout given that there is no proposed change to built form proposed.
- 5.25 The proposed variation is not considered to comply with the design provisions of the NPPF, C1 of the National Design Guide, Local Plan Policy EP3 and Neighbourhood Plan Policy IV2.

Amenity of existing and future residents

Local Plan Saved Policies:

EP3 (The use, design and layout of development) EP5 (Sunlight and daylight)

- 5.26 Local Plan Policy EP3 states that the use of land and buildings should be compatible with the uses of adjacent land and buildings. Permission will not be granted for uses which would be, or which would have the potential to be, detrimental to the character and amenities of nearby properties or the locality in general by reason of noise, vibration, smell, pollution, disturbance, visual intrusion, loss of privacy, the impact of traffic or other nuisance.
- 5.27 No additional built form is proposed as part of this variation which would give rise to an overbearing impact, loss of light or privacy.
- 5.28 It is recognised that the application seeks to vary Condition 1 of the previous planning permission in order to allow for an increase in operating hours, and that Condition 1 was previously imposed in order to protect the amenities of adjoining occupiers.
- 5.29 The site lies adjacent to a number of dwellings, in particular 1-3 Warren Lodge to the southwest and the Bungalow to the northeast. The dwellings at Warren Lodge lies approx. 17.5m from common boundary, the main dwelling at the Bungalow is also approx. 12.7m from the common boundary, though there also outbuildings closer to the site. As such it is necessary to consider the potential impacts of the development upon neighbouring amenities.
- 5.30 At the time of the previous granting of permission, a noise report had not been submitted and as such Condition 1 would have been reasonable as insufficient information was submitted to assess the potential impacts upon neighbouring amenities. In this instance a noise impact assessment has been submitted and concludes that the 'noise from the site at all residential receptor locations will result in a low impact during the extended hours of operation'. In addition, a noise management plan is included within the assessment which provides a scheme restricting certain noise generating activities on the site.
- 5.31 The assessment has been reviewed by the Council's Environmental Health Officers who

have considered that, subject to conditions restricting hours of delivery and compliance with the noise levels and noise management scheme stated within the report, the proposed extension of operating hours would not give rise to an unacceptable impact upon neighbouring occupiers. The applicants wish to allow the non-storage uses of the site to be unrestricted is noted, and officers consider that the use of the site for office use and administration would not result in harm to neighbouring amenities given the nature of these uses and the previous lawful use of the site.

- 5.32 It must also be noted that the proposed development follows the previous use of the site as a paper conversion business which included storage and distribution of paper, manufacture, machining and re-use of paper. The previous use of the site was unrestricted by condition, and as such the proposed development would still be more restricted than this previous lawful use.
- 5.33 It is noted that the Environmental Health Officer has recommended conditions relating to the use of internal lighting on the site. Given that the previous use of the site had no conditions controlling the hours of site operation or of the use of internal lighting inside the existing buildings, it is considered that such a condition would be unreasonable.
- 5.34 Therefore, the proposed development would comply with the provisions of Local Plan Policy EP3 with regards to neighbouring amenities.

Ecology

Core Strategy Policies:

CP9 (Natural environment)

CP13 (Environmental and resource management)

- 5.35 Paragraph 180 of the NPPF states that, among other things, planning permission should be refused if there is significant harm to biodiversity that cannot be avoided, mitigated, or compensated for.
- 5.36 Local Policy CP9 of the Bucks Core Strategy (2011) also stipulates that biodiversity is a key component of the urban environment, and new development can provide opportunities to create and enhance wildlife habitats.
- 5.37 The Council's Ecology and Tree Officers were consulted on the previous application and noted that as there were no changes proposed to the buildings on site (the roof spaces are not impacted) or to the existing parking area, there were no ecological concerns with the proposal. Given that the proposed variation relates only to a change of opening hours, there would be no harm to ecology or trees.

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 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development which for decision taking means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

6.3 As set out above it is considered that the proposed development would accord with development plan policies, and the site's proposed development will make effective and efficient use of previously developed land. 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 (2021) 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 an amended Noise Impact Assessment was submitted to the Council.

Recommendation: Conditional Permission

Subject to the following conditions:

1. There shall be no activity on the site, other than for office use and administrative work within the retained buildings, outside of the hours of 07:00am and 19:00pm on Monday to Friday and outside of the hours of 08:00 and 13:00 on Saturdays, and on Sunday or Bank Holidays.

Reason: To protect the amenities of adjoining occupiers in accordance with Policy EP3 of the South Bucks District Local Plan (adopted March 1999).

2. The use of the site shall be in full compliance and adherence to the consolidating Technical Report: R9881-1 Rev 2, dated: 9th June 2023 and authored by 24 Acoustics), in maintaining the noise levels stated. These noise levels shall therefore, be maintained in perpetuity.

Reason: To protect the amenities of adjoining occupiers in accordance with Policy EP3 of the South Bucks District Local Plan (adopted March 1999).

3. All deliveries and collections to and from the site shall only be carried out between the following days and times:

Monday to Friday from 08.00 hours to 18.00 hours. Saturday from 08.00 hours to 13.00 hours

At no times on Sunday, Bank and Public Holiday.

Reason: To protect the amenities of adjoining occupiers in accordance with Policy EP3 of the South Bucks District Local Plan (adopted March 1999).

4. No raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on this site at any time except within such buildings which have hereby been approved for storage use.
Reason: In order to protect the visual character of the area and to safeguard the openness of the Green Belt, in accordance with Policies GB1, GB2, GB4 and EP3 of the South Bucks District Local Plan (adopted March 1999).
5. 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>
13 Nov 2020	20020-A-PL-001 Rev A
13 Nov 2020	20020-A-PL-100 Rev A

INFORMATIVE(S)

1. The Council is the Charging Authority for the Community Infrastructure Levy (CIL). CIL is a charge on development; it is tariff-based and enables local authorities to raise funds to pay for infrastructure.

If you have received a CIL Liability Notice, this Notice will set out the further requirements that need to be complied with.

If you have not received a CIL Liability Notice, the development may still be liable for CIL. Before development is commenced, for further information please refer to the following website <https://www.southbucks.gov.uk/CIL-implementation> or contact 01494 475679 or planning.cil.csb@buckinghamshire.gov.uk for more information.

2. The applicant is advised that, where possible, all internal lighting which is visible from outside the site boundaries should be switched off outside the hours of the operation in order to restrict potential nuisance to neighbouring occupiers.

Appendix A: Consultation Responses and Representations

Councillor Comments:

Councillor Griffin - I feel this needs to be reviewed at Committee and I recommend it be 'called in'. I see no valid reason why this: "To protect the amenities of adjoining occupiers in accordance with Policy EP3 of the South Bucks District Local Plan (adopted March 1999)" should be altered to the detriment of nearby residents.

Councillor Matthews - This needs to be called in as the impact on the residents of the local area needs to be considered. I confirm that I have no interest to declare in this application.

Councillor Sullivan - Operating hours were set previously to protect surrounding residents. I request this application is called in for committee scrutiny. I confirm I have no personal interests in this application.

Parish/Town Council Comments

The parish council object due to; noise impacting on neighbours; road safety concerns regarding HGVs entering and exiting the site. The parish council object to any extension of the existing operating hours as the area is residential and extended hours of operation and the nature of the activities is not in keeping with a residential area.

Consultation Responses

Environmental Health (11/07/23) - Following my recent comments dated of 07-06-2023 I would like to confirm that a new consolidating Technical Report: R9881-1 Rev 2, dated: 9th June 2023 and authored by 24 Acoustics, has been provided on 12th June 2023.

This new consolidating noise report reflects the previously submitted Technical Noise Report: R9881-1 Rev 1 Date: 16th February 2023 and the Technical Noise Report R9881-1 Rev 1 dated 16th February 2023. Thus, forming the new Technical Report: R9881-1 Rev 2 Date: 9th June 2023 authored by 24 Acoustics.

Based on the information provided by the applicant in the Technical Report: R9881-1 Rev 2 Date: 9th June 2023, the proposal to amend the current planning condition to extend the hours of (from 07.00 to 19.00 hours Monday to Friday) and working and Saturday from 08.00 hours to 13.00 hours would in principle be acceptable from the environmental health and I would not be raising objections. However, should planning permission be granted to this proposal and I would recommend imposing planning conditions. To minimise the potential detrimental impacts of noise and artificial lighting of the proposed development to a level of no observable effects upon the nearest sensitive receptors I would suggest the following planning conditions.

Environmental Health (08/08/23) - Following my recent comments dated of 07-06-2023, 11- 07-2023 and the conversation with Jonathan Jarman (the applicant or acting for the applicant) on 02-08-2023 I would like to confirm that should planning permission be granted to this proposal I would recommend planning conditions be imposed.

To minimise the potential detrimental impacts of noise and artificial lighting of the proposed development to a level of no observable effects upon the nearest sensitive receptors I would suggest the following planning conditions.

Highways (17/03/23) - This application seeks planning consent for the variation of condition 1, to allow for extended operating hours. Having reviewed the submitted plans I consider that the application does not propose an adverse effect on the highway. Mindful of the above, I have no objection to the variation of condition 1.

Representations

Amenity Societies/Residents Associations

None.

Other Representations

Five comments have been received supporting and simply commenting on the proposal

- Noting need for the business to expand and limited impact of existing business.

No comments have been received objecting to the proposal.