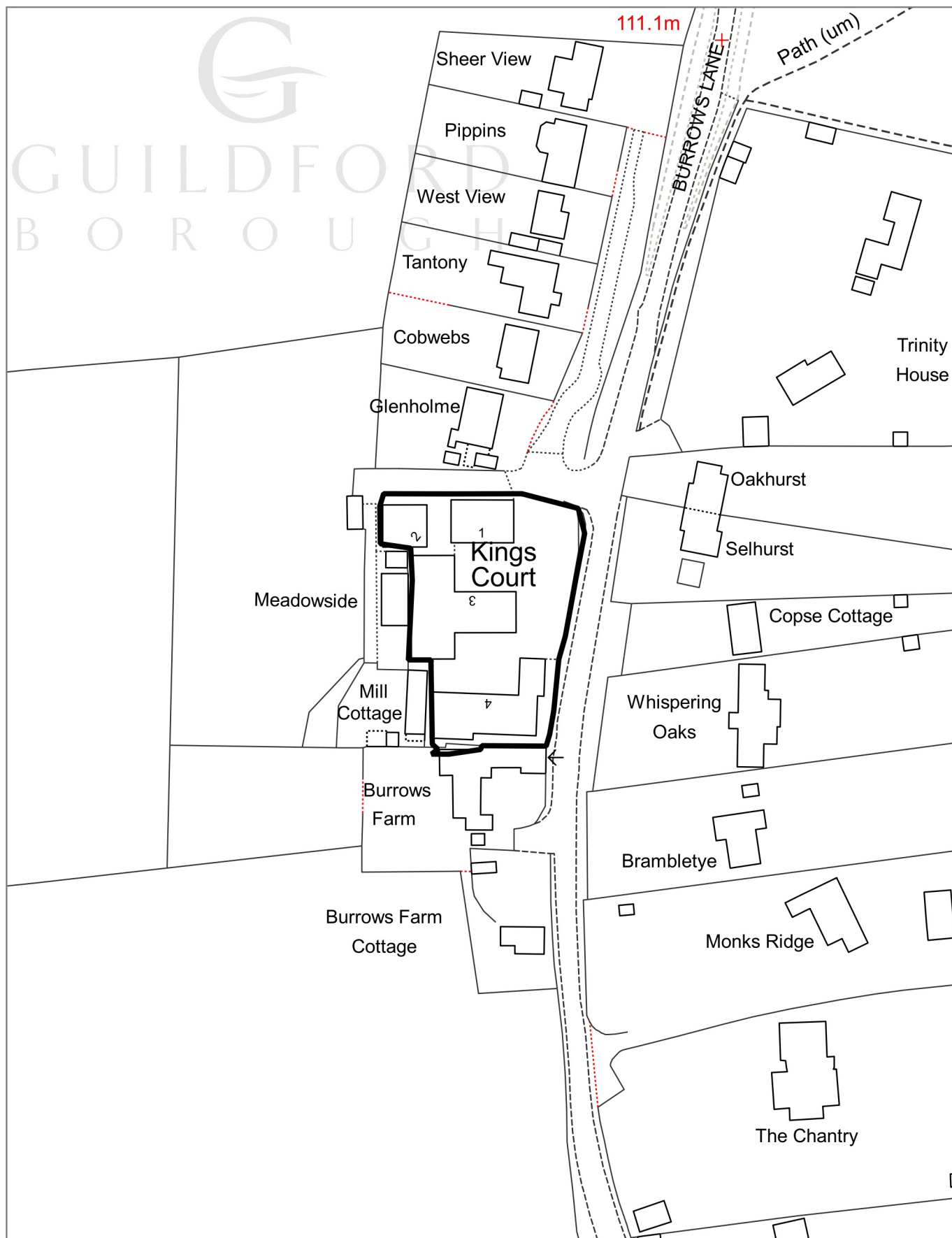


21/P/02588 - Kings Court, Burrows Lane, Gomshall



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Print Date: 20/09/2022

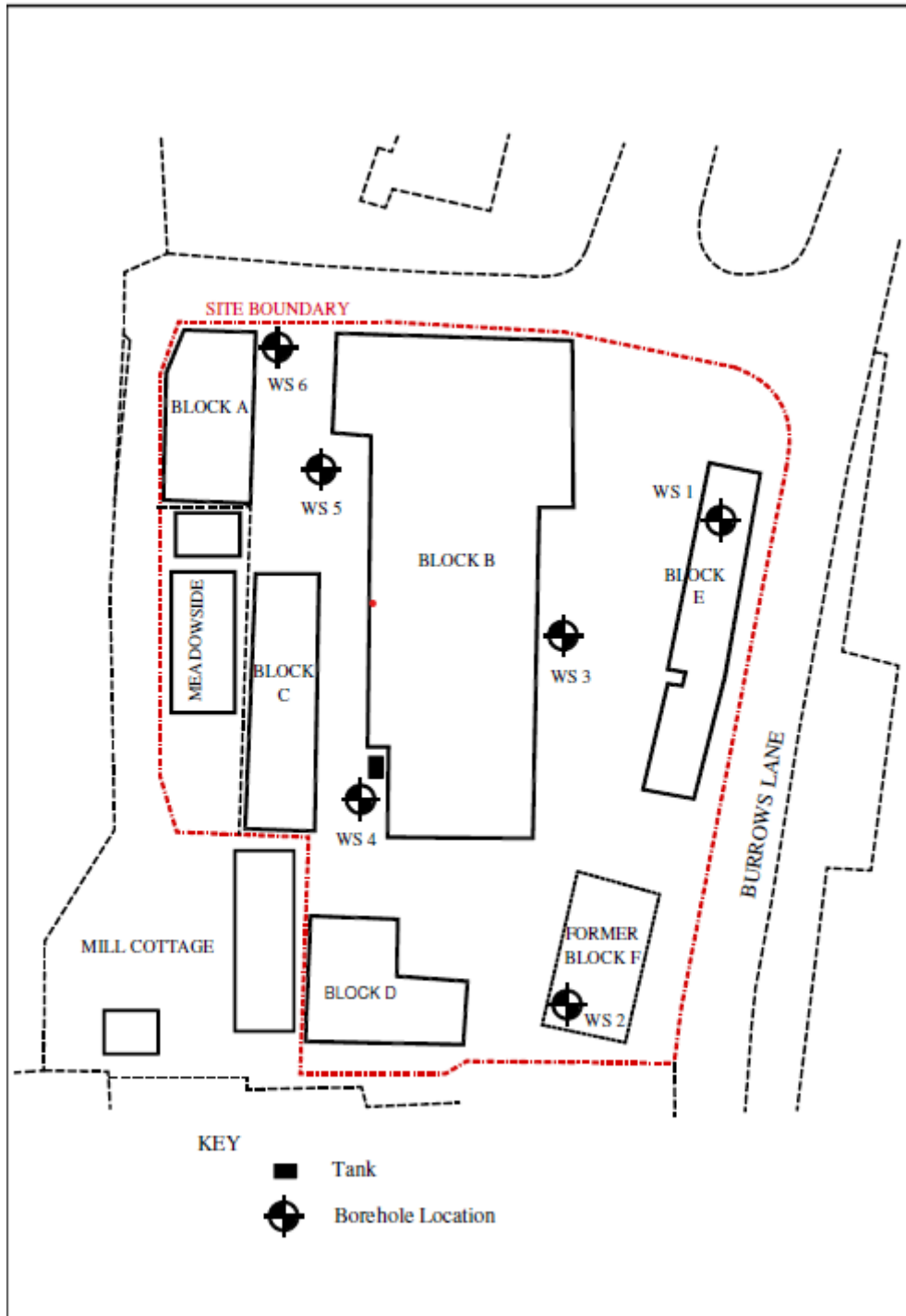


Not to Scale



GUILD FORD
BOROUGH

21/P/02588 - Kings Court, Burrows Lane, Gomshall, Shere



App No: 21/P/02588
Appn Type: Full Application
Case Officer: Sakina Khanbhai
Parish: Shere
Agent : Mr M. Smith
D&M Planning Ltd
1A High Street
Godalming
GU7 1AZ

8 Wk Deadline: 07/02/2022

Ward: Tillingbourne
Applicant: Harbridge Engineering Ltd
c/o Agent

Location: Kings Court, Burrows Lane, Gomshall, Shere
Proposal: Variation of condition 5 re application 06/P/00548 : The use hereby permitted shall not operate other than between the hours of 7:30am-8pm Mondays to Fridays (inclusive) and 8am-5pm Saturdays, and 9am - 5pm on Sundays and Bank or National Holidays. Deliveries in association with the permitted office and live/work use shall not operate other than between the hours of 8am-5.30pm Mondays to Fridays and 8am-5pm Saturdays and 9am - 5pm on Sundays and Bank or National Holidays.

Executive Summary

Reason for referral

This application has been referred to the Planning Committee because more than 20 letters of objection have been received, contrary to the Officer's recommendation.

Key information

The proposal seeks the variation to Condition 5 of planning permission 06/P/00548.

Condition 5 of 06/P/00548 states:

'The use hereby permitted shall not operate other than between the hours of 8am-5.30pm Mondays to Fridays (inclusive) and 9am-4.30pm Saturdays, and shall not operate at all on Sundays or Bank or National Holidays.

Reason: To safeguard the residential amenities of neighbouring properties. In accordance with the following policy number: G1(3) of the Guildford Borough Local Plan 2003.'

The proposed revised wording for Condition 5 is as follows:

'The use hereby permitted shall not operate other than between the hours of 7:30am-8pm Mondays to Fridays (inclusive) and 8am-5pm Saturdays, and 9am - 5pm on Sundays and Bank or National Holidays. Deliveries in association with the permitted office and live/work use shall not operate other than between the hours of 8am-5.30pm Mondays to Fridays and 8am-5pm Saturdays and 9am - 5pm on Sundays and Bank or National Holidays'.

Summary of considerations and constraints

In considering this application, it is important to note that a previous variation to Condition 5 (hours of work) of 06/P/00548 was allowed at appeal under reference 19/P/01282 PINS ref APP/Y3615/W/19/3243825 in June 2020. Condition 5 of 06/P/00548 was varied under the appeal decision as follows:

'The use hereby permitted shall not operate other than between the hours of 0730 - 1900 on Mondays through to Fridays and 0900 - 1630 on Saturdays and shall not operate at all on Sundays or Bank or National Holidays. Deliveries in association with the permitted office and live/work use shall not take place other than between the hours of 0800 - 1800 on Mondays through to Fridays and 0900 - 1630 on Saturdays and shall not take place at all on Sundays or Bank or National Holidays.'

It is also acknowledged that some of the individual units on the site have received planning permission for extended hours under various applications.

As a starting point in assessing the current application, the key considerations are the material differences between the hours of work allowed at appeal under 19/P/01282 and the proposed revised wording for Condition 5 of 06/P/00458.

The proposed variation of Condition 5 06/P/00458, to extend the hours of use for all new buildings on the site would result in a small increase in hours Mondays to Saturdays but with significantly extended hours on Sundays and Bank holidays open from 9am-5pm. Delivery hours would be reduced Mondays to Fridays and extended on Saturday and 9am - 5pm on Sundays and Bank or National Holidays.

When compared to the hours of work allowed at appeal, the proposal would slightly extend the hours of activity Monday through to Saturday. Although it is acknowledged that this would allow for additional activity at the site, the extent would not be considered to result in a significant increase in the overall number of vehicle movements to and from the site or intensity of the use. Furthermore, it would not increase working into sensitive hours such as late at night or very early morning times. Therefore, overall there is no objection to this change.

However, the proposal to extend hours to Sundays, Bank or National Holidays would result in a significant increase in activity on Sundays and Bank/National holidays. There has only been one exception to allow working on Sunday and Bank Holidays on the site in respect of one unit which sought this for religious reasons. Furthermore, the remainder of that permission imposed several restrictions to limit the intensity of the use to protect neighbouring amenity. As this permission would allow a change to the working hours over the whole site it is difficult to envisage how similar restrictions could be used whilst still making operating practical.

It is therefore concluded that the principle of extending working hours Monday to Saturday is acceptable but with no extended hours on Sundays and Bank or National Holidays. It is concluded that there would be no impact on the openness of the Green Belt and the wider landscape character of the AONB/AGLV. The application is therefore recommended for approval, subject to the revised conditions and the relevant conditions from the 2006 permission being reapplied.

RECOMMENDATION:

Approve - subject to the following condition(s) and reason(s) :-

1. The development shall be carried out in accordance with the external materials details approved under Condition 2 of planning permission 06/P/00548. No external materials shall be used other than those approved.

Reason: To ensure that the external appearance of the building is satisfactory.

2. The approved details of all boundary treatments and soft landscaping (as approved under Condition 3 of planning permission 06/P/00548) shall be implemented prior to the first occupation of the development or phased as agreed in writing by the Local Planning Authority. The approved scheme shall be maintained in perpetuity.

Reason: To safeguard the visual amenities of neighbouring properties and the locality.

3. No external lighting shall be installed on the site or affixed to any buildings on the site.

Reason: In the interests of visual amenity and neighbouring residents.

4. No processes shall be carried on or machinery installed or used which are not such as could be carried on, installed or used in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Reason: To safeguard the adjoining premises and the area generally from noise and disturbance

5. The use hereby permitted shall not operate other than between the hours of 7:30am-8pm Mondays to Fridays (inclusive) and 8am-5pm Saturdays, and shall not operate at all on Sundays or Bank or National Holidays. Deliveries in association with the permitted office and live/work use shall not operate other than between the hours of 8am-5.30pm Mondays to Fridays and 8am-5pm on Saturdays and shall not operate at all on Sundays or Bank or National Holidays.

Reason: To safeguard the residential amenities of neighbouring properties.

6. Works related to the construction of the development hereby permitted, including works of demolition or preparation prior to building operations, shall not take place other than between the hours of 8 am and 6 pm Monday to Friday and 8 am to 1.30 pm Saturdays and at no time on Sundays or Bank or National Holidays.

Reason: To protect the neighbours from noise and disturbance outside the permitted hours during the construction period.

7. Precautions shall be taken for the duration of the construction period to prevent the deposit of mud and similar debris (including blown litter) on the adjacent public highways, in accordance with details to be submitted to an approved in writing by the Local Planning Authority prior to the commencement of development.

Reason: In the interests of highway safety and convenience.

8. The development shall be carried out in accordance with the slab level details agreed under Condition 8 of Planning Permission 06/P/00548. The constructed development shall not vary from the approved levels.

Reason: In order to ensure a satisfactory form of development.

9. No materials, containers or equipment shall be stored on the site outside buildings except for waste materials contained within suitable and sufficient waste containers for removal.

Reason: In the interests of visual amenity.

10. The proposed modified access to Burrows Lane shall be constructed and provided with visibility zones in accordance with the approved plans all to be permanently maintained to a specification to be agreed with the Local Planning Authority and the visibility zones shall be kept permanently clear of any obstruction over 0.5m in height above the carriageway of Burrows Lane.

Reason: In the interests of highway safety.

11. No new development shall be occupied until space has been laid out within the site in accordance with the approved plans for cars to be parked (and for loading and unloading of number vehicles and for vehicles to turn so that they may enter and leave the site in forward gear). The parking and turning shall be maintained exclusively for its designated use.

Reason: In the interests of highway safety.

12. The non-residential floor area associated with the live work unit (block 2) shall only be used for Class B1 and shall at all times remain as such, and not be used for habitable residential purposes.

Reasons: In granting permission for a live work unit the Local planning authority has had regard to the special circumstances of this case and wishes to have the opportunity of exercising control over any subsequent alternative use.

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

LM001/21 Rev P4, 01/34 Rev P5, 01/35 Rev P6, 01/44 Rev P8, 01/45 Rev P7,

01/20 Rev P2, 01/31 Rev P5, 01/32 Rev P6, 01/41 Rev P5 received 22 July 2019 and amended plan LM001/42 Rev P9 received 14 October 2019 under application 19/P/01282.

Reason: To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning.

Informatives:

1. This statement is provided in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Guildford Borough Council seek to take a positive and proactive approach to development proposals. We work with applicants in a positive and proactive manner by:
 - Offering a pre application advice service
 - Where pre-application advice has been sought and that advice has been followed we will advise applicants/agents of any further issues arising during the course of the application
 - Where possible officers will seek minor amendments to overcome issues identified at an early stage in the application process

However, Guildford Borough Council will generally not engage in unnecessary negotiation for fundamentally unacceptable proposals or where significant changes to an application is required.

In this case, pre-application advice was not sought prior to submission and the application was acceptable as submitted.

2. The Council has imposed a restrictive condition on the hours of use and delivery hours for the whole site. This condition restricts any use/operation or working associated. Should the Applicant have a different interpretation of Condition 5 it is advised a certificate of lawful development should be submitted to the Council.

Officer's Report

Site description.

The application site is located on the western side of Burrows Lane, to the south of Gomshall. It is located within the Green Belt (outside of a settlement area) and also within the Surrey Hills Area of Outstanding Natural Beauty (AONB) and Area of Great Landscape Value (AGLV). The site is currently being redeveloped as office (B1 use) units. Construction of the new buildings (originally granted planning permission under 06/P/00548) is currently nearing completion on site. The site itself is roughly rectangular in shape and is 0.3 hectares in size. The site is elevated above Burrows Lane by approximately one metre, but is itself relatively flat. The site is accessed via an existing access drive which serves Kings Yard and several neighbouring dwellings on the western side of Burrows Lane.

The surrounding area is predominantly rural in character. There are residential dwellings neighbouring the site to all sides of the site and on the opposite side of Burrows Lane.

Proposal.

Variation of condition 5 re application 06/P/00548 : The use hereby permitted shall not operate other than between the hours of 7:30am-8pm Mondays to Fridays (inclusive) and 8am-5pm Saturdays, and 9am - 5pm on Sundays and Bank or National Holidays. Deliveries in association with the permitted office and live/work use shall not operate other than between the hours of 8am-5.30pm Mondays to Fridays and 8am-5pm Saturdays and 9am - 5pm on Sundays and Bank or National Holidays.

Relevant planning history.

Reference:	Description:	Decision Summary:	Appeal:
21/P/02590	Change of use of part of building (Use Class E) to two residential units (C3), minor fenestration changes and associated external alterations.	Pending	N/A
21/P/02589	Change of use of part of building (Use Class E) to two residential units (C3) including minor fenestration changes and associated external alterations.	Pending	N/A
20/P/00309	Variation of condition 3 and 16 of application 06/P/00548 approved 25/04/06 to improve landscaping and alter window treatments, including insertion of 6 rooflights to Unit 3. (Amended description 30 April 2020).	Approve 22/05/2020	N/A
19/P/02011	Change of use of land from agricultural Refuse to ancillary car parking, laying of hardstanding to provide 21 car parking spaces and landscape improvement works.	16/01/2020	N/A
19/P/01282	Variation of condition 5 (hours of work) planning permission 06/P/00548 approved on 25/04/2006, to ensure that the hours of work refer to the whole site and not to one specific unit, and condition 16 (approved plans) to allow the installation of dormer windows on Block 2, Block 3 and Block 4 (amended plan received 14 October 2019).	Approve of 05/12/2019	ALLC 03/06/2020
19/P/01223	Change of use of land from agricultural Refuse to ancillary car parking, laying of hardstanding to provide 20 car parking spaces and landscape improvement works.	05/09/2019	N/A

19/N/00073	Non-material amendment to planning permission 06/P/00548, approved 25/04/2006, to allow the inclusion of the plan numbers on the decision notice.	Approve 18/07/2019	N/A
19/N/00034	Non material amendment to application 06/P/00548, approved on 25/04/06.	Approve 09/05/2019	N/A
19/N/00022	Non-material amendment for application number 06/P/00548	Approve 15/04/2019	N/A
18/N/00131	Non material amendment re:	Refuse 05/P/1686, 06/P/0548 and 17/P/01055 03/01/2019	N/A
18/P/01775	Variation of condition 5 of 06/P/00548, approved 25/04/2006, to change the approved opening hours of the live/work unit (Block 2).	Approve 08/11/2018	N/A
17/P/02602	Proposed two pairs of semi-detached storey dwellings and two terraces of five two storey dwellings with associated car parking and landscaping following demolition of existing commercial B1 and B2 industrial units (scheme 3) (14 units).	Refuse two 06/03/2018	N/A
17/P/02599	Erection of 6 detached dwellings with associated car parking and landscaping following demolition of existing commercial and storage buildings.	Refuse together 26/04/2018	N/A
17/P/02600	Erection of 9 dwellings together with associated car parking and landscaping following demolition of existing commercial and storage buildings (scheme 2).	Refuse 14/02/2018	N/A
17/P/01055	Certificate of lawfulness for an existing or operation to establish that operational development in the form of the digging and laying of concrete foundations in respect of planning application 06/P000548, approved 25/04/2006, has been lawfully commenced for the purposes of section 55(1) and (c) and section 56(1)(a), (2) and (4)(b) of the Town and Country Planning Act 1990 (as amended).	Approve use 30/08/2017	N/A
06/P/00548	Relaxation of conditions 05 & 15 of 05/P/1686 to allow Blocks 1,3 & 4 and the non residential floor area associated with the live work unit (Block 2) to be used as Class B1.	Approve 26/04/2006	N/A

05/P/01686	Erection of three detached two storey office blocks and one single storey office block comprising B1 and B2 industrial units and 1 work / live unit with associated parking and landscaping following demolition of all existing buildings on site. (Amended plans received 20/09/2005 to show revised sight lines and received 16/11/05 showing revised elevations)	Approve 14/12/2005	N/A
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Consultations.

County Highways Authority: The CHA considers that the proposed variation of condition relating to the extension of operating hours at the site will not have a material impact on highways safety.

Shere Parish Council

- Objects to the application

Third party comments:

28 letters of representation have been received raising the following objections and concerns:

- increase in noise and traffic would mean no quiet days for local residents
- light pollution to neighbouring residents
- increase in parking issues
- the existing shed does not have B8 usage (Officer note: this comment does not relate to the current application)
- the site already breaks current working hours restrictions
- impact on privacy
- adverse impact on AONB, Green Belt and protected species
- noise disturbance and loss of amenity to neighbours
- the hours are inappropriate in the middle of this residential area
- trees and bushes have been removed along the border

15 letters of support have been received raising the following comments:

- there would be no noise and disturbance to neighbouring residents. The extended hours would be beneficial to flexible work patterns.
- strong benefit from small businesses to the economy
- there is no public footfall from some offices so only employees arriving and leaving the site.
- no Sunday operating hours disadvantages businesses

Planning policies.

National Planning Policy Framework (NPPF):

Chapter 6. Building a strong and competitive economy

Chapter 8. Promoting healthy and safe communities

Local Plan

The Guildford Borough Local Plan: Strategy and Sites was adopted by Council on 25 April 2019. The Plan carries full weight as part of the Council's Development Plan. The Local Plan 2003 policies that are not superseded are retained and continue to form part of the Development Plan (see Appendix 8 of the Local Plan: strategy and sites for superseded Local Plan 2003 policies).

Relevant policies:

Policy P1: Surrey Hills Area of Outstanding Natural Beauty and Area of Landscape Value

Policy P2: Green Belt Policy

E5: Rural economy

Policy D1: Place shaping

Policy ID3: Sustainable transport for new developments

Guildford Borough Local Plan 2003 (as saved by CLG Direction 24 September 2007):

G1 General Standards of Development

G5 Design Code

Surrey Hills AONB Management Plan 2014-2019

Policies LU1, LU2 and LU3

Supplementary planning documents:

Vehicle Parking Standards 2006 SPD

Surrey County Council Vehicular and Cycle Parking Guidance (2018)

Background

Planning permission was originally granted for the redevelopment of the Kings Yard site with new buildings for light industrial use in 2005 (05/P/01686). This permission was varied in 2006 (06/P/00548) to allow the buildings to be used for any purpose within B1 use class (offices / light industrial). The implementation of the 2006 permission was confirmed under a Certificate of Lawfulness application in 2017 (17/P/01055).

Condition 5 of 06/P/00548 originally stated:

'The use hereby permitted shall not operate other than between the hours of 8am-5.30pm Mondays to Fridays (inclusive) and 9am-4.30pm Saturdays, and shall not operate at all on Sundays or Bank or National Holidays.

Reason: To safeguard the residential amenities of neighbouring properties. In accordance with the following policy number: G1(3) of the Guildford Borough Local Plan 2003.'

Planning considerations

This application is submitted under Section 73 of the Town and Country Planning Act (as amended). The provisions of Section 73 relate to the variation or removal of planning conditions attached to a grant of planning permission. The intention is that such matters would represent a minor material change to the original grant of planning permission.

The application must be determined on the basis of the effect of varying the specified conditions. No other matters can be taken into account for example the principle of the original permission cannot be re-visited. Additionally it is not appropriate to dismiss a proposal simply on the grounds that conditions were originally proposed and therefore by default should be retained. The local planning authority must consider whether any planning harm would result from the variation.

Section 73, gives two options when considering such applications:

- 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
- 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.

Under Section 73(a) officers should not limit themselves to assessing just the specific variation or removal suggested by the applicant. If an alternative change to the conditions would be acceptable then permission should be granted to that effect.

Part of the assessment under Section 73(b) should also be whether this would cause more than a minor material change to the original permission. In such cases permission should also be refused.

In this instance the application suggests the variation of condition(s) 5 of planning permission 06/P/00548 as detailed above. The reason for imposing this condition on the original permission was in order to safeguard the amenities of neighbouring residents. This is therefore the main consideration for this S73 application which will be assessed in detail below.

Highways/Parking considerations

It is noted that the site is located in a rural location and as such the requirements for on site parking are likely to be higher compared to those for businesses within urban areas. This application proposes an increase in the hours of use of the buildings from those agreed under the 2006 permission. Concern has been raised that this will also result in an increase in the parking requirements and vehicle movements to and from the site. However, it is considered that as the proposal does not include any additional floor space of the buildings, and the overall number of vehicle movements will not significantly increase compared to those that would result from the development already approved. Furthermore, the proposed slight increase in the hours of use would allow greater flexibility in working patterns which will potentially lead to reduction in the number of traffic movements at peak times. Surrey County Council Highways Authority raise no objection to the proposal and note that the extension of operating hours at the site would not have a material impact on highways safety.

It is therefore concluded that the revisions proposed to the approved scheme would comply with Policy ID3 of the 2019 Local Plan.

Impact on neighbouring amenity

As noted above, the site is in a rural location, within close proximity to residential dwellings.

Following the changes within the Use Class Order from April 2021, B1 (office) and light industrial uses fall under Class E which identifies a number of mixed uses which are deemed compatible uses within residential areas. This application proposes to increase the hours of use for the buildings from 08:00 to 17:30 (Monday to Fridays) to 07:30 to 8pm (Mondays to Fridays)

Saturdays 8am-5pm and 9am - 5pm on Sundays and Bank or National Holidays. Deliveries in association with the permitted office and live/work use between the hours of 8am-5.30pm Mondays to Fridays and 8am-5pm Saturdays and 9am - 5pm on Sundays and Bank or National Holidays.

It is not considered unreasonable to increase the hours which relate to weekdays only, given the small increase in hours the proposal is not expected to result in unacceptable levels of noise and disturbance to neighbouring properties. Whilst, the increased hours will spread these movements out slightly more across the day, it is likely to result in more flexible working patterns. The hours of deliveries during the week has also been reduced with a small increase by 1.5hours on Saturdays.

However, introducing working hours across the whole site on Sundays and Bank/National Holidays has the potential to adversely affect neighbouring residents in terms of noise and disturbance associated with the arrival and departure of vehicles and deliveries. Combined with the greater flexibility of the use of the units beyond just B1 office use following the changes within the Use Class Order April 2021 the relaxation of the hours of work to include Sundays and Bank or National holidays could result in significant harm to neighbouring residents.

The applicant has provided some information regarding the need for the hours to attract a cycle repair business which is something that would be complementary to the surrounding area which sees a significant volume of recreational cycling. However, it is difficult to see how such a business would operate whilst also limiting the impact on neighbouring occupiers. It is likely that this activity would generate significant movement to and from the site, although some of this may not be via a motor vehicle. Nevertheless, such an activity on a site where operations are very limited on Sundays and Bank Holidays would unavoidably have an impact on the amenity of the nearby occupiers.

It is recognised that the relaxation of hours would bring an economic benefit by allowing greater use of the site and this does offer some benefit in planning terms. However, this is moderate weight in the overall balance and does not outweigh the considerable harm applied to the potential impact on amenity.

As discussed above, it is not considered that the increase in the hours of use from Monday to Saturday will result in a significant increase in the overall number of vehicle movements to and from the site. Whilst, the increased hours will spread these movements out slightly more across the day, it is likely to result in more flexible working patterns rather than employees all arriving and departing at the same time. A restriction on the hours for deliveries has also been included but with no deliveries on Sundays and Bank or national holidays.

Impact on the Green Belt

The proposed variation of Condition 5 of 06/P/00548 to extend the hours of use for all of the new buildings will result in a relatively small increase in the hours of use Monday to Saturdays compared to those previously agreed. Whilst the proposal would slightly extend the hours of activity on the site, it not considered that the proposal to extend the hours of use will result in a significant increase in the overall number of vehicle movements to and from the site or the intensity of the use and will therefore not have a detrimental impact on the openness of the Green Belt in this regard.

Impact on the AONB / AGLV

The site is within a rural location within the AONB and AGLV countryside.

As noted above, the proposal will result in a relatively small increase in the hours of use Monday to Sunday compared to the previous permission to extend the hours for the site and therefore it is not considered that there would be any detrimental impact on the AONB and AGLV.

The conditions attached to the 2006 permission, including a condition to restrict external lighting, would be reapplied.

It is therefore concluded that the revisions proposed by this S73 application would not have a detrimental impact on the wider landscape character of the surrounding AONB and AGLV.

Conclusion

Given the above factors it is considered acceptable to vary the working hours condition as set out. The relevant conditions from the 2006 permission 06/P/00548 will be reapplied. It is also noted that the applicant has requested clarification over the scope of the restriction in working hours. Whilst this is not the purpose of a planning application an informative is attached. Should the applicant disagree with this it would be open to them to submit an application for a certificate of lawful use.