

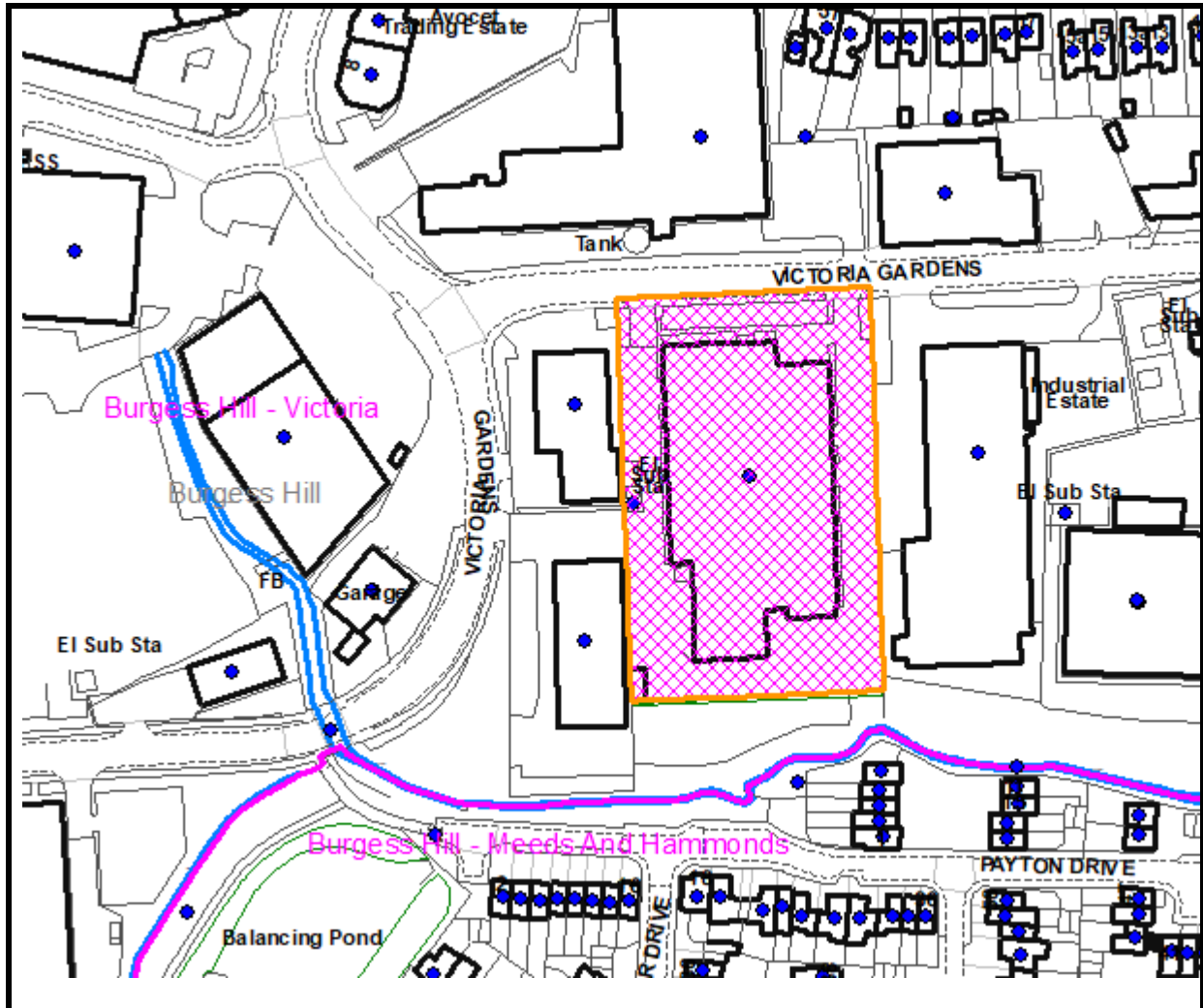
Planning Committee



Recommended for Permission

11th April 2024

DM/23/2448



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Site:	Multi Installations Ltd 27 Victoria Gardens Burgess Hill West Sussex RH15 9NB
Proposal:	Revised description - Installation, cladding and lagging of dust extraction system, enclosure of centrifugal fan, replacement of windows to front offices and installation of three heat pumps. Additional acoustic report received 22/02/24.
Applicant:	Mr Ril Pindoria
Category:	Minor Manufacturing

Target Date:	15th April 2024
Parish:	Burgess Hill
Ward Members:	Cllr Peter Chapman /
Case Officer:	Andrew Clarke

Link to Planning Documents:

<https://pa.midsussex.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S1AIP3KT0G200>

1.0 Purpose of Report

1.1 To consider the recommendation of the Assistant Director for Planning and Sustainable Economy on the application for planning permission as detailed above.

2.0 Executive Summary

2.1 This application seeks planning permission to retain a dust extraction system, including its cladding and lagging and enclosure of centrifugal fan. The application also seeks the proposed replacement of windows and doors to the front offices and the installation of three heat pumps.

2.2 The application is being reported to planning committee as Mid Sussex District Council is the freeholder of the land.

2.3 Officers note the representations received and that in its current form the extraction unit causes harm to amenity, however, acceptable mitigation can be undertaken to address the harm and that this can be secured by planning condition. It is therefore possible to enable the development to proceed where it would otherwise it may have been necessary to refuse planning permission.

2.4 The site lies within an industrial estate and therefore the visual impact of the developments are considered acceptable whilst the retrospective nature of elements of the application is not a matter which can be taken into account in the determination of the application.

2.5 Accordingly, it is considered that the development complies with policies DP1, DP26, and DP29 of the Mid Sussex District Plan and the contents of the Burgess Hill Neighbourhood Plan.

3.0 Recommendation

3.1 It is recommended that planning permission be granted subject to the conditions listed at Appendix A.

4.0 Summary of Representations

4.1 12 letters of representation received highlighting the following issues:

- Working hours
- Noise
- Design and height
- Unsightly
- Dust
- Quality of acoustic assessment
- Compliance with LEV Regulations
- Retrospective nature of application
- Length of time application has taken
- Site should be for light industrial
- Inappropriate location
- Potential future expansion
- Legitimacy of firm
- Requirement for building regulations
- Support following mitigation measures

5.0 Summary of Consultees

5.1 (Full responses from the Consultee is included at the end of this report at Appendix B.)

5.2 Environmental Protection

Environmental Protection does not find that there are sufficient grounds for refusal but requests that conditions be imposed in order to ensure that additional sound mitigation work is completed, that a pro-active maintenance schedule be followed, and that a validation report be submitted.

6.0 Town Council Observations

6.1 Recommend Refusal.

The Committee regretted the retrospective nature of the application and stated that the application contravened the following:

Mid Sussex District Plan:
DP26 – Character and Design
DP29 – Noise, Air and Light Pollution

Mid Sussex Design Guide:
DG48 – Design to minimise the impact of noise, air and light pollution

The Committee expressed concern regarding the impact of noise disturbance on local residents, and the times at which the site was in operation.

The Committee requested that claims of dumping chemicals at the site be investigated, and that it also be investigated as to whether there had been a risk assessment relating to supply of machinery (safety) regulations 2008, and CDM 2015, for the creation of the dust extraction system.

The Committee agreed that the chairman would write to Mid Sussex District Council

Councillor Chapman about calling in the application. If the chairman did not receive a timely response, the chairman would seek the support of another District Councillor.

6.2 Additional:

Recommend Refusal.

The Committee regretted the retrospective nature of the application and stated that the application contravened the following:

Mid Sussex District Plan:
DP26 – Character and Design
DP29 – Noise, Air and Light Pollution

Mid Sussex Design Guide:
DG48 – Design to minimise the impact of noise, air and light pollution.

The Committee expressed concern regarding the impact of noise disturbance on local residents and the times at which the site was in operation.

7.0 Introduction

7.1 The application seeks planning permission to retain a dust extraction system, including proposals to cladding and lag and enclose a centrifugal fan to address identified harm. The application also seeks the proposed replacement of windows and doors to the front offices and the installation of three heat pumps.

7.2 The application is being reported to planning committee as Mid Sussex District Council is freeholder of the land.

8.0 Relevant Planning History

8.1 D/70/7 – Factory and two storey office – Permission granted 04.03.1970

8.2 DM/23/1647 - Retrospective installation of steel racking storage frame and powder coat oven - Permission granted 27.09.2023

9.0 Site and Surroundings

9.1 The application site is a large two storey industrial building lying on the Victoria Industrial Estate in Burgess Hill.

9.2 The building is in use by a firm called Multi-Installations who manufacture doors and associated products. The building was previously and historically occupied by HPC Engineering. Both businesses and operations would be considered to operate under class B2 of the 1987 Planning Use Class Order as amended.

9.3 The building occupies a large plot approximately 6000 square metres in size with the more narrow frontage facing north and the site and building extending to the south.

9.4 The front of the building contains the two storey brick built offices providing the administrative function of the business with the main workshops behind in a one and half storey building with multiple apex roofs.

- 9.5 The site lies on a wider industrial estate with large commercial units lying to the sides of the site on all sides. Residential properties fronting onto Victoria Close lie approximately 55m away to the north.
- 9.6 In terms of planning policy, the site lies within the built up area of Burgess Hill as defined by the Mid Sussex District Plan and the Burgess Hill Neighbourhood Plan.

10.0 Application Details

- 10.1 The application includes three separate elements.
- 10.2 The application seeks planning permission to retain a dust extraction system and hopper used in association with the industrial process. This system was originally constructed in late summer 2022.
- 10.3 The extraction system takes the form of a one and half storey brick built enclosure on top of which, and supported on a metal frame, sits a metal hopper for collecting dust from the industrial process. The extraction system includes vents and ducts connecting it to the main industrial building.
- 10.4 The hopper and extraction unit lies to the front of the main industrial building in line with the offices and extends to a height of approximately 8m.
- 10.5 The application seeks the retention of the extraction unit and hopper but with the addition of lagging of the extraction and cladding of the hopper to address noise issues in line with the recommendations of the acoustic report submitted with the application.
- 10.6 Additionally, the application also proposes the siting of four heat pumps at ground floor level along the eastern elevation of the building to cool the working environment within the industrial building.
- 10.7 Finally, the application also includes the replacement and renewal of all windows and doors within the north facing office block with new double glazed windows to replace the original, and rotten, metal windows.

11.0 Legal Framework and List of Policies

- 11.1 Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 11.2 Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Document (DPD) and the Burgess Hill Neighbourhood Plan.
- 11.3 National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

11.4 Mid Sussex District Plan

The District Plan was adopted at Full Council on 28th March 2018.

Relevant policies:

DP1: Sustainable Economic Development

DP26: Character and Design

DP29: Noise, Air and Light Pollution

11.5 Mid Sussex Site Allocations Document (DPD)

Mid Sussex District Council adopted its Site Allocations Development Plan Document on 29th June 2022. The Site Allocations DPD identifies sufficient housing sites to provide a five year housing land supply to 2031 and also makes sure that enough land is allocated to meet identified employment needs.

There are no policies deemed relevant to this application.

11.6 Burgess Hill Neighbourhood Plan

The Neighbourhood Plan was made in 2016. There are no directly relevant policies, however, core objectives CO1 and CO2 are relevant and state:

CO 1. Promote sustainable and well designed development in the right location taking into account the character and amenity of the local area. Preserve and enhance existing residential neighbourhoods.

CO 2. To promote Burgess Hill as a place for businesses to locate to and where existing business can thrive and to enable local people to live and work within the town.

11.7 Mid Sussex District Plan 2021-2039 Submission Draft (Regulation 19)

The District Council is reviewing and updating the District Plan. Upon adoption, the new District Plan 2021 - 2039 will replace the current District Plan 2014-2031 and its policies will have full weight. In accordance with the NPPF, Local Planning Authorities may give weight to relevant policies of the emerging plan according to the stage of preparation; the extent to which there are unresolved objections to the relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The draft District Plan 2021-2039 (Regulation 19) was published for public consultation on 12th January 2024 for six weeks. At this stage the Local Planning Authority does not know which Policies will be the subject of unresolved objections and therefore only minimal weight can be given to the Plan. As such, this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

DNP6: Pollution

DNP7: Noise Impacts

DPN9: Air Quality

DPB1: Character and Design
DPE1: Sustainable Economic Development

11.8 National Planning Policy Framework (NPPF) (December 2023)

The NPPF is a material consideration with specific reference to decision-taking paragraph 47 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

11.9 Paragraph 38 of the NPPF also states in respect of decision making that:

Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

12.0 **Assessment**

Principle of Development

12.1 District Plan policy DP1 relates to sustainable economic development in supporting business within the district and states:

The total number of additional jobs required within the district over the plan period is estimated to be an average of 543 jobs per year. This will be achieved by:

- *Encouraging high quality development of land and premises to meet the needs of 21st century businesses;*
- *Supporting existing businesses, and allowing them room to expand;*
- *Encouraging inward investment, especially the location, promotion and expansion of clusters or networks of knowledge, creative or high technology industries*

And:

Effective use of employment land and premises will be made by:

- *Protecting allocated and existing employment land and premises (including tourism) unless it can be demonstrated that there is no reasonable prospect of its use or continued use for employment or it can be demonstrated that the loss of employment provision is outweighed by the benefits or relative need for the proposed alternative use;*

- *Permitting appropriate intensification, conversion, redevelopment and/ or extension for employment uses providing it is in accordance with other policies in the Plan*

- 12.2 The premises are existing commercial units previously in use under a B2 use, and which is a use carried on by the current occupiers. The use of the building for manufacturer of doors and other means of enclosure is lawful and the use of the building or premises by the current occupier is not a matter for consideration in this application.
- 12.3 Noting that the use of the premises is lawful, and that the premises were vacant prior to the current occupier taking up the lease, policy DP1 gives support to extensions and alterations to business premises to support the business and which provides employment to 40-50 members of staff and has a turnover of over £12 million pa.
- 12.4 Therefore, subject to all other matters being acceptable and being in compliance with the policies of the development plan, the principle of development at the site to support the business is acceptable and in compliance with policy DP1 of the Mid Sussex District Plan.

Neighbour Amenity

- 12.5 The primary consideration of the application relates to the impact of the dust extraction unit and hopper upon the amenities of residential neighbours by virtue of the noise generated from the unit.
- 12.6 For clarity this application can only consider the impacts of the development contained within the application (the dust extraction unit and hopper, new heat pumps and replacement windows) and any noise associated with the existing lawful use of the building is not a matter for consideration in this application.
- 12.7 Policy DP26 of the District Plan relates to neighbour amenity and states:

All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:

- *does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);*

Whilst policy DP29 is more explicit and states:

The environment, including nationally designated environmental sites, nationally protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:

Noise pollution:

- *It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;*

- *If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;*

- 12.8 It is noted that the unit was constructed and installed in late summer 2022 and that complaints were received from surrounding residential neighbours by the Council's Planning and Environmental Protection Departments relating to the noise. The closest residential neighbours lie approximately 55m to the north of the site and are considered to be the primary receptors for any noise and disturbance.
- 12.9 Thereafter, and in accordance with the Council's Enforcement Charter, Officers have sought to engage with the operators to address the harm to amenity identified and seek mitigation in order that the development be made acceptable both in planning and in respect of environmental protection terms.
- 12.10 The current application is the outcome of that work which seeks to regularise the development of the dust extraction unit and the hopper but with mitigation and management plans included which, being secured by planning condition, are considered to address the harm to amenity and make the development acceptable.
- 12.11 The application is accompanied by an Acoustic Report which notes that current noise levels of the extractor and that there is cause for harm to be created through its use and, in particular, through the use of the 'reverse jets' which periodically clear the hopper of dust accumulated through the extraction process.
- 12.12 The acoustic report therefore proposes a series of measures to mitigate the noise including the imposition of conditions relating to the hours of use of the system and, the cladding and lagging of the system with noise deadening measures which bring the noise level within acceptable levels.
- 12.13 The Council's Environmental Protection Officers have made considerable comments on the application, and which are copied in full in Appendix B but in summary state:

An acoustic report has been submitted that assesses the level of noise against relevant standards by comparing it to the existing background noise in that location. The report concludes that the noise as it is, is categorised as having a likely "adverse impact", but that with further mitigation works (lagging the hopper and ducts), can be reduced to a "low impact", which would also be in compliance with the Planning Noise Advice Document: Sussex. The guidance recognises that context must also be considered.

The interface between residential occupiers and the needs of business can be a difficult one, and often results in neither being completely satisfied. Residential amenity must be protected where possible but has to be balanced against the social and economic benefits of allowing businesses to grow and thrive. Those living in a town centre location, or near to an industrial estate, understand that they will experience greater noise levels than those in a suburban or rural location, but this does not mean that businesses should be given carte blanche to operate as they see fit. The extract system will only run during the day, when the existing noise climate in residential gardens is elevated (this includes road traffic, deliveries, aircraft overflight, reversing beepers etc).

EP have carefully considered the available options:

Refusal – The report indicates an adverse, but not significant adverse, impact. In line with NPSE, mitigation rather than refusal is more appropriate.

Approve with conditions – this is the most defensible position. The conditions to ensure mitigation could be reduced hours, soundproofing/lagging, or a combination thereof.

Having taken into account all of the above, EP does not find that there are sufficient grounds for refusal but requests that conditions be imposed in order to ensure that additional sound mitigation work is completed, that a pro-active maintenance schedule be followed, and that a validation report be submitted.

12.14 The Council's EHO is therefore satisfied that should the mitigation measures be installed and the maintenance scheme be complied with, the harm to amenity will be mitigated such that it would not be considered to cause significant or unacceptable harm for the purposes of the development plan policies.

12.15 In order to secure this mitigation it is considered appropriate to impose planning conditions relating to installation of the mitigation measures, complying with the noise management plan and the hours in which the system could be used.

12.16 With respect to the imposition of conditions to secure such improvements these are considered acceptable in planning law and paragraph 001 Reference ID: 21a-001-20140306 of the National Planning Practice Guidance states:

When used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls.

12.17 Therefore ,it is possible and advised to use planning conditions to secure mitigation and such conditions are suggested as part of any planning permission granted. These conditions would require the mitigation work to be undertaken within 8 weeks and thereafter be validated with a new acoustic report, and the submission of a maintenance plan to ensure the mitigation is maintained and any adverse impacts from a malfunction in the system are promptly addressed. These conditions would fulfil the 6 tests required of planning conditions and would be enforceable should they not be complied with.

12.18 It is also recommended that a condition be imposed restricting the hours of use of the dust extraction system and hopper. It is noted that the site and existing buildings do not currently have any hours of use imposed upon them and as the application does not seek to consider the use of the site (it being lawful) it is not possible to impose wider hours of use upon the business and premises as a whole. It is, however, possible to impose upon the development subject to the application (the dust extraction unit and the hopper) and such a condition restricting the hours to 07:00 to 18:00 on weekdays with tighter restrictions on weekends is proposed.

12.19 Therefore, the proposed conditions and mitigation are considered to address the harm to amenity identified by the acoustic report and by our Environmental Health Officers such that the development can be made to comply with policies DP26 and

DP29 of the development plan by not causing significant or unacceptable harm to amenity.

- 12.20 The siting of four new heat pumps has also been addressed in the acoustic report and the specification of the units has been provided. These are new units which operate at a very low level and are considered to be inaudible from outside of the boundaries of the site. These elements therefore do not contribute to the noise from the site and are compliant with the relevant development plan policies.

Design and Impact on the Character of the Area

- 12.21 District Plan policy DP26 relates to character and design and states in part that:

'All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:

- is of high quality design and layout and includes appropriate landscaping and greenspace;*
- contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- protects open spaces, trees and gardens that contribute to the character of the area;*
- does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);*
- creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;...*
- positively addresses sustainability considerations in the layout and the building design;...'*

- 12.22 The dust extraction unit and hooper are large industrial elements situated to the front of the building and are therefore visible within the surrounding street scene. The development is of brick and metal construction and whilst it could not be considered attractive in design, it is of utilitarian appearance, functional and necessary for the operation of the business.

- 12.23 The design of the system therefore follows its form and within the context of the wider industrial estate in which it lies is in keeping with the character of the area as an industrial estate. Therefore, it cannot be considered to be out of keeping with the surrounding area.

- 12.24 The height of the system and its siting in a prominent position is noted, however, again is a result of the form and necessity of the system and the extraction it provides. It is more widely visible by virtue of its height, but the views do not extend to vantage points outside of the industrial estate or from residential areas and therefore do not cause harm to the character of a substantially wider area.
- 12.25 With respect to the other elements of the application, the four heat pumps are comparatively small units situated on the eastern wall of the building facing onto the service yard and are not visible from wider public views. They therefore have no impact on the character and appearance of the area.
- 12.26 The existing windows and doors are the original metal framed doors and windows installed at time of the building's construction in the 1970's. They are now in a poor state of repair and do not provide adequate insulation to the office accommodation.
- 12.27 The replacement double glazed units do not enlarge the openings and match the casement opening design of the existing units. The replacement windows and doors will therefore be in keeping with the existing building and have no adverse impact upon the character and appearance of the area.
- 12.28 Therefore the development, whilst noting its scale and design, is functional and its visual appearance is a necessity of its function. Whilst fully enclosing the system may be preferable this is not an option within the current application and the development must be considered as it appears currently. Noting this therefore, and that the other elements of the application have no visual impact, it is considered on balance that the application complies policy DP26 of the Mid Sussex District Plan.

Other Matters

- 12.29 The retrospective nature of the development is noted and is not condoned, however, s.73a of the Town and Country Planning Act 1990 allows the determination of applications for development which has already taken place and therefore the retrospective nature of the application is not a consideration in the determination of the application. The application must be solely considered against the policies of the development plan.
- 12.30 Matters relating to building control or compliance with other legislation such as exhaust ventilation are not matters for the planning process and are covered by other legislation or agencies such as the HSE. They therefore cannot be taken into account in the determination of the application.
- 12.31 The wider conduct and intentions of the current occupiers are also not legitimate planning considerations. Planning permission runs with the land, rather than the owner and occupier. However, a condition is included that should the dust extraction unit and hooper no longer be necessary (by this or any subsequent occupier) that it be removed from the land.
- 12.32 Finally, it is noted that Mid Sussex District Council are freeholders of the land and lease the premises to the applicant. This again has no bearing on the determination of the application and the whilst the applicant may need to liaise with the Council with respect to landowner consent for the development, this is not a consideration which can be taken into account in the determination of the application.

13.0 Planning Balance and Conclusion

- 13.1 The application contains three elements. It is not considered that the installation of the heat pumps or the replacement of the windows are significant and are in all extents compliant with the policies of the development plan.
- 13.2 It is noted that the acoustic report accompanying the application identifies potential harm from the dust extraction unit and hopper such that harm to amenity may be taking place. It is also states, however, that acceptable and appropriate mitigation in the form of cladding and lagging can be undertaken to mitigate the harm such that it would be compliant with the development plan policies in respect of noise and disturbance upon surrounding residential neighbours.
- 13.3 In accordance with paragraph 38 of the NPPF and the NPPG guidance on the use of planning conditions it is considered appropriate and acceptable to secure the mitigation through the imposition of planning conditions which can be enforced against if not complied with.
- 13.4 Therefore it is possible that the development and its impact be mitigated and that its design and appearance is acceptable within the industrial estate surroundings in which it lies. The developments support an established SME business which creates a significant level of employment and economic benefit to the district such that development to support the business should be supported.
- 13.5 The development, taking into account the mitigation which can be secured and through the imposition of appropriate planning conditions is therefore deemed acceptable and accordingly the application complies with policies DP24, DP26, and DP29 of the Mid Sussex District Plan, the objectives of the Burgess Hill Neighbourhood Plan and the contents of the NPPF and NPPG.

APPENDIX A – RECOMMENDED CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
2. Approved plans

The development hereby permitted shall be carried out in accordance with the plans listed below under the heading 'Plans Referred to in Consideration of this Application'.

Reason: For the avoidance of doubt and in the interest of proper planning.
3. No external materials or plant shall be used or installed other than those specified within the application without the prior written approval of the Local Planning Authority.

Reason: To protect the appearance of the building and the area and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

4. Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:
Monday - Friday 08:00 - 18:00 Hours
Saturday 09:00 - 13:00 Hours
Not at all on Sundays and Bank / Public Holidays

Reason: To preserve the amenities of residential neighbours and to accord with policy DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031.

5. Within 8 weeks of the date of this permission the dust extraction system and hopper lagging recommendations outlined in Section 5 of the Acoustic South East Noise Impact Assessment [J3525 Issue 3, dated 23/02/2024] shall be implemented and shall be completed, unless otherwise agreed in writing by the LPA. Such noise protection measures shall thereafter be maintained in an effective state.

Reason: To preserve the amenities of residential neighbours and to accord with policy DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031.

6. Within 10 weeks of the date of this permission a noise validation report demonstrating that the lagging scheme achieves sufficient noise reduction to ensure compliance with the Planning Noise Advice Document Sussex dated November 2023 shall be submitted to and approved by the LPA approval unless otherwise agreed in writing by the LPA.

Reason: To preserve the amenities of residential neighbours and to accord with policy DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031.

7. Within 4 weeks of the date of this permission a written maintenance and monitoring schedule for the dust extraction system and hopper to ensure adequate and proactive control of noise, shall be submitted to and agreed with the Local Planning Authority. The approved schedule shall thereafter be implemented and shall include a written record of daily noise checks which is to be kept on site

Reason: To preserve the amenities of residential neighbours and to accord with policy DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031.

8. The dust extraction system and hopper hereby approved shall not be used other than between the following hours:

Monday - Friday: 07:00 - 18:00
Saturday: 07:00 - 15:00
Not at all on Sundays and Bank / Public Holidays

Reason: To preserve the amenities of residential neighbours and to accord with policy DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031.

9. Should the use of the premises cease or the requirement for the dust extraction system and hopper cease, then, within 3 months of the cessation of the use, the dust extraction system and hopper shall be dismantled and removed from the land.

Reason: To preserve the character and appearance of the area and to accord with policy DP26 of the District Plan 2014 - 2031.

INFORMATIVES

1. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. You are advised that there are conditions which require compliance within set time limits after the date of the planning permission. Failure to comply with the requirements of the conditions would constitute a breach of planning control where the LPA would be likely to pursue formal enforcement action.
3. You are advised to contact Mid Sussex District Council's Estates team with regards to the approved development as the landowners from whom separate consent may be required.

Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

Plan Type	Reference	Version	Submitted Date
Other	011		26.09.2023
Proposed Site Plan	MIL-VIC-001		20.09.2023
Proposed Elevations	MIL-VIC-005		20.09.2023
Location Plan	MIL-VIC-010		20.09.2023
Existing Elevations	23054/03		30.01.2024
Proposed Elevations			23.02.2024

APPENDIX B – CONSULTATIONS

BURGESS HILL TOWN COUNCIL

The Committee regretted the retrospective nature of the application and stated that the application contravened the following:

Mid Sussex District Plan:
DP26 – Character and Design
DP29 – Noise, Air and Light Pollution

Mid Sussex Design Guide:
DG48 – Design to minimise the impact of noise, air and light pollution

The Committee expressed concern regarding the impact of noise disturbance on local residents, and the times at which the site was in operation.

The Committee requested that claims of dumping chemicals at the site be investigated, and that it also be investigated as to whether there had been a risk assessment relating to supply of machinery (safety) regulations 2008, and CDM 2015, for the creation of the dust extraction system.

The Committee agreed that the chairman would write to Mid Sussex District Council Councillor Chapman about calling in the application. If the chairman did not receive a timely response, the chairman would seek the support of another District Councillor.

Additional:

Recommend Refusal.

The Committee regretted the retrospective nature of the application and stated that the application contravened the following:

Mid Sussex District Plan:
DP26 – Character and Design
DP29 – Noise, Air and Light Pollution

Mid Sussex Design Guide:
DG48 – Design to minimise the impact of noise, air and light pollution.

The Committee expressed concern regarding the impact of noise disturbance on local residents and the times at which the site was in operation.

MID SUSSEX DISTRICT COUNCIL ENVIRONMENTAL PROTECTION

The Multi Installations site is located near the edge of an industrial estate, and the extract fan unit is approximately 55m from residential gardens. A number of noise complaints from nearby residents have been received by Environmental Protection and some sound mitigation works have subsequently been implemented by the business.

An acoustic report has been submitted that assesses the level of noise against relevant standards by comparing it to the existing background noise in that location. The report concludes that the noise as it is, is categorised as having a likely “adverse impact”, but that with further mitigation works (lagging the hopper and ducts), can be reduced to a “low impact”, which would also be in compliance with the Planning Noise Advice Document: Sussex. The guidance recognises that context must also be considered.

The interface between residential occupiers and the needs of business can be a difficult one, and often results in neither being completely satisfied. Residential amenity must be protected where possible but has to be balanced against the social and economic benefits of allowing businesses to grow and thrive. Those living in a town centre location, or near to an industrial estate, understand that they will experience greater noise levels than those in a suburban or rural location, but this does not mean that businesses should be given carte blanche to operate as they see fit. The extract system will only run during the day, when the existing noise

climate in residential gardens is elevated (this includes road traffic, deliveries, aircraft overflight, reversing beepers etc).

The hours of use for the factory are as follows: Monday – Friday: 07:00hrs – 18:00hrs Saturday: 07:00hrs – 15:00hrs

EP have carefully considered the available options:

Refusal – The report indicates an adverse, but not significant adverse, impact. In line with NPSE, mitigation rather than refusal is more appropriate.

Approve with conditions – this is the most defensible position. The conditions to ensure mitigation could be reduced hours, soundproofing/lagging, or a combination thereof.

Having taken into account all of the above, EP does not find that there are sufficient grounds for refusal but requests that conditions be imposed in order to ensure that additional sound mitigation work is completed, that a pro-active maintenance schedule be followed, and that a validation report be submitted. Accordingly:

Construction hours: Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday – Friday 08:00 - 18:00 Hours

Saturday 09:00 - 13:00 Hours

Sundays and Bank/Public Holidays no work permitted

Maintenance: A maintenance and monitoring schedule for the extract system to ensure adequate and pro-active control of noise, shall be submitted to and agreed with the Local Planning Authority in writing and implemented within a period of 1 month of the date of this permission and shall include a written record of daily noise checks which is to be kept on site

Additional Noise Mitigation: The hopper and ductwork lagging recommendations outlined in Section 5 of the Acoustic South East Noise Impact Assessment [J3525 Issue 3, dated 23/02/2024] shall be implemented and shall be completed within 8 weeks from the date of approval, unless otherwise agreed in writing by the LPA. Such noise protection measures shall thereafter be maintained in an effective state.

Validation Report: A noise validation report demonstrating that the lagging scheme achieves sufficient noise reduction to ensure compliance with the Planning Noise Advice Document Sussex dated November 2023 shall be submitted to the LPA within 10 weeks of the date of approval unless otherwise agreed in writing by the LPA.