



Guidance on the loss of Industrial or Business Uses

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**East Hampshire District Council
Guidance on the loss of Industrial or Business Uses**

1. Introduction

1.1 This guidance document only applies to those parts of East Hampshire District that are located outside of the South Downs National Park Authority Area.

1.2 The guidance provides clarification on the marketing and economic viability evidence that would be required from applicants proposing schemes that would result in the loss of existing premises in B class employment use, or the loss of land or sites allocated for B-class employment uses in the development plan. It also includes updates introduced from 1 September 2020, revoking B1 use class, which is now treated under a new Use Class E. This guidance applies only where planning permission is required for a change of use.

1.3 For clarity, B class employment uses are those falling into the following use classes of the Town and Country Planning (Use Classes) Order 1987 (as amended):

Use Class	Notes
B2 – General Industrial	Use for industrial process other than one falling within class E(g) (previously class B1) (excluding incineration purposes, chemical treatment or landfill or hazardous waste).
B8 - Storage or distribution	This class includes open air storage
E(g) - Business Uses which can be carried out in a residential area without detriment to its amenity For any planning applications submitted before 1 September 2020, the Use Classes in effect when the application was submitted will be used to determine the application. ¹	E(g)(i) Offices to carry out any operational or administrative functions E(g)(ii) Research and development of products or processes E(g)(iii) Industrial processes

1.4 This Guidance document is intended to support applicants, agents and developers so that they can provide the Council with all the information it needs to determine applications of this type. It is important to note that this guidance note is not a statutory document.

¹ https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use

East Hampshire District Council
Guidance on the loss of Industrial or Business Uses

- 1.5 The requirement to demonstrate that a site has been effectively marketed before a change of use can be considered is found in Joint Core Strategy Policy CP4 (Existing Premises) and Saved Local Plan Policy IB4 (Existing Premises).
- 1.6 This Guidance sets out the minimum action required when actively marketing business premises or a site and outlines the marketing evidence which must be provided when submitting an application for change of use. The Guidance also provides information on the financial viability evidence required to demonstrate that the premises or site is no longer suitable for employment in some form.

2 Objectives

- 2.1 The Council has economic growth as a key priority and aims to promote sustainable economic growth, create jobs and support business growth and enterprise.
- 2.2 The Council seeks to protect existing premises in E(g) use class and B class uses where there are strong economic reasons why the loss of the employment site would be inappropriate.
- 2.3 The approach is in line with the East Hampshire District Local Plan: Joint Core Strategy and is supported by the East Hampshire Employment Land Review Update 2013 as well as emerging evidence for the East Hampshire Local Plan 2017-2038.

3 Planning Policy Context

- 3.1 The East Hampshire Joint Core Strategy was adopted in June 2014. Policy CP4 (Existing Employment Land) states that *'the use of employment land for alternative uses will be permitted where the site can be shown to be no longer suitable for employment use of some form and the alternative use is in conformity and consistent with other policies and strategies of the of the Local Plan: Joint Core Strategy...'*
- 3.2 Saved Local Plan Policy IB4 (retention of industrial or business uses) states (emphasis added) that *'planning permission will be granted for the redevelopment of industrial or business sites for other uses only if the present use harms the character or amenity of the nearby area or the site has restricted potential due to factors such as:*
- a) *its size, shape, location or access; or*
 - b) *proof of financial unviability for industrial or business use; and*
 - c) *no reasonable offer having been received for sale or rent, following realistic and active marketing undertaken to the satisfaction of the local planning authority'.*

East Hampshire District Council
Guidance on the loss of Industrial or Business Uses

- 3.3 The text supporting policy IB4 in paragraphs 6.54 to 6.57 advises that where a change from industrial or business use is proposed, a case will need to be made for the alternative use with evidence demonstrating why an industrial or business use cannot be sustained. Where an employment use is argued to be unviable, or that there is no demand, evidence of viability will be required and, or, that all reasonable efforts have been made to market the site as extensively as possible at a competitive market price.
- 3.4 The Inspectors Report into the Local Plan – Second Review assessed whether the Policy IB4 should allow for unviable, small employment sites in the countryside to be developed for residential purposes and whether certain other requirements of the policy text are reasonable in all other respects. The Inspector states that *‘it would be reasonable for the Council to require evidence of realistic and active marketing of a site to test any claims of non-viability of a particular current enterprise’* (paragraph 6.126).
- 3.5 Documented marketing of sites in employment use will assist applicants in satisfying the requirements of the policies as outlined above. It should be recognised that all other relevant planning policies to the proposal will be considered in the determination of the application.

East Hampshire District Council
Guidance on the loss of Industrial or Business Uses

4. Marketing Information Required from Applicants

4.1 A marketing report should be submitted with the planning application, setting out the details of the marketing campaign that has been undertaken. This campaign should take account of the following points:

- a) Vacant premises or sites should be continuously marketed for a minimum of **twelve months**.
- b) Where premises are in poor condition or have been partially demolished, the site should also be marketed for redevelopment for E(g) or B class use(s) (subject to the policy requirements of the Development Plan) for a minimum of **twelve months**.
- c) The marketing campaign should target potential occupiers with a variety of means. As a minimum, the following measures should be used:
 - Property details made available through a minimum of one local commercial agent. The property details (particulars) should as a minimum detail:
 - the type of the property / site
 - the size of the property / site
 - address and location information
 - leasehold rent and / or freehold sale price
 - A copy of the dated letter of instruction to the commercial agent and dated copies of the agent's property details should be included in the marketing report.
 - Web-based marketing through the appointed commercial agent's website and other relevant search engines, such as Estates Gazette Interactive at www.egi.co.uk. Dated evidence should be included in the marketing report.
 - Advertising within target publications, such as the Estates Gazette, local press and any publications produced by local business networks and support agencies. Dated copies of these advertisements should be included in the marketing report.
- d) The premises/site should be marketed at a price and associated terms that are commensurate with market values, based on evidence from recent and similar transactions and deals. Where possible, at least three examples should be provided of completed transactions involving a similar site or

East Hampshire District Council
Guidance on the loss of Industrial or Business Uses

premises and similar terms within the local area, preferably within the last twelve months, or written evidence from an independent qualified valuer on the market values in the local area. All information about price and terms should be provided in a format that enables easy comparison, using equivalent and comparable expressions of price per unit of floorspace. Where the price changed during the period of the marketing campaign, the reasons for this should be recorded and included in the marketing report.

- e) Where premises are marketed for lease, the length of lease offered should not be unduly restrictive and should include the potential for a short-term lease in appropriate cases. Details of the lease terms offered should be included in the marketing report, along with any changes made to the terms offered during the period of the marketing campaign and the reasons for this.
- f) The marketing agent should keep a log of enquiries throughout the period of the marketing campaign. This should record the date and nature of the enquiry (e.g. the type of business enquiring), how the enquirer found out about the premises, whether the enquiry resulted in a site visit, and the reasons given for not progressing an offer on the premises. This log should be submitted as part of the marketing report.
- g) Where the flow of enquiries has been limited or is decreasing, the marketing report should explain any measures taken to refresh the marketing campaign. In circumstances where proposals do not fully meet relevant guidance it will be for developers to demonstrate through their marketing report that their marketing campaign was sufficiently wide-ranging, of adequate length that the asking price and terms were realistic and that specialists appropriate to the type of use were engaged.

4.2 Marketing the site as outlined above will assist the Council in assessing the employment value of the land/premises in question, allowing them to evaluate whether there is a need for the existing use to be retained or whether the proposed reuse would deliver development that improves the economic, social and environmental conditions in the area.

4.3 It should not be assumed that any lack of potential market interest in the property for its existing use would automatically result in a favourable consideration of an application for non- B class employment uses or non- E(g) class uses, other commercial options should also be explored.

4.4 In summary the marketing statement should include all details and evidence of the steps taken to market the building as detailed above.

East Hampshire District Council
Guidance on the loss of Industrial or Business Uses

Reviewing the Marketing Report

- 4.5 Following the receipt of the marketing report the Council will review the content and compare this to evidence, including:
- The findings of the most recent Employment Land Review
 - The findings of the most recent Authority Monitoring Report
 - Vacancy / occupancy surveys in East Hampshire
 - Accessing a third party commercial property database
- 4.6 Officers will also need to determine whether there are not strong economic reasons to refuse the proposal in accordance with saved local plan policy (see Section 3 above). Examples of some of the issues that will be considered by officers are detailed below:
- a. Whether the proposal would undermine the function and operation of a wider employment site or employment area by negatively impacting upon established neighbouring uses
 - b. Whether the proposals would harm the businesses currently established at the site, for example by requiring them to relocate (prior to the termination of their lease)
 - c. In case of relocation or displacement of existing businesses, the Council would consider the impact on the financial viability, operation(s) and sustainability of the business as well as availability of suitable alternative premises in the local area

5. Financial viability information required from applicants

- 5.1 Paragraph 3.2 of this report sets out the requirements of Saved Local Plan Policy IB4 (retention of industrial or business uses) states (emphasis added) that '*planning permission will be granted for the redevelopment of industrial or business sites for other uses... if the site has restricted potential due to factors such as proof of financial unviability for industrial or business use*'...
- 5.2 The Council will therefore require a financial viability appraisal that tests different development options for the site and therefore clearly demonstrates to the council that the retention of the site (in full or in part) for employment uses is not financially viable. It is important to note that the Council will appoint a third party to assess the evidence submitted and this will be at the cost of the applicant.
- 5.3 The financial Viability Appraisal should include (but not limited to) the following information:

East Hampshire District Council
Guidance on the loss of Industrial or Business Uses

- A valuation of the employment site in its existing use (ignoring the hope value of alternative use). The Council may seek an independent valuation of the site. In such circumstances the cost of the valuation shall be met by the applicant.
- The total cost of development or redevelopment of the site for office (E(g)) and industrial options (B2, B8)
- Information / evidence to support rents, sales values, capital values and rental yields adopted for the appraisal
- Sensitivity testing to support the robustness of the report conclusions

5.4 An indicative example of different development scenarios that could be tested for financial viability are summarised in the hypothetical case study below:

Proposal: To demolish a vacant 1960s factory building within a Settlement Policy Boundary and redevelop the 1.5ha site for a residential scheme incorporating a mix of homes.

Potential Scenarios to be feasibility and viability tested:

- Scenario 1: 100% employment – refurbish and split existing premises
- Scenario 2: 100% employment – demolition and redevelopment for flexible (B2-B8) units.
- Scenario 3: Mixed use – 50% employment & 50% residential
- Scenario 4: Mixed use – 30% employment & 70% retail
- Scenario 5: 100% residential uses (as proposed in the case study)