

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/3134	Case Officer:	Andrew Clarke
Application Type:	Change of Use Application		
Proposal:	Retrospective Planning Application for change of use from Use Class B2 (general industrial) to Use Class B8 (storage and distribution).		
Site:	Tate Bros Ltd, 21 Victoria Gardens, Burgess Hill, West Sussex, RH15 9NB, , ,		
Validation Date	8 Dec 2025	Overall Expiry Date:	31 Dec 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	30 Jan 2026
Target Date:	2 Feb 2026	Recommending Officer Signature:	<i>Andrew Clarke</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	1
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	2 Feb 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/3134

**Tate Bros Ltd, 21 Victoria Gardens, Burgess Hill, West Sussex, RH15 9NB, ,
Retrospective Planning Application for change of use from Use Class B2 (general industrial) to
Use Class B8 (storage and distribution).
Mr Trevor Meadows**

SUMMARY OF REPRESENTATIONS

1 letter received raising the following matters:

- Storage of dangerous items and safety precautions
- Health and safety of the site.
- Fire safety
- Hours of operation

SUMMARY OF CONSULTEES

West Sussex County Council Local Highways Authority

Paragraph 116 of the National Planning Policy Framework (NPPF) states:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

The Highway Authority do not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network; therefore, is not contrary to the National Planning Policy Framework (NPPF), paragraphs 114 -117, as revised December 2024. Therefore, there are no transport grounds to resist this proposal.

If the Local Planning Authority (LPA) mind to approve the application, the following conditions should be applied:

- Vehicle Parking
- Cycle Parking

MSDC Environmental Protection

The proposed change of use from Use Class B2 (general industrial) to Use Class B8 (storage and distribution) is generally acceptable given the site's location within an established industrial area. However, residential properties are located less than 25 metres to the north of the site. Due to this proximity, unrestricted activity during night-time hours would be likely to cause disturbance to nearby residents, particularly from vehicle movements, loading and unloading operations, and associated noise.

To mitigate this impact, it is recommended that all deliveries, collections, and external operations associated with the B8 use are restricted to daytime hours only. Suggested operating times are 07:00 to 19:00 Monday to Saturday, with no activity on Sundays or Bank Holidays. These hours are proposed to prevent unacceptable noise and disruption during the evening and night, but we would be happy to discuss and agree suitable operating hours with the applicant if required.

Recommended approve with the following condition:

1) All deliveries, collections, loading, unloading, and any external operations associated with the B8 use shall only take place between the hours of 07:00 and 19:00 Monday to Saturday. No such activities shall take place on Sundays or Bank Holidays.

BURGESS HILL TOWN COUNCIL OBSERVATIONS

Recommend Approval subject to planning conditions due to the proximity of the residential housing. To restrict stored materials to non-hazardous materials and a condition relating to suitable hours of operation.

The committee regretted the retrospective nature of the application.

INTRODUCTION

The application seeks retrospective planning permission for the change of use of the commercial premises from B2 (general industry) to B8 (storage and distribution)

RELEVANT PLANNING HISTORY

BH/134/79 - Light industrial building with office accommodation and off street parking. - Approved 04/09/79

BH/232/94 - Change of use to B8 for storage and warehousing - 22/12/94

DM/18/3781 - Retrospective application to change the building use from B8 to B2.- Approved 21/12/18

DM/23/0680 - Change of Use from B2 to Sui Generis Funeral Directors Facility (to include 24 hour access) - Withdrawn 08/08/23

DM/25/3133 - Retrospective Planning Application for the permanent siting of 3 No. storage containers on the site. - Pending determination

SITE AND SURROUNDINGS

The application site is an existing commercial site lying on an industrial estate close to the centre of Burgess Hill. Originally constructed in the early 1980's the site consists of one large building primarily two storeys in height where the primary storage takes place with a single storey element to the front containing offices ancillary to the primary use. Access is to the east of the site with a large parking area and turning area for delivery vehicles. Access to the main storage area of the building is via two large roller shutter doors on the eastern elevation.

To the south of the site lies the main access and remainder of the industrial estate which also lies to the east and west. To the north of the site lie the residential properties fronting Victoria Close. These are terraced Victorian properties with gardens approximately 15m in length. The mutual boundary between the application site and the residential gardens is made up of 2m high close boarded fencing.

The site lies within the built up area of Burgess Hill and benefits from no other special designation.

APPLICATION DETAILS

The application seeks to regularise the change of use of the premises from B2 (general industry) to B8 (storage and distribution). The change of use has already taken place with the current occupiers taking occupancy in August 2025. The occupants are a storage business primarily specialising in storage of items used for exhibition displays, art and suchlike. The application, however, seeks a general B8 storage use. The application does not seek any alteration to the external appearance of the building.

The use has already commenced and therefore the application is made under s.73a of the Town and Country Planning Act 1990.

LEGAL FRAMEWORK AND LIST OF POLICIES

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically, Section 70 (2) of the Town and Country Planning Act 1990 states:

'In dealing with such an application the authority shall have regard to:

- a) The provisions of the development plan, so far as material to application, and*
- b) Any local finance considerations, so far as material to the application, and*
- c) Any other material considerations.'*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

'If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and the Burgess Hill Neighbourhood Plan.

National policy (which is contained in the National Planning Policy Framework (NPPF) and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

Mid Sussex District Plan

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

Relevant policies:

DP1 - Sustainable Economic Development
DP17 - Ashdown Forest
DP21 - Highways and Parking
DP26 - Neighbour amenity
DP29 - Pollution

Site Allocations DPD

The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

There are no policies relevant to the determination of this application.

Burgess Hill Neighbourhood Plan

The Burgess Hill Neighbourhood Plan was made in 2016.

Relevant policies:

Policy S4 Parking Standards for new developments

Other Legislation

The Planning (Hazardous Substances) Regulations 2015

Other Material Considerations

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) is currently at Examination and the stage 1 hearings were concluded on the 31st October 2024. There are unresolved objections to some of the Policies in the draft District Plan and as such, only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

DPS1: Climate Change

DPN6: Pollution

DPN7: Noise Impacts

DPT3: Active and Sustainable Travel

DPT4: Parking and Electric Vehicle Charging Infrastructure

DPE1: Sustainable Economic Development

DPE2: Existing Employment Sites

Mid Sussex Design Guide Supplementary Planning Document (SPD)

The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

National Planning Policy Framework (NPPF) (December 2024)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three overarching objectives to sustainable development, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The three objectives are economic, social and environmental.

Paragraph 9 of the NPPF states *'these objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.'*

Paragraph 11 of the NPPF sets out that for both plan-making and decision-taking, the presumption in favour of sustainable development should apply.

Paragraph 12 of the NPPF states;

'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'

Paragraph 39 of the NPPF states;

'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.'

With specific reference to decision-taking paragraph 48 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

National Design Guide

Published in 2021, the National Design Guide illustrates how the government consider well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice.

Paragraph 134 of the NPPF sets out that this national document, along with the National Model Design Code, should be used to guide decisions on application in the absence of locally design guides or design codes.

ASSESSMENT

It is considered that the main issues that need to be considered in the determination of this application are as follows;

- o Principle
- o Design and Impact on the character and appearance of the area
- o Highways
- o Impact on Residential Amenity
- o Other Matters
- o Ashdown Forest
- o Biodiversity Net Gain
- o Planning Balance and Conclusion

Principle

As noted above, planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

The site lies in an existing commercial area and has previously been in a B8 storage use. The development retains employment floorspace by a local employer (previously based in Bolney) and therefore is compliant with policy DP1 of the District Plan..

Design and Impact on the character and appearance of the area

As noted above the premises are on an existing industrial estate and the use is in keeping with the commercial surroundings. The previous use was B2 which would also resulted in vehicle movements relating to deliveries etc taking place and the storage use sought would not alter the character of the site or the surrounding area. No external alterations to the building are sought as part of this application. The development therefore complies with policy DP26 of the District Plan in respect of design and impact on character.

Highways

The site is served by an existing access and the vehicles predominately using the site are rigid lorries (rather than HGV's) by virtue of the limited size of the access doors. Sufficient space exists on site for lorries to turn and enter and exit the site in a forward gear.

West Sussex County Council as the Local Highways Authority have been consulted on the application and have raised no objections on highway safety subject to conditions securing parking and bike storage. Details of bike storage can be secured but in respect of parking, 14 spaces are provided on the site and which would be in compliance with the parking standards for such a development and noting the sustainable location of the site in close proximity to the town centre and bus/train routes would mean the need for any condition relating to parking is not required.

The development therefore complies with policies DP21 of the District Plan and policy S4 of the Neighbourhood Plan.

Impact on Residential Amenity

Policy DP26 of the District Plan 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 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:

- o It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;*
- o If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;*

Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment are incorporated within the development.

In appropriate circumstances, the applicant will be required to provide:

- o an assessment of the impact of noise generated by a proposed development; or*
- o an assessment of the effect of noise by an existing noise source upon a proposed development;*

Light pollution:

- o The impact on local amenity, intrinsically dark landscapes and nature conservation areas of artificial lighting proposals (including floodlighting) is minimised, in terms of intensity and number of fittings;*
- o The applicant can demonstrate good design including fittings to restrict emissions from proposed lighting schemes;*

Air Pollution:

- o It does not cause unacceptable levels of air pollution;*

o Development on land adjacent to an existing use which generates air pollution or odour would not cause any adverse effects on the proposed development or can be mitigated to reduce exposure to poor air quality to recognised and acceptable levels;
o Development proposals (where appropriate) are consistent with Air Quality Management Plans.

The degree of the impact of noise and light pollution from new development or change of use is likely to be greater in rural locations, especially where it is in or close to specially designated areas and sites.'

The site is in close proximity to residential neighbours and has the potential to cause harm primarily through noise from vehicle movements delivering and collecting from the premises. No noise assessment has been with the application, however, it is noted the premises have been in recent B2 use and former B8 use. The planning permission which secured the B8 use (BH/232/94) included conditions requiring deliveries and collections to be made between the hours of 7am and 7pm.

The Council's Environmental Protection Officer has been consulted on the application and in the absence of any noise assessment has also recommended planning conditions preventing deliveries and collections otherwise than between the hours of 7am and 7pm.

Noting the previous use of the building it is not considered that the use will cause unacceptable harm to amenity subject to conditions being imposed. In the absence of any evidence to support otherwise the control of deliveries and collections would otherwise than between the hours of 7am and 7pm would appear appropriate. It is noted the applicant states that they may require deliveries outside of these hours, however, to do so without permission and evidence would represent a breach of planning control. This would therefore mean an alteration to the operation of the business which the applicant has accepted and is willing to accept the proposed condition. Should they later wish to vary the hours then it would be open to them to submit a s.73 application to the Council to consider and determine on its own merits.

Therefore subject to the imposition of appropriate conditions relating to hours of deliveries and collections the development would be considered to comply with the requirements of policies DP26 and DP29 of the Mid Sussex District Plan.

Other Matters

Issues relating to the storage of potentially hazardous material and products have been raised and it is noted that the current operators do offer this service elsewhere and that it would fall under the standard B8 use. The applicants have confirmed, however, that it is not their intention, nor do they have the facilities on site to lawfully store hazardous material.

Should they wish to store Type 1 hazardous material then they would need consent of the Council under The Planning (Hazardous Substances) Regulations 2015. No such application has been made and no such consent has been granted. Should an application be made then it would be considered on its own merits.

There is therefore separate legislation to cover such storage over which the Council has discretion and authority such that it is not a matter which can be considered in the determination of this application.

Ashdown Forest

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment (HRA) process for the Mid Sussex District Plan 2014-2031. This process

identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment has been undertaken for the proposed development in this planning application.

Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan 2014-2031, and as detailed in District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

This planning application does not result in a net increase in dwellings within the 7km zone of influence and so mitigation is not required.

Atmospheric pollution

Increased traffic emissions as a consequence of new development may result in additional atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The potential effects of the proposed development are incorporated into the overall results of the transport model prepared for the Mid Sussex Transport Study, which indicates there would not be an overall impact on Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment

The Habitats Regulations Assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development.

No mitigation is required in relation to the Ashdown Forest SPA or SAC.

A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. This planning permission is being granted on an application made under Section 73a of the Town and Country Planning Act 1990. This application is therefore exempt from the requirement to provide biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the Development Plan and then to take account of other material planning considerations including the NPPF. The Development Plan in this instance consists of the Mid Sussex District Plan, the Site Allocations Development Plan Document and the Burgess Hill Neighbourhood Plan.

The development is considered to be an appropriate change of use and that with the imposition of conditions, would not cause harm to the amenities of surrounding residential neighbours. Therefore for the reasons set out within the assessment section, it is considered that the application complies with Mid Sussex District Plan policies DP1, DP17, DP21, DP26 and DP29 and Neighbourhood Plan policy S4 and the contents of the NPPF and permission is granted.

Decision: Permission

Case Officer: Andrew Clarke