

Our reference: 25/096

29 January 2026

Mid Sussex District Council
Planning Services

Dear Sir/Madam

Units B3 and B5, Horsted Keynes Business Park.

We are writing following on from recent communications regarding the above premises.

As you know the operator was invited by your Planning Investigations Officer to submit an application to vary planning permission HK/027/89, specifically the hours of use condition attached to that permission. The site owner, liaising with the 'Giggleton' operator acted in good faith in making this submission. There was no suggestion that permission was required for a change of use.

It is unfortunate that subsequently, at a very late stage and following access to microfiche records, it has been identified that the above referenced permission is incorrect.

It is imperative that the successful business is able to continue to operate from the site, which we understand Officers are supportive of. It is also important that the business park owner is not put to further unnecessary expense.

We have reviewed the planning permission HK/32/086. The permission on its face refers to food processing and freezing along with various related activities. The use permitted by the permission would be considered to fall within light industry, formerly a Class B1 use, and now within Class E.

There are no conditions on this permission relating to hours of use.

The only condition specifically referring to Unit B is condition 7. Without prejudice, our view at this time is that this condition would not prohibit the use currently operating. This particular condition is worded permissively and is notably absent of key wording restricting use solely to that stated, specifically prohibiting other uses, and furthermore refers to obsolete legislation (without the usual wording conferring transfer of provisions into subsequent legislation).

Continued...

The PPG at 21a-017-20190723 states that conditions restricting future changes of use may not pass the test of reasonableness or necessity. It further adds that ‘the scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015.

Given the shortcomings identified (in contrast to the wording of model condition 48 within retained Appendix A to Circular 11/95), Condition 7 would in our view fail these tests, as well as that of being precise, and that of enforceability.

The explanatory memorandum to the Use Classes Amendment Regulations in 2020 explained the rationale behind the creation of the Class E Use Class, which brought together a range of use classes including former D1 and D2 uses, as follows:

‘This new class allows for a mix of uses to reflect changing retail and business models. It therefore, recognises that a building may be in a number of uses concurrently or that a building may be used for different uses at different times of the day. Changes to another use, or mix of uses, within this class do not require planning permission. Bringing these uses together and allowing movement between them will give businesses greater freedom to adapt to changing circumstances and to respond more quickly to the needs of their communities.’

It is considered that as the current use would fall within Class E, there is no need for a specific further grant of planning permission in this instance, and as mentioned above, the hours of operation are not restricted.

We would welcome confirmation of this, upon receipt of which we would then be in a position to confirm withdrawal of the current planning application. We would be content to discuss the matter further if that would be helpful.

We look forward to hearing from you.

Yours faithfully

C. Sampson

Christopher Sampson BA (Hons) Dip TP MRTPI

Director,
KLW Limited