



Ms Nicky Powis  
Planning Department  
East Hampshire District Council  
Penns Place  
Petersfield  
GU31 4EX

Our Ref: SDNP-EH-390-ALD  
Your Ref: SDNP/21/05284/CND  
Email: [justin@southernplanning.co.uk](mailto:justin@southernplanning.co.uk)  
Date: 16 December 2021  
Status: Via Email

By Email Only - [Nicky.Powis@easthants.gov.uk](mailto:Nicky.Powis@easthants.gov.uk)

Dear Ms Nicky Powis,

**Objection to SDNP/21/05284/CND | Variation of condition 10 of SDNP/13/0966/FUL to allow the change to the wording required by the council "Variation of Condition 10 of SDNP/13/01966/FUL to read "Notwithstanding the changes of use permitted within Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2005 (as amended) the development hereby permitted shall be used for purposes with Class E (g)(iii) and B8 of the Town and Country (Use Classes) Order, 1987 only, and for no other purpose." | Brickyards Industrial Estate Rockpits Lane Steep Marsh Petersfield GU32 2BN**

We write on behalf of the residents of Steep Marsh, who strongly object to the above application currently pending consideration. The grounds for objection are set out below.

We understand that the application has been submitted to regularise a breach of condition of permission 13/01966/FUL for the Brickyards Industrial Estate and to avoid enforcement action. We believe the breach of condition 10, together with other conditions of the original permission and matters relating to hours of opening, noise and traffic have been brought to the Council's attention previously. We understand that East Hampshire District Council's Enforcement Team, namely Sean Baldock and Heather Gee sought to investigate the alleged breach of conditions and served a Planning Contravention Notice (PCN) in June 2021. The breach of the planning condition shows a complete disregard for the planning system and it is clear that the applicant has only reactively sought to address the breach once it had been brought to light and investigated. This follows a pattern of behaviour at the Brickyards Industrial Estate, whereby changes have been undertaken prior to consent being sought. Prior to this application there have been three further retrospective applications on the site.

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It is acknowledged that use class B1 (c) – Industrial Processes has been replaced by use class E (g) iii – Industrial Processes. We therefore suggest that the condition is only amended to reflect this. It is not fully understood why the applicant has applied for the condition to be varied to also include B8 use – Storage and Distribution. The applicant themselves have expressed confusion on this matter in their supporting letter *“The application is made in response to a requirement by the council that our client makes an application to refer to Class B8, and although our client does not consider that the use to which the building is being put falls within that Class, it is considered expedient to make the application in the face of reference to possible enforcement action or a Breach of Condition Notice.”*

In light of the above statement, clarity is sought from both the council and the applicant as to which use class the current operations fall within. The application documentation gives very limited information on the actual use of the building and no justification is given for the proposed change of use. The Council cannot come to a sound and reasoned decision with so little supporting information.

With regard to the acceptability of the proposals, with reference to the extracts from the Senior Enforcement Officer, the supporting statement submitted with the application states *“the council apparently takes the view that a B8 use is acceptable – by email dated 29th September 2021 the council’s Senior Development Inspector stated “...the Council accepts that the current B8 use of the site is causing minimal harm...”. The same email states that the reason for requiring the application is not because the B8 use is unacceptable, but that breach of condition 10 for a period of ten years would affect its enforceability. It has been put to the applicant, therefore, change to the wording to include B8 would enable the council to retain enforcement capability in ten years’ time if necessary.”* The full response from the Senior Enforcement Officer should be included as part of the submission to allow third parties to better understand the context. The absence of this letter and any kind of genuine supporting statement places members of the public at a significant disadvantage and **prejudices third party interests.**

According to the letter submitted by the applicant, a Senior Officer has advised that the current B8 use of the site is causing minimal harm. It is unclear how the officer can come to this view with so little submitted supporting information and clearly the view expressed by one officer should not prejudice the Council’s final decision on this application.

Given the information provided to me by the residents of Steep Marsh, we consider the harm arising from the current B8 use to be far greater than ‘minimal’ for the following reasons:



## Hours of Operation

Condition 6 of permission SDNP/13/01966/FUL stated:

*“The premises shall not be used outside the hours of 07:00 to 19:00 Monday to Friday, 07:00 to 13:00 Saturday and at no times on Sunday, Public or Bank holidays.*”

Reason: *To ensure that the amenities of the (area/adjacent property) are not detrimentally affected by the use of the site outside reasonable working times.”*

Whilst condition 6 is supposed to restrict the hours the premises can operate, I understand from the residents of Steep Marsh that vehicles have accessed the premises at 1am, 4am and regularly between 5.30 and 5.45am 7 days a week. Therefore, the tenants of the buildings do not comply with the required hours of operation, and therefore frequently breach condition 6 of the original permission. We believe this issue has been brought to the attention of the Enforcement Team previously and the residents have been told that there are different conditions relating to different permissions which makes the hours of operation hard to enforce, however this is not a valid reason for the Council not to uphold this condition.

A review of available online records at Brickyards Industrial Estate has revealed only one other planning consent with a trading hour conditions. Planning application SDNP/19/05299/FUL was a retrospective application to allow Unit 2 to include B1b use, this consent has exactly the same trading hours as consent SDNP/13/01966/FUL.

Extending the use of the site to include Use Class B8 brings with it a very wide range of uses from commercial scale storage and distribution operations, which typically involve Heavy Goods Vehicle movements to self-storage facilities which tend to involve cars and small vans. In both cases vehicle movements do frequently occur throughout the night. There is a genuine concern that by allowing B8 uses onto the site, the Council will be placed under pressure to relax the hours of operation for those uses, most likely through the submission of further retrospective applications (as has been the pattern at this site).

## Noise

Class B8 uses include commercial storage and distribution operations. Typically these types of uses are situated on the edge of the built up areas and are surrounded by commercial uses. In this instance the site is within a small rural settlement situated close to residential uses. Residential uses are

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sensitive 'receptors' to noise pollution. The type noises that are typically generated by Class B8 uses can include:

- HGV engine noises;
- HGV reversing alarms;
- Fork Lift truck movements (including engine and reversing alarms);
- Noises resulting from crates and pallets being loaded, unloaded, dropped and picked up

It is surprising that consent can be sought for an open Class B8 use and no information on noise impact provided. Given the lack of information provided, the Council cannot assess the level of noise impact nor adequately reassure residents that their amenities will be protected.

### **Traffic**

Similar to noise impact, the lack of information provided about transport impact is surprising. It is unclear what discussions regarding transport impact have already been held but these should be placed on the public record in the interests of transparency.

Whilst a variation of condition application (under S73) has been submitted to allow a Class B8 uses to operate under the current planning consent (SDNP/12/00513/FUL) what the application amounts to (and how it should be assessed) is the creation of 310 sq.m of Class B8 floorspace. The comments made by Hampshire County Council in respect of the original application (SDNO/12/00513) no longer apply and will need to be revisited.

In this instance the nature of the use is materially different to that originally consented and is likely to result in an increased number of vehicular trips and an increased number of larger vehicles using the Industrial Estate. Valid concerns were raised by residents previously about HGV's mounting verges and curbs and contributing to the damage of the local highway system. These comments will need to be reassessed in respect of the different nature of the proposed use and consideration will need to be given again to the potential for conflict between the HGVs, parked cars and pedestrians.

Given the above it is not deemed that this level of consideration can or should be given within the scope of a S73 application and in this case the LPA should request the submission of a full planning application (with all necessary supporting documents) to enable the full range of considerations to be properly assessed.

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## Policy Considerations

An unrestricted B8 Use in this location is not appropriate. It is considered that the proposed development would fail to meet the requirements of the following policies within the adopted South Downs Local Plan.

- ***Development Management Policy SD54: Pollution and Air Quality***

The proposal has the potential to have a significant negative affect on people and the natural environment through noise pollution and disturbance.

- ***Strategic Policy SD19: Transport and Accessibility***

The development proposals do not *'demonstrate the continued safe and efficient operation of the strategic and local road networks'*.

- ***Strategic Policy SD35: Employment Land***

The proposal has the potential to adversely impact the *'landscape and other special qualities of the National Park including by reason of traffic, noise or pollution.'*

## Summary and Conclusion

The proposed B8 use is materially different to that permitted under the current operational planning consent. However, by being invited to lodge an application under S73 the applicant has side-stepped the requirement to submit the full range of supporting documents needed to properly assess the impact of the proposal. The LPA should decline the proposal to amend Condition 10 to include this new use and restrict the changes to only make reference to Use Class E.

Any proposal for a new use class in this location should be determined through the submission of a full planning application and a full suite of supporting documents including a noise impact assessment and Transport Impact Assessment. Notwithstanding this, we are of the opinion (for the reasons outlined above) that any planning consent for Use Class B8 on this site should be refused.

## Suggest rewording of condition to:

*Variation of Condition 10 of SDNP /13/01966/FUL to read "Notwithstanding the changes of use permitted within Schedule 2 of the Town and Country Planning (General Permitted Development)*

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*Order 2005 (as amended) the development hereby permitted shall be used for purposes with Class E (g)(iii) and B8 of the Town and Country (Use Classes) Order, 1987 only, and for no other purpose."*

We request that the above matters are taken into consideration when determining the application and would urge the current application to be amended as per the above comments, and if not refused due to the material change and adverse impact resulting from it.

Yours faithfully

A handwritten signature in black ink, appearing to read "J. Packman", with a long horizontal flourish extending to the right.

**Justin Packman, MPlan (Hons) MRTPI  
Associate Director**

Cc – Residents of Steep Marsh

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