

Retention of Employment Land and Premises Supplementary Planning Document -

Adopted 16 December 2015

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1.0 Introduction

- 1.1 The Council seeks to safeguard all employment land within the built up area. This Supplementary Planning Document (SPD) provides clarity on the circumstances where change of use or redevelopment to alternative uses may be appropriate, and the criteria that should be satisfied in order to obtain planning permission for a change of use. Effective delivery of this SPD will therefore help to ensure that loss of any existing employment land or premises is not at the expense of the local economy.
- 1.2 This SPD adopts a sequential approach towards proposals for the redevelopment of employment land:
 1. To retain suitable and viable sites in employment uses as the first preference in all cases;
 2. Where a site is not deemed suitable and/or viable against the tests in this SPD, then the preference is for other employment-generating uses on the site (subject to other material planning considerations) and/or a mixed use development which can be used to cross-subsidise the delivery of new employment uses as part of the site.
 3. To consider alternative employment generating uses outside of the 'B' use classes.

Development Plan background

- 1.3 The Hastings Local Plan currently comprises two key documents that provide the statutory framework for land use and development in Hastings up to 2028 - the Hastings Planning Strategy (2014) and the Development Management Plan (2015). Both these documents are available from the Council's website at http://www.hastings.gov.uk/environment_planning/planning/localplan/.
- 1.4 Policy E1 of the Hastings Planning Strategy delivers the Council's priorities for existing employment land and premises. This states:

POLICY E1: Existing Employment Land and Premises

Effective use of employment land and premises will be secured by the following:

- a) land and premises currently, or last used for employment purposes – including B1, B2 & B8 or any of a use of a similar character not falling within a specified use class, will be retained in such use unless it is demonstrated that there is no reasonable prospect of its continued use for employment purposes or it would cause serious harm to local amenities;**
- b) where continued employment use of a site/premises is demonstrated to be unviable permitting a mixed use enabling development which incorporates employment space will be considered first; if a mixed use scheme is not viable the extent to which any proposed new use generates new employment will be taken into account.**
- c) permitting intensification, conversion, redevelopment and/or extension having regard to other policies of the Plan;**

The Employment Land Retention Supplementary Planning Document gives further details of how parts a) and b) of the policy will be implemented. Proposals for development of live/work units will be supported subject to normal planning considerations.

- 1.5 The information that follows in this SPD provides additional guidance and support for parts a) and b) of Policy E1 above, and constitutes a material consideration in the determination of planning applications.

2.0 Purpose and objectives

2.1 The purpose of the Retention of Employment Land and Premises SPD is to secure the proper implementation of Policy E1 of the Hastings Planning Strategy 2014, by:

- a) ensuring an adequate supply of employment land in Hastings, including:
 - the provision of suitable locations which are available for industrial and commercial developments, and;
 - provision for a broad range of business types from small start-up businesses, through to small, medium and large enterprises
- b) protecting existing and allocated employment sites/premises for industrial and commercial use where there is a good prospect of employment use and to also consider the upgrading or improvement of existing sites.
- c) helping to maintain and support the creation of employment opportunities within the town.

2.2 This SPD is necessary to provide certainty and detail for potential applicants in terms of the evidence the Council requires to be submitted in support of any planning applications for the change of use away from employment B uses. Providing the correct information at the outset will also help to avoid delay in processing such applications.

3.0 Which types of land and premises are included?

- 3.1 The Retention of Employment Land and Premises SPD relates only to cases where a planning application is being submitted to change existing 'B' Use Classes as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended)¹ or any other use of a similar character not falling within a specified use class.
- 3.2 The B use classes comprise the following:
- B1 Business - Offices (other than those that fall within A2), research and development of products and processes, light industry appropriate in a residential area.
 - B2 General industrial - Use for industrial process other than one falling within class B1 (excluding incineration purposes, chemical treatment or landfill or hazardous waste).
 - B8 Storage or distribution - This class includes open air storage.
- 3.3 The SPD applies to employment land and premises across the town as a whole, and not just on established employment estates. The requirements also apply regardless of size or location of premises.
- 3.4 Each application is, however considered on a case by case basis, and on its own merits. If you are in any doubt as to whether the SPD applies to your land or premises, you are advised to contact the Council's Development Management team using the contact details at the end of this document.

¹ Please note that where changes of use constitute permitted development as defined by the 2015 Use Classes Amendment Order, this SPD will not apply. For more information, please see <http://www.planningportal.gov.uk/permission/commonprojects/changeofuse/>.

4.0 The marketing campaign

- 4.1 The Council's starting point is to retain all employment sites within the built-up area that are considered suitable, in land use terms, for continued employment use. Consideration will only be given to alternative uses where an applicant can clearly demonstrate there is no demand for the site and that it is unviable to retain in employment use. This includes taking into account the potential to refurbish existing premises or the redevelopment of the site for new employment uses. By "suitable, in land use terms" this means having regard to material planning considerations such as traffic impact, or impact on amenity.
- 4.2 In all cases, the applicant will firstly be expected to have undertaken a marketing campaign to determine the demand for the site for business purposes. Until this has been undertaken, change of use will not be considered. The campaign should be up to date and relevant to the current owner of the property not partially carried out by a previous owner or out of date.
- 4.3 There are two stages to this marketing process which applicants should follow:
- 1) Marketing the re-use of the site;
 - 2) Marketing the redevelopment of the site for employment purposes.
- 4.4 The Council expects employment land and premises to be actively marketed for at least 12 months before an application for redevelopment or a change to an alternative use can be considered. It may also be necessary to review the effectiveness and quality of the marketing campaign every 6 months.
- 4.5 Existing employment land or premises that are currently not in use are not, by definition, genuinely redundant and will need to be marketed for employment use. A lesser financial return on investment relative to other development or re-use options is not sufficient to justify the site not continuing to be available for employment use.
- 4.6 A simple statement, such as "the site has been on our books for 12 months and no interest has been expressed", will not demonstrate genuine redundancy. The Council requires greater detail on which to make a judgment. Typically this will include a breakdown of the marketing strategy which should be prepared by a suitably qualified professional, such as a Chartered Surveyor who is active within, and familiar with, the Hastings employment land and commercial property market. The marketing strategy should bring the availability of the site to the notice of the local business community, and should include:
- a) The market price and an indication of this price relative to those prevailing for similar premises in the local market, including details of an independent valuation;
 - b) Any reductions in market price made during the course of marketing;
 - c) The marketed use of the site (the Council will expect employment sites to be marketed in a way that identifies all the options available in retaining the site in employment use. This will include, where appropriate, the potential for refurbishment, redevelopment for new employment uses, sub-division, amalgamation or selective demolition (in order to improve the format, layout and access arrangements);

- d) Details of the site particulars, which should include the following information as a minimum:
- Good quality internal and external photographs
 - A description of the site/premises
 - The current permitted use and potential employment uses, subject to planning permission
 - Dimensions of:
 - the building,
 - internal rooms,
 - eaves height and door widths if relevant,
 - gross internal area,
 - size of the total site including any land.
 - Services e.g. electricity, gas, water – any other relevant information
 - Asking price (see 'Price' section below)
 - Any restrictions, conditions and covenants
 - Known costs, such as service charges, rateable value
 - Any other known items included in sale (note – the price expected for these should be disclosed to the Council).
 - Terms/conditions associated with the sale & the sites tenure – leasehold, freehold etc (see also 'Tenure' section below)
 - Extent of site, shown on a site plan
 - Site location including map – the map extract should show the property in relation to the road network
 - Contact details for viewing and more information
 - Any residential element to the property should be removed or subordinate to the commercial particulars
 - Parking availability and access/distances to public transport
- e) A monthly breakdown detailing contact details of interested parties in the property; all expressions of interest/offers received including rental interest, progress and negotiations undertaken including any offers made and reasons for these being rejected. Where possible the applicant should obtain from interested parties reasons/explanations as to why they were not able/willing to proceed. It is not sufficient evidence to just quote number of viewings and generalise on the feedback.
- f) Any variations in the marketed use introduced in the course of marketing;
- g) Where and how often the site was advertised;
- h) Copies of advertisements placed. The dates and publication should also be noted.
- i) Types of client advised of its availability with contact details for them;
- j) Any variations in terms/conditions on which the site is made available;
- k) Whether the site availability was referred to relevant support agencies: Hastings Borough Council's Regeneration Team; Hastings Area Chamber of Commerce (1066 Enterprise) and Sussex Enterprise.

- l) The applicant must inform Locate East Sussex (or any successor body) of the sites availability at the start of the marketing campaign, in order that the enquiry can be logged for this purpose. Contact details are at the end of this document.
- 4.7 In all cases, the marketing campaign should satisfy the parameters set above. It is essential that any deviation from the campaign is agreed in writing with Development Management team from the outset, as this will save time and costs in the future. If a 'non-agreed' campaign is undertaken or has been undertaken where the council is not satisfied that it is in accordance with what would be expected, it will result in a further period of marketing being requested at the planning application stage or could result in a refusal of permission.
- 4.8 The Council reserves the right to contact any party who has expressed an interest and to send details of the land/property to any party which it feels may be interested in purchasing/occupying the premises for occupation, investment or redevelopment purposes.
- 4.9 All of the above evidence should be appended to any planning application. A marketing campaign checklist is set out in Appendix A to help with this process.

Price

- 4.10 It is important the price of the property reflects the current market value of such a property based on its current condition and use status. If the building or site requires extensive conversion/repairs, the price should be based on the unconverted state unless the works are to be undertaken prior to completion.
- 4.11 The price should not include any potential residential or other non-employment use value. You should seek a minimum of one independent valuation obtaining both freehold and leasehold prices for the building in its current condition/state. The basis of the lease should be appropriate to the nature of the use of the building.
- 4.12 It is recommended you obtain an independent valuation of the property, from an established commercial source familiar with the local area and with properties of the type to be marketed. Estate agents usually provide such a valuation service, although other sources may be considered if their credentials can be established. The cost of the independent valuation(s) will be borne by the applicant. This should also be backed by evidence. The valuation(s) should be submitted as part of the evidence accompanying the planning application and the Council may ask for justification of the price.

Tenure

- 4.13 You should be prepared to offer the property or site on both a leasehold and freehold basis in order to widen appeal and help ascertain the level of interest. Flexible terms, such as short leases, monthly licences and regular break clauses are encouraged. Again, any lease price should take into account the current condition and use of the building.

Advertisements

- 4.14 Advertisements for the marketing campaign should include:

- a) An advertisement should be featured at least once a month within the Commercial Section of appropriate newspapers, and at least through regional and local publications. Larger sites (1000m² and above) should also be advertised in national publications. Examples of appropriate newspapers include The Argus, Estates Gazette and Property Week. (Please note, this list is not exhaustive). There may be some publications that are inappropriate for the advertisement of commercial sites/premises. In all instances therefore, it is advised that you seek advice regarding your advertisement intentions from the Council's Development Management team. In cases where the property is part commercial/part residential, it is not appropriate for an advert to be placed solely in the residential section of the newspaper.
 - b) Trade magazines specific to commercial property or to specific industries may instead be used if more relevant to the industry. The intervals of advertisement would depend on the regularity and circulation of publications.
 - c) Continuous inclusion on the agent's website, own papers and lists of commercial/business premises;
 - d) The continuous display of a 'for sale/lease' board must be displayed on site on each site frontage to the highway throughout the marketing campaign, unless otherwise agreed.
 - e) Referral to the local business community, including the Hastings Area Chamber of Commerce for consideration of the site's/premises potential for reuse or redevelopment for employment use.
- 4.15 Applicants should note that the Council will not lightly make a decision that the marketing strategy is inadequate where applicants have adequately addressed the issues identified in this supplementary planning guidance. However it may secure independent advice on difficult, more complicated sites.
- 4.16 In instances where the Council considers that the marketing strategy employed has been inadequate, the applicant will be advised that the planning application cannot be recommended for approval. The applicant will be given the following options:
- a) To withdraw the application and further market the site addressing the concerns identified by the Council;
 - b) To withdraw the application and submit the marketing strategy to independent arbitration by a suitably qualified commercial agent agreed by both parties (in the absence of such an agreement to be nominated by the President of the Royal Institute of Chartered Surveyors) with the cost to be borne by the applicant;
 - c) To continue in the knowledge that the application will potentially be refused.

5.0 Changing to alternative uses

- 5.1 The diagram below shows the approach the Council will take in determining whether an alternative use to that existing can be considered, once contact with the Council and a marketing campaign has been undertaken.
- 5.2 The following tests should be examined concurrently through your marketing campaign.

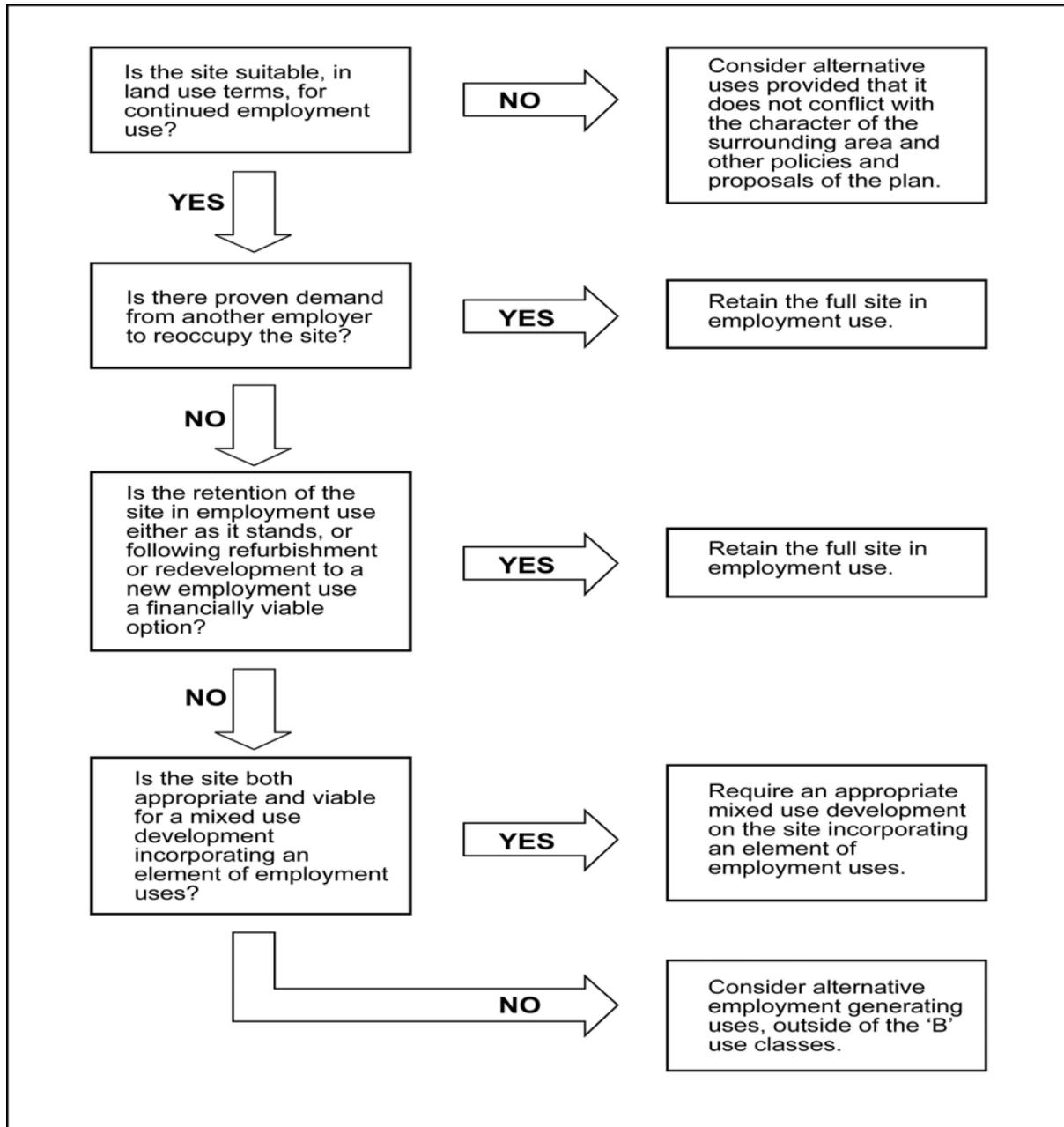


Figure 1: The Council's approach towards proposals that involve the loss of employment land and premises to other uses.

Test 1 – Is the site suitable in land use terms for continued employment use?

- 5.3 Where an applicant is seeking to demonstrate that an existing employment site is not suitable, in land use terms, for continued employment use, the Council will expect a

planning application to be accompanied by a detailed supporting statement to support this case.

- 5.4 In determining a site's/premises suitability in land use terms, the Council will take into account the fact that there are considerable differences between employment uses. Although one use may, at present, cause amenity issues, this does not necessarily rule out the ability of the site/premises to accommodate a less disturbing employment use.
- 5.5 Where consideration is being given to alternative uses of employment land or premises, any such proposals must ensure that the proposed use does not conflict with the character of the surrounding area and other policies and proposals within the Plan, or any other material considerations.

Test 2 – is there proven demand from another employer to reoccupy the site?

- 5.6 Is there a proven demand for other employment uses to occupy the premises/site in its present condition?

Test 3 - Is the retention of the site in employment use either as it stands or following refurbishment or redevelopment to a new employment use a financially viable option?

- 5.7 There may be instances where an applicant can demonstrate that there is no demand for an employment site in its present condition and that the site's buildings are of a state that they would be unsuitable for continued employment use. In such cases, it is important to recognise that the value offered by such sites does not arise solely from the existing buildings but from the potential the site offers as a suitable location for future employment uses. The Council will therefore, expect an applicant to provide evidence showing careful consideration of how the site could be refurbished or redeveloped for employment purposes; and that they have marketed it accordingly.
- 5.8 Furthermore, although the retention of the site in employment use may not be viable at a particular moment in time, the economics of development may change over time and refurbishment/redevelopment for employment uses could potentially become a viable proposition in the future. In this respect, such sites are still considered to have value as an employment resource.
- 5.9 In view of this, applicants will be expected to clearly demonstrate in a supporting statement accompanying the planning application, why they consider that new employment development cannot be achieved on site for reasons of financial viability. The Council will give full consideration to the evidence submitted. It may need to take independent advice on the information provided and the applicant will be expected to pay the Council's expenses for this.
- 5.10 There are two stages to establishing that a site is in such a poor condition that it is uneconomic to either refurbish or redevelop it for employment purposes:
- 1) Establish from marketing that prospective occupants are not proceeding with the purchase because of the condition of the premises;
 - 2) Establish that the costs involved in refurbishing or redeveloping the site for employment use are greater than the return that could be anticipated.

- 5.11 The Council is unlikely to concede that the site is in poor condition unless this conclusion can be drawn from site marketing evidence (this evidence must be provided in line with section 4 of this SPD – the marketing campaign). In considering marketing evidence, the Council will pay particular attention to the market price at which the site has been offered. It will expect the price to reflect the current state of the property.
- 5.12 The following evidence will be required to demonstrate a case that the costs of refurbishment/redevelopment exceed the likely returns from the site:
- a) A full structural survey of the existing premises highlighting the matters that require refurbishment or which are incapable of refurbishment. This survey should be prepared by a suitably qualified professional consultant;
 - b) A survey of the site from an operational point of view indicating any exceptional or site specific costs. These costs to be prepared by a suitably qualified professional consultant;
 - c) A detailed cost breakdown of the works required to refurbish/redevelop the site. These costs to be prepared by a suitably qualified professional consultant;
 - d) Written evidence from 3 recognised separate financial institutions of the likely cost of borrowing over a fifteen year period to fund these costs;
 - e) Written evidence from 3 recognised separate financial institutions that they would not be prepared to advance finance for refurbishment/redevelopment, with the applicant to bear any costs involved in obtaining this information;
 - f) An indication (in the case of a prospective landlord) that the anticipated rate of return from the premises would not cover the costs of refurbishment/redevelopment;
 - g) An indication (in the case of a prospective owner occupier) that the level of income needed to cover both the costs of refurbishment/redevelopment and other necessary overheads would be unsustainable.
- 5.13 The Council will seek to verify any such information submitted under these criteria. It is recognised that some of this information is of a confidential nature and the Council will take steps to ensure that it is not made publicly available or used for purposes other than those set out in this SPD.
- 5.14 Where it can be demonstrated that redevelopment for employment purposes alone cannot be achieved on financial grounds, the Council expects applicants to consider:
- a) Approaching support agencies to see whether additional funding may be available to assist the redevelopment; and
 - b) Preparing alternative schemes which can deliver some employment floorspace on the site.

Test 4 - Is the site both appropriate and viable for a mixed use development incorporating an element of employment uses?

- 5.15 There may be instances where a site's sole use for employment purposes is no longer viable. In such cases the Council will expect applicants to have examined the

possibility of developing either mixed use schemes, including live/work units, or other elements including some residential to cross fund development. In such cases, and where this is demonstrated by the applicant/agent, the Council will adopt a more flexible approach and, will seek to secure a mix of land uses.

- 5.16 In assessing such proposals the Council will normally expect, at least, the equivalent amount of employment floorspace to be delivered on site as exists under the present use. Where this cannot be achieved the Council will expect that the other elements of the scheme should be the minimum necessary to support a viable employment development on the site. Applicants will be required to submit a reasoned justification as to why the employment floorspace cannot be replaced in full.
- 5.17 When determining the proportion of the overall site to be developed for employment uses, the Council will assess the individual merits of each case, but in doing so will take account of the employment resource being lost and the potential level of employment that can be achieved within the mixed use development.
- 5.18 If a mixed use scheme is pursued, then any planning permission granted, subject to other material considerations and those items detailed in this SPD, will be conditional on the delivery of the employment uses on the site which is linked to the higher value use/s. It will normally be expected that the employment element will be required to be constructed in advance of the higher value uses.
- 5.19 Where an applicant has demonstrated the continued use of a site/premises either for solely employment use or a mixed use scheme is not viable, then in accordance with our sequential approach, other employment generating uses not within the 'B uses' of the Town & Country Planning (Use Class Order) 1987 (as amended) will be preferred.
- 5.20 If an applicant/agent considers that an employment scheme can only be made viable by incorporating a residential element to the scheme, then it should be demonstrated why a non-residential mixed-use development, including employment floorspace, is not feasible on a particular site. The evidence required should include relevant cost information as detailed in the viability section of this SPD. Where this is satisfactorily demonstrated residential development proposals will need to demonstrate that the resulting residential amenity conditions are satisfactory and that there would be no unacceptable impact on the operating conditions of existing and potential businesses allowable at a location by virtue of its potential use classification.
- 5.21 Any outline approval granted for residential development on an existing employment site will normally be conditioned to ensure that any subsequent reserved matters conform with the agreed approach, whether that be in relation to a mixed use proposal or through the conversion for other employment generating uses.

What will be done with the evidence?

- 5.23 Evidence will largely be assessed in house. However, in exceptional circumstances the Council may seek external advice and verification of the evidence submitted.

6.0 Further Information

Status of this Supplementary Planning Document (SPD)

- 6.1 This SPD is a material consideration to be taken into account in determining planning applications. Planning Inspectors will also have regard to it in deciding appeals against refusals of planning permission.

Contact details

Hastings Borough Council Development Management team

- 6.2 For further information regarding the implementation of this SPD, or clarification of any of the information requirements required, please contact the Council's Development Management team using the following details:

Telephone: 01424 451090

Email: dcenquiries@hastings.gov.uk

By post:
Aquila House
Breeds Place
Hastings
East Sussex
TN34 3UY

This SPD is available to view or download from our website at www.hastings.gov.uk/spd

Locate East Sussex

- 6.3 To inform Locate East Sussex about site availability as part of the marketing campaign, please contact the Locations Services Manager using the following details

Telephone: 0844 4159255

Email: enquiries@locateeastsex.org.uk

Appendix A – Marketing Campaign Checklist

		Yes	No	Date
1	Contact made with the Council's Planning Department			
2	Advice received from the Planning Department in relation to your proposal.			
3	Did the advice request a marketing campaign to be undertaken? If yes – please continue to steps below If no – An application can be submitted without following the steps below			
4	Written details of the required scheme received from Hastings Borough Council Development Management team			
5	Submission of details forwarded to the Council's Development Management case officer for consideration. (The following must form part of your submission) Site Particulars: a) Are the following included? <ul style="list-style-type: none"> • external photo(s); description of the site/premises; • current permitted use and potential uses subject to planning; price and tenure; dimensions of: <ul style="list-style-type: none"> - building - internal rooms - gross internal area - size of the total site including any land - services; • restrictions and covenants that may affect the site; • location map extract; contact details for viewings (other relevant information to attract potential commercial investors should also be detailed) b) Advertisement details: <ul style="list-style-type: none"> • A draft advert indicating the size and format together with confirmation of where the advert will be placed and its regularity. • Confirmation of how the property will be advertised including online advertising c) For sale/to let board: <ul style="list-style-type: none"> • Confirmation that a for sale/to let board will be erected on site d) Evidence based information: <ul style="list-style-type: none"> • Details of negotiations, independent valuation and sales particulars prior to start of campaign. • The method and format of reporting progress of 			

		Yes	No	Date
	<p>interested parties, copies of advertisements placed the date and publication</p> <ul style="list-style-type: none"> The methods and format of reporting the final marketing campaign and its results 			
6	Have the above details been formally agreed by the Council and written acceptance been received?			
7	Has the start date and length of campaign been confirmed in writing?			
8	<p>Evidence based information:</p> <ul style="list-style-type: none"> Submission reports (at agreed intervals) to the Council's Development Control Case Officer including copies of advertisements placed, the date and publication 			
9	<p>Evidence based information:</p> <ul style="list-style-type: none"> Submission of final summary of marketing campaign to the Council's Development Control Case Officer for consideration 			
10	<p>Written confirmation received from the Council that the campaign has been undertaken in a manner that satisfies the requirements of Policy E1.</p> <ul style="list-style-type: none"> If yes please append all of the above evidence to any future planning application If no further negotiations will be required before submitting a planning application 			