

Examination of the Tunbridge Wells
Borough Local Plan

**Tunbridge Wells Borough Council
Hearing Statement**

**Matter 10: Employment,
Economic Development and
Infrastructure (Policies STR5,
ED1, ED2, ED3, ED4, ED5,
ED6, ED7, ED8 and ED12)
Issue 3: Retention of Existing
Employment Sites and Buildings**

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Matter 10 – Employment, Economic Development and Infrastructure (Policies STR5, ED1, ED2, ED3, ED4, ED5, ED6, ED7, ED8, and ED12)

Issue 3 – Retention of Existing Employment Sites and Buildings

Inspector’s Question 1: [sites which Policy ED2 relates to and application of its requirements]

What sites does Policy ED2 relate to? Do the requirements apply to all sites and buildings used for employment purposes, or only allocated sites?

TWBC response to Question 1

1. Policy ED2 relates to all sites and buildings that are in employment use, not just sites within designated Key Employment Areas or proposed site allocations, as set out at paragraph 6.450 of the supporting text to Policy ED2 on page 433 of the Submission Local Plan (SLP) [[CD 3.128](#)]:

“In addition to the provision of new sites and allocations to meet the employment needs of the borough, it is also important that the stock of existing employment sites is maintained across the whole borough (not just within the Key Employment Areas). The Council’s Economic Needs Study 2016 (ENS), its Economic Development Topic Paper, as well as the Tunbridge Wells Retail, Commercial Leisure and Town Centre Uses Study Update (2021) provide strong economic justification for the retention and protection of the borough’s supply of existing employment sites and buildings where they are well located, in order to continue to be available to meet the needs of existing and expanding/modernising businesses. This applies to a range of business uses and types of employment across the borough, including office use, light

manufacturing, workshops, storage use, and smaller business enterprises in the rural areas.”

2. An explanation of why Policy ED2 applies to all sites and buildings in employment use, is set out under Question 2 below.

Inspector’s Question 2: [justification if the policy requirements apply to all sites]

If the requirements are intended to apply to all sites, are they justified, appropriate and proportionate?

TWBC response to Question 2

3. As confirmed under Question 1 above, Policy ED2 is intended to apply to all sites and buildings which are in an existing form of employment use (Class E -Commercial, B2 - industrial, B8 – storage and distribution and other employment generating uses). This includes sites in both urban and rural areas across the borough.
4. Firstly, as set out at paragraph 10.32 on page 158 of the Economic Needs Study (ENS) 2016 [\[CD 3.87\]](#), there is considered to be strong economic justification for the retention and protection of the borough’s supply of employment land and premises. To help protect the supply of sites the ENS recommends that:

“The Council adopts criteria based protection policies (that are consistent with the NPPF), and where proposals for non-policy compliant uses come forward, it requests robust evidence that the site is no longer suitable or viable for employment related use.”
5. Secondly, the Council’s response to Matter 10, Issue 1, Question 1 (TWLP/053) sets out the Key Employment Areas (KEAs) in the borough:
 - 1) Royal Tunbridge Wells Town Centre [\[3.129c\(v\) Inset Map 2\]](#);
 - 2) Royal Tunbridge Wells/North Farm/Longfield Road area [\[3.129c\(ii\) Inset Map 1b\]](#) ;
 - 3) Southborough High Brooms Industrial Area [\[3.129c\(ii\) Inset Map 1b\]](#);
 - 4) Paddock Wood Eldon Way and Land West of Maidstone Road [\[3.129d\(i\) Inset Map 4\]](#);
 - 5) Paddock Wood Transfesa Road East and West [\[3.129d\(i\) Inset Map 4\]](#);
 - 6) Hawkhurst Station Business Park at Gill’s Green [\[3.129g\(ii\) Inset Map 16\]](#);
 - 7) Capel Brook Farm [\[3.129e\(iii\) Inset Map 9\]](#) .
6. With the exception of the KEA at Hawkhurst Station Business Park, Gill’s Green, these KEAs are located in the north-western part of the borough. It is considered that in applying Policy ED2 to all existing employment sites and buildings, this will proportionally

offer some protection to other areas of the borough including the other town and rural service centres within the borough and the smaller rural settlements, supporting both the wider and rural economy of the borough. Indeed, paragraph 6.445 in the supporting text to Policy ED1 on page 431 of the SLP [[CD 3.128](#)] recognises that in addition to the Key Employment Areas:

“...there are other smaller employment 'hubs' across the whole borough, particularly in the rural areas, and these will be afforded protection through the retention of existing employment sites and buildings as set out in Policy ED 2.”

7. In addition, it is recognised in the Plan that existing employment buildings and sites of good quality, especially if well located in terms of transport connections, should not be lost as a result of short-term trends and changes in demand. Paragraph 6.451 of the supporting text to Policy ED2 on pages 433 and 434 of the Submission Local Plan (SLP) [[CD 3.128](#)], states that:

“The demand for office and other employment-generating uses can be expected to fluctuate over the plan period in accordance with changes in economic and market conditions. This is further emphasised by the impact of the 2020/2021 Covid-19 pandemic giving rise to an increase in homeworking and resulting in uncertainty across the business/employment sector of the local economy. It is important, therefore, that good quality existing sites and buildings are not permanently lost to alternative uses as a result of short term trends and changes in demand.”

8. Finally, as set out at paragraph 6.447 on pages 431 and 432 of the SLP, the recently amended Town and Country Planning Use Classes Order includes the introduction of two new use classes; E - Commercial, Business and Service uses and F - Local Community and Learning uses, which have replaced some of the former use classes A, B, and D. The changes allow much more flexibility in permitted changes of use, without requiring the submission of a planning application in some cases. Therefore, where full planning permission is needed for a change of use, it is considered necessary and appropriate to retain appropriate land and buildings in employment use (that are well located and fit for purpose) to help to compensate for any losses falling under permitted development rights.

9. In summary, the application of Policy ED2 to all sites in existing employment use, subject to the criteria set out, is considered to be justified, proportionate and appropriate as it supports the strong economic justification for the retention and protection of the borough's supply of employment land and premises set out in the findings of the ENS, it will proportionally allow for the protection of existing employment sites and buildings outside KEAs in both urban and rural areas of the borough; and will help to compensate for losses as a result of more flexible permitted development rights.

Inspector's Question 3: [justification for, and application of, 18-month marketing period]

What is the justification for requiring 18-months of marketing? Is this necessary for all applications for changes of use?

TWBC response to Question 3

What is the justification for requiring 18 months of marketing?

10. As set out at paragraph 10.32 on page 158 of the Economic Needs Study (ENS) 2016 [[CD 3.87](#)], and in the response to Question 2 above, there is considered to be strong economic justification for the retention and protection of the borough's supply of existing employment land and premises. To help protect the supply of sites the ENS recommends that:

"The Council adopts criteria based protection policies (that are consistent with the NPPF), and where proposals for non-policy compliant uses come forward, it requests robust evidence that the site is no longer suitable or viable for employment related use including, as a minimum, evidence that the site has been actively marketed for at least 2 years with no prospect of being developed/redeveloped for its intended use."

11. In line with the above recommendation in the ENS, Policy ED2 was originally drafted with a two-year marketing period in the Draft Local Plan 2019 (see criterion c. on page 463 of [CD 3.9](#)). However, given the current changing economic climate, including the impacts of Covid-19, and comments received to the Regulation 18 consultation for the Draft Local Plan, the marketing period was reviewed with officers from the Council's Economic Development Team. In addition, the Council's Retail, Commercial Leisure & Town Centre Uses Study Update 2020 now recommends a marketing period of 18 months for demonstrating that retail units in the Primary Shopping Area no longer have a realistic prospect of being occupied in their current use (see pages 179 to 180 of [CD 3.86a](#)) and it is considered this timescale could be appropriately applied to other employment uses. Therefore, overall, a reduced period of 18 months is considered to be more appropriate. The policy wording at criterion c of the Policy is worded to reflect this in the Pre-Submission Local Plan (see paragraph 6.453 and criterion c. of the Policy on pages 430

and 431 of [CD 3.58](#)), and subsequently in the SLP (see page 435 of the Submission Local Plan (SLP) [CD 3.128](#)), as follows :

“c. marketing must be for a period of at least 18 months at a time when the site is available, or will be available within an acceptable timeframe, with an appropriate agent;”

12. It is considered that a minimum period of 18 months is required to allow sufficient time for other requirements of the policy to be fulfilled such as demonstrating that efforts to promote, improve, and market the facility/property, for sale or rent, at a reasonable value which reflects the existing use and condition of the building has been undertaken.

Is the 18 months of marketing necessary for all applications for changes of use?

13. The application of criterion 4(c) of Policy ED2 is considered to be justified, proportionate and appropriate for the reasons set out under Question 2 above, i.e. the policy will be consistently applied to all applications for change of use resulting in the loss of existing employment and the criteria of the policy will be considered against the proposal. Likewise, it is considered appropriate and necessary that the criteria within it, including the 18-month marketing period, would also need to be consistently applied, and each case assessed on its merits.

Inspector's Question 4: [policy requirements for non-employments uses in KEAs]

How would a decision-maker react to a proposal for an alternative use on a Key Employment Site?

TWBC response to Question 4

14. On the assumption that this question relates to Key Employment Areas (not Key Employment Sites as stated), in terms of how a decision maker would react to a proposal for an alternative use in a Key Employment Area (KEA), firstly, it is considered that it would need to be established what is meant by an alternative use i.e. whether this is an alternative type of employment use (for example a change from office use to retail use) or a non-employment use (such as office use to residential use), as the policy provision set out below is different for each.

Permitted development rights

15. Also, any such change of use may benefit from 'permitted development' under the recently revised Use Classes Order and may not require the benefit of full planning permission, particularly for those uses falling within Class E (Commercial) of the Order which is intended to allow flexibility between commercial use classes, as recognised at paragraph 6.447 on pages 431 and 432 of the supporting text to Policy ED1: The Key Employment Areas in the Submission Local Plan (SLP) [CD 3.128](#):

"The Town and Country Planning Use Classes Order as recently amended (1 September 2020) includes the introduction of two new use classes; E - Commercial, Business and Service uses and F - Local Community and Learning uses, which will replace some of the uses in existing classes A, B, and D. The changes allow more flexibility in permitted changes of use, without requiring the submission of a planning application in some cases, such as new Class E, which is in 11 parts and more broadly covers uses previously defined in the revoked Classes A1 (shops)/A2 (financial and professional services)/A3 (restaurants and cafes), B1 (offices, research, light industrial Tunbridge Wells Borough Local Plan 431 Submission Local Plan uses), D1(a-b) (non-residential institutions - schools, nurseries, clinics, etc.) and 'indoor sport' from D2(e)."

Relevant planning policies

Policy ED1: The Key Employment Areas

16. Where it is established that planning permission is required, for any proposals within KEAs, the decision maker should refer to Policy ED1: The Key Employment Areas in the first instance. As set out at paragraph 6.448 (on page 432 Submission Local Plan (SLP):

“The Key Employment Areas are defined on the Policies Map, and the mix of uses appropriate within these areas is set out within Policy ED 1 below. This policy details which uses should be both directed to, and retained within, these areas. This includes a mix of the traditional Business Class E (g) (formerly Class B1), General Industry (Class B2), and Storage and Distribution (Class B8) type uses, but also considers other types of complementary uses which it may be appropriate to encourage or retain within these areas. Such uses include leisure and retail where appropriate, particularly for the North Farm/Longfield Road area in Royal Tunbridge Wells, which is already established as a mixed employment, retail, and leisure destination. However, as mentioned previously above, some changes of use may occur without requiring the submission of a planning application under the revised Use Classes Order.”

17. Should the proposal fall within a use stated within the Table 12 in Policy ED1 on pages 432 and 433 of the SLP, which sets out the mix of uses which are considered to be appropriate in the defined Key Employment Areas, then as stated in the Policy, these will be acceptable in principle in these defined areas of use, subject to other policies in the Plan. For the KEAs in Royal Tunbridge Wells and Southborough, it is also stated that other sui generis uses of an appropriate type and scale may be acceptable. Proposals which fall outside the uses stated in the table, will be assessed against Policy ED2 below and/or other development policies listed at paragraph 22 below depending on the proposal/use proposed.

Policy ED2: Retention of Existing Employment Sites and Buildings

18. For proposals which would result in the loss of an existing employment use, these would be determined against Policy ED2 (see page 435 of the SLP [[CD 3.128](#)]). The first part of this policy seeks to retain uses that are well located to the transport network, would be

suitable for a range of employment uses and are physically and viably capable of providing good quality accommodation (which may be through redevelopment):

“Existing employment sites and buildings will be retained in their existing use, or an alternative employment-generating use, to support the vibrant and balanced economy of the borough, taking into account whether they:

- 1. Are well located to a main road and public transport networks;*
- 2. Provide, or are physically and viably capable of providing, through redevelopment, good quality modern accommodation attractive to the market;*
- 3. Are capable of meeting a range of employment uses to support the local economy;*
- 4. Have been identified as being suitable for alternative uses in the Local Plan or another adopted development document.”*

19. In addition, criteria a. to d. of Policy ED2: Retention of Employment Sites and Buildings (pages 433 to 435 of the SLP) would apply. These criteria seek justification for the loss of any such employment use through the submission of robust evidence to show the property has been actively marketed (for a minimum period of 18 months), that the use is no longer viable and there is no prospect of the existing building/site, including through improvement or redevelopment, continuing in its current use, as set out under criteria a. to c.:

“Applicants seeking to redevelop/convert existing employment buildings and sites to non-employment uses must demonstrate the following:

- a. provide robust evidence to show that the site has been proactively marketed, at the appropriate price, and using relevant publications, for the existing use or other potentially suitable employment-generating uses;*
- b. provide evidence that there is no prospect of the existing buildings, or the partial or comprehensive redevelopment of the existing buildings, continuing for the current use;*

c. marketing must be for a period of at least 18 months at a time when the site is available, or will be available within an acceptable timeframe, with an appropriate agent;”

20. Should this loss be fully demonstrated and justified, then the Policy goes on to set out the alternative uses which should be considered in a specific sequential order as set out under criteria d. (i.to v.). The relevant section of Policy ED2 states:

“d. where it has been demonstrated, through an independent assessment, that the current use is no longer viable and that there is no reasonable prospect of continued use or take up of other employment-generating uses during the plan period, proposals for redevelopment must consider alternative uses in the following order:

i. other business uses;

ii. all other non-residential, employment-generating uses;

iii. residential employment-generating uses (C1, C2);

iv. a mixture of residential and employment-generating uses, including 'live/work' units;

v. wholly residential schemes (C3)”

21. The final part of the Policy may allow some provision for an alternative use where it is part of a mixed use scheme:

“Redevelopment of employment buildings and sites for mixed use may be permitted where such development:

1. Would facilitate the regeneration of the site to more effectively meet the needs of modern business;

2. Where the employment capacity of the site, represented by commercial floorspace, is maintained;

3. Where a mixed use development would represent a sustainable approach consistent with the general distribution of development.”

Other policies

22. In addition to the above policies and any relevant policies in 'made' Neighbourhood Plans, depending on the type of proposal/use, its size, location, context and site constraints and which KEA it is located in, proposals may also be considered using other SLP [[CD 3.128](#)] development management policies such as:

- EN2: Sustainable Design Standards (pages 331 and 332)
- EN3: Climate Change Mitigation and Adaptation (pages 333 to 337)
- EN5: Heritage Assets (pages 340 to 346)
- EN9: Biodiversity Net Gain (pages 355 to 358)
- EN12: Trees, Woodland, Hedges and Development (pages 364 to 367)
- EN19: Rural Landscape (pages 376 to 379)
- EN21: Air Quality (pages 382 to 384)
- EN25: Flood Risk (pages 390 to 392)
- EN26: Sustainable Drainage (pages 392 to 394)
- EN27: Noise (pages 395 to 397)
- EN28: Land Contamination (pages 397 to 399)
- TP1: Transport Assessments/Statements, Travel Plans, and Mitigation (pages 461 and 462)
- TP2: Transport Design and Accessibility (pages 462 to 464)
- TP3: Parking Standards (pages 464 to 470)

23. It is also expected that such development proposals would be assessed having regard to any guidance documents referred to under the above policies such as the list of guidance documents (both national and local) set out under paragraph 6.24 in the supporting text to Policy EN1: Sustainable Design (see page 325 of the SLP [CD 3.128](#)), where relevant.

Inspector’s Question 5: [proposed changes to Policy ED2 in the Submission Local Plan]

What are the suggested changes proposed to Policy ED2 in the submission version Local Plan? Why are they necessary for soundness?

TWBC response to Question 5

24. Table 1 below sets out the suggested changes to Policy ED2 in the Submission Local Plan (SLP) [CD 3.128], (this is similar to that presented on pages 54 and 55 of the Schedule of Additional (Minor) Modifications 1 November 2021 [CD 3.127]); and explains the reason for each change.

25. The same proposed changes are underlined in the supporting text and policy wording in the SLP at pages 434 and 435.

Table 1: Proposed modifications to the wording of Policy ED2 in the Submission Local Plan

Section of Plan	Policy/paragraph	Pre-Submission Local Plan 2021 text	Modification in Submission Local Plan	Reason for change
Section 6: Development Management Policies – Economic Development	Retention of Existing Employment Sites and Buildings, Permitted Development Rights and Article 4 Directions Paragraph 6.453	Applicants submitting planning applications for the conversion/change of use of employment buildings, or sites for alternative uses, should demonstrate that consideration has been given to the criteria set out within Policy ED 2. Such applications should be supported by:	Applicants submitting planning applications for the conversion/change of use of employment buildings, or sites for alternative uses, to <u>non-employment uses</u> should demonstrate that consideration has been given to the criteria set out within Policy ED 2. Such applications should be supported by:	For clarity that redevelopment and conversion relate to that for non-employment uses
Section 6: Development Management	Policy ED2: Retention of Existing	Criterion 3: Are capable of meeting a range of	After criterion 3, add a further criterion:	For clarity and consistency with specific

Section of Plan	Policy/paragraph	Pre-Submission Local Plan 2021 text	Modification in Submission Local Plan	Reason for change
Policies – Economic Development	Employment Sites and Buildings Policy Box	employment uses to support the local economy	<u>4. have been identified as being suitable for alternative uses in the Local Plan or another adopted development plan document.</u>	Local Plan site allocations
Section 6: Development Management Policies – Economic Development	Policy ED2: Retention of Existing Employment Sites and Buildings Policy Box	Applicants seeking to redevelop/convert existing employment buildings and sites must demonstrate the following:	Applicants seeking to redevelop/convert existing employment buildings and sites <u>to non-employment uses</u> must demonstrate the following:	For clarity that redevelopment and conversion relate to that for non-employment uses

26. The proposed changes have been made taking into consideration the comments received to the Regulation 19 Pre-Submission Local Plan Consultation 2021, which are set out on pages 413 and 414 of Part 2 of the Council’s Consultation Statement for the Submission Local Plan [\[CD 3.134b\]](#), as well as further consideration by the Council of the appropriate application of the policy.

27. Firstly, the comments received considered that the PSLP wording of the policy implies that criterion (a) to (d) of the policy would apply to all conversions or changes of use whether the proposal is for employment use or not; and it would be onerous to apply the tests/criteria within the Policy when changing from one employment use to another form of employment use.

28. Taking into account the comments received above, and on further review of the Policy wording, it is considered that the proposed changes are required to provide greater clarification of the policy approach for the retention of existing employment sites and buildings and should apply to the loss of non-employment uses only.

29. Secondly, the comments received considered that the PSLP policy appears to still apply to sites which have been identified in the plan as being suitable for alternative uses (i.e. through proposed site allocations) and that this should be clarified.
30. Again, it is considered that the proposed additional criterion (criterion 4 in the first part of the Policy) is required for clarification and consistency with any proposed site allocations in the SLP for alternative non-employment uses.
31. Therefore, it is considered that the amendments proposed in the SLP are appropriate and necessary in order to aid clarity and the appropriate application of the policy by decision makers.