

USE CLASSES ORDER - CONSULTATION ON CHANGE

1 SUMMARY

- 1.1 This report seeks Members' views on the Government's options for changes to the Use Classes Order. A response is required by 18th March 2002.

2 INTRODUCTION

- 2.1 In February 2000, the Department of Transport, Local Government and the Regions (DTLR) commissioned research into the impact of the Use Classes Order on the delivery of planning policy objectives.
- 2.2 As a result of the research, the Government has identified a series of options for changes to the Use Classes Order. The consultation paper asks a series of questions about the various options and these are appended to this report. (Appendix One).

3 THE OPTIONS EXPLAINED

The A Use Classes

- 3.1 The current provision arrangements are reproduced in Appendix Two. The consultation document proposes four possible options for amendment to the A Use Class. The four options are reproduced in Appendices Three to Six.
- 3.2 It is considered that the best option would be Option 2, which merges Use Classes A1 and A2 to form a new "mixed retail" use. This alternative would increase flexibility to change between shops and other services for visiting members of the public, but would ensure that Local Planning Authorities could retain control over all establishments for eating and drinking.
- 3.3 It is not considered that the size threshold option suggestion in Option One would make sense, since it would have the potential to allow small restaurants and cafes etc., that could, despite their size, still have a very significant impact in sensitive locations.

The B Use Classes

- 3.4 The current arrangements are explained in Appendix Seven.
- 3.5 The main option for change proposed by the Government is to introduce a new Class of 'clean production processes as an alternative

to industrial processes appropriate in a residential area'. However, no definition of 'clean production' is provided and it is considered that the retention of the current flexibility and simplicity of the existing B1 Use Class is justified.

The C Use Classes

- 3.6 The current arrangements are explained in Appendix Eight. The research report made no recommendations for change to this Class and the consultation paper does not suggest altering it.
- 3.7 Whilst some concerns have been expressed about the definitions of 'hotel' and 'hostel', the acceptability of allowing houses to be used by six individuals and short-term lets of housing, it is considered that the existing Class functions effectively and should not be altered.

The D Use Classes

- 3.8 The current arrangements are explained in Appendix Nine. The breadth of Classes D1 and D2 has always given cause for concern. The main issue raised in the research related to nightclubs.
- 3.9 Of three options suggested for the D Classes, it is considered that the introduction of a new Class specifically for nightclubs merits support. Change from a nightclub to uses listed in D2 could be permitted without the need for an application.

Temporary Uses

- 3.10 At the moment, the Use Classes Order allows the use of land for 28 days (motor sports, clay pigeon shooting or war gaming) or for 14 days (markets and car and motorcycle racing) without the need for consent.
- 3.11 The provision for temporary uses is intended to be beneficial to the community by allowing infrequent recreational and fundraising events. However, there is no doubt that many activities that cause damage to interests of acknowledged importance take advantage of the permitted development rights.
- 3.12 It is considered that only the complete removal of the temporary use provisions would properly address these problems. This change would initially result in a spate of applications being submitted, but once appropriate consents had been issued to Schools, for example, to hold events on a number of days in any one year, the situation would settle down.

- 3.13 The only other option suggested that merits consideration would be a system of 'prior approval' where event organisers could ask a Local Authority if planning permission is required. This option would, however, make it difficult for event organisers to plan ahead and rights of appeal, etc., would certainly mean that many events would be jeopardised due to the lengthy timescales involved.

4 CONCLUSIONS

- 4.1 It is suggested that the response to the Use Classes consultation paper should be as follows:

- Class A - Option 2
- Class B - No change
- Class C - No change
- Class D - No change, but introduce a new D Class for nightclubs which would allow change from nightclub to D2 Uses.
- Temporary Uses - The temporary use provisions be removed from all temporary uses.

5 RECOMMENDATION

It is proposed that the Committee **RESOLVES**

That, subject to comments from Members, a response to the DTLR consultation document on the Use Classes Order be sent in accordance with the conclusions of this report. (HPS)

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Background Papers: Use Classes Order - DTLR January 2002

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APPENDIX 1

Part 9 - Summary of Questions/Recommendations**Key Principles**

Question 1 - Do you agree that the UCO and GPDO provisions should be constructed in a way which allows the maximum possible deregulation consistent with delivering planning policy and wider objectives, including protecting amenity?

Local Flexibility

Question 2 - Do you agree that local authorities should be able to relax the need for permission for changes of use in certain specified areas?

Question 3 - Do you believe that this can be done through local orders as set out in the Planning Green Paper?

Restricting Change of Use

Question 4 - Do you agree that local authorities should be able to limit the scope for changes of use by the use of conditions only in exceptional circumstances?

Question 5 - Do you agree that this should be limited to circumstances which have been set out in an authority's local plan?

A Use Classes

Question 6 - Which of the options set out in Part 4 of the consultation paper for Use Class A do you think would most meet the objectives set out at paragraph 4.2 with regard both to town and city centres and to local/neighbourhood centres? Would you prefer to leave Use Class A as it currently is (the "do nothing" option)? Would you prefer an alternative option not set out in this paper?

Question 7 - Why do you prefer your chosen option?

Question 8 - If a size threshold were introduced in the way recommended by the researchers, do you think that 100sq m GLA would be appropriate? In your view, what would be the effect of setting such a threshold on the mix of uses in:

- a) town and city centres? and
- b) local/neighbourhood centres?

B Use Classes

Question 9 - Do you think that allowing more use to be made of the existing sub-divisions of the B1 Use Class (for example by splitting them into separate use classes) would help or hinder our policy objectives? It would be helpful if you could illustrate your answer with examples of where the current composition of the B1 Use Class has had a direct effect (either desirable or undesirable) on the promotion of our policy objectives.

Question 10 - Do you think that either of the options set out in Part 5 of the consultation paper for Use Class B would meet the Government's objectives? Would you prefer an alternative option not set out in this paper?

Question 11 - Why do you prefer your chosen option?

C Use Classes

Question 12 - Do you consider that a change to the C Use class would better meet the Government's objectives?

Question 13 - If yes, what would you recommend and what do you consider would be the benefits?

D Use Classes

Question 14 - Which of the options set out in Part 7 of the consultation paper for Use Class D do you think would most meet the Government's objectives? Would you prefer to leave Use Class D as it currently is (the "do nothing" option)? Would you prefer an alternative option not set out in this paper?

Question 15 - Why do you prefer your chosen option?

Question 16 - What treatment do you prefer for nightclubs? Why do you prefer your chosen option?

Temporary Uses

Question 17 - Which of the options set out in Part 8 of the consultation paper for temporary use provision do you most favour? Would you prefer an alternative option not set out in this paper?

Question 18 - Why do you prefer your chosen option?

APPENDIX 2

The A Use Classes

Table 1 - Current provision

Use Class	Use	Whether change permitted
A1 Shops	Sale of goods and cold food, retail warehouses, hairdressers, travel and ticket agencies, post offices, domestic hire shops, funeral directors, dry cleaners	No change of use without permission, except to A1 plus single flat
A2 Financial and professional services	Professional (excluding health and medical services) and financial services (banks and building societies); other services appropriate in a shopping area where the services are provided principally to visiting members of the public	Change to A1 permitted only if there is a ground floor display window
A3 Food and drink	Sale of food and drink for consumption on premises, eg in restaurants, pubs, cafés and wine bars; shops for sale of hot food to be taken away	Change to A1 or A2 permitted
Sui Generis	Shops selling or displaying motor vehicles for sale	Change to A1 permitted
	Launderettes, taxi businesses, car hire businesses, filling stations, scrapyards	No change of use permitted

APPENDIX 3

Option 1 for "A" Use Classes

Use Class	Use	Whether change permitted
<p>Aa 'Mixed Retail' Uses</p>	<p>Sale or provision of goods and services to visiting members of the public including:</p> <ul style="list-style-type: none"> • sale of goods and cold food, including through warehouse clubs; • financial and professional services (including the sale of access to internet services), excluding health and medical services; and • sale of food and drink for consumption on premises, including sandwich shops and coffee shops, subject to a maximum GLA of 100 sq m 	<p>Change to Aa plus single flat allowed</p>
<p>Ab Restaurants and Cafés</p>	<p>Sale of food and drink primarily for consumption on the premises, but including sandwich shops and coffee shops, where the GLA of the enclosed floorspace is greater than 100sq m</p>	<p>Change to Aa allowed</p>
<p>Ac Public Houses, Bars and Nightclubs</p>	<p>Sale of drink and food for consumption on premises where the primary purpose is the sale and consumption of alcoholic drink, where the GLA of the enclosed floorspace is greater than 100sq m</p>	<p>Change to Aa and Ab allowed</p>
<p>Sui generis</p>	<p>Shops for the sale of hot food to be taken away (including drive-through restaurants)</p>	<p>Change to Aa and Ab allowed</p>
	<p>Shops selling or displaying motor vehicles for sale; launderettes, taxi businesses, car hire businesses, filling stations, scrapyards</p>	<p>No change of use allowed</p>

APPENDIX 4

Option 2 for "A" Use Classes

Use Class	Use	Whether change permitted
Aa 'Mixed Retail' Uses	Sale or provision of goods and services to visiting members of the public, including: <ul style="list-style-type: none"> • sale of goods and cold food; and • financial and professional services (including the sale of access to internet services), excluding health and medical services 	Change to Aa plus single flat allowed
Ab Restaurants and Cafés	Sale of food and drink primarily for consumption on the premises, but including sandwich shops and coffee shops	Change to Aa allowed
Ac Public Houses and Bars	Sale of drink and food for consumption on premises where the primary purpose is the sale and consumption of alcoholic drink	Change to Aa and Ab allowed
Sui generis	Shops for the sale of hot food to be taken away (including drive-through restaurants)	Change to Aa and Ab allowed
	Shops selling or displaying motor vehicles for sale; laundrettes, warehouse clubs, taxi businesses, car hire businesses, filling stations, scrapyards	No change of use allowed

APPENDIX 5

Option 3 for "A" Use Classes

Use Class	Use	Whether change permitted
Aa 'Mixed Retail' Uses (including Restaurants and Cafés)	Sale or provision of goods and services to visiting members of the public, including: <ul style="list-style-type: none"> • sale of goods and cold food; and • financial and professional services (including the sale of access to internet services), excluding health and medical services • sale of food and drink primarily for consumption on the premises 	Change to Aa plus single flat allowed
Ab Public Houses and Bars	Sale of drink and food for consumption on premises where the primary purpose is the sale and consumption of alcoholic drink	Change to Aa allowed
Sui generis	Shops for the sale of hot food to be taken away (including drive-through restaurants)	Change to Aa allowed
	Shops selling or displaying motor vehicles for sale; laundrettes, warehouse clubs, taxi businesses, car hire businesses, filling stations, scrapyards	No change of use allowed

APPENDIX 6

Option 4 for "A" Use Classes

Use Class	Use	Whether change permitted
Aa 'Mixed Retail' Uses	Sale or provision of goods and services to visiting members of the public including: <ul style="list-style-type: none"> • sale of goods and cold food; and • financial and professional services (including the sale of access to internet services) excluding health and medical services 	Change to Aa plus single flat allowed
Ab Food and drink	Sale of food and drink (including alcohol) primarily for consumption on the premises, including sandwich shops and coffee shops	Change to Aa allowed
Sui generis	Shops for the sale of hot food to be taken away (including drive-through restaurants)	Change to Aa and Ab allowed
	Shops selling or displaying motor vehicles for sale; laundrettes, warehouse clubs, Taxi businesses, car hire businesses, filling stations, scrapyards	No change of use allowed

APPENDIX 7

The B Use Classes

Current provision

Use Class	Use	Whether change permitted
B1 Business	<p>a Offices other than financial and professional services providing for the visiting members of the public</p> <p>b Research and development</p> <p>c Other industrial processes appropriate in a residential area</p>	Change to B8 (only up to 235 m ² of floor space) permitted
B2 General industrial	General industry, not within B1	Change to B1 or B8 (only up to 235 m ² of floor space)
B8 Storage or distribution	Storage or distribution centres	Change to B1 (only up to 235 m ² of floor space) permitted
Sui Generis	Work registerable under Alkali etc, Works Regulation Act	No change of use permitted

APPENDIX 8

The C Use Classes**Current provision**

Use Class	Use	Whether change permitted
C1 Hotels	Hotels, boarding and guest houses, provided that care is not provided	No change of use permitted
C2 Residential institutions	Residential accommodation for provision of care (eg old age homes); residential schools and colleges and training centres; hospitals and nursing homes	No change of use permitted
C3 Dwellinghouses	Dwellinghouses for individuals, families and up to six individuals living as a single household	Subdivision of dwellinghouses into two or more dwellinghouses not permitted
Sui Generis	Hostels	No change of use permitted

APPENDIX 9

The D Use Classes**Current provision**

Use Class	Use	Whether change permitted
D1 Non-residential institutions	Clinics, health centres, crèches, day nurseries, day centres, consulting rooms (not attached to doctor's house); museums, libraries, art galleries, public and exhibition halls; non-residential schools, colleges and other educational centres; public worship or religious instruction	No change of use permitted
D2 Assembly and leisure	Cinemas, dance and concert halls; swimming pools, skating rinks, gymnasiums; other indoor and outdoor sports and leisure uses, bingo halls, casinos	No change of use permitted
Sui Generis	Theatres, amusement arcades and centres, fun fairs	No change of use permitted