

Calderdale Local Plan Examination

Council's response to the Inspector re. Use Classes Order changes

28th August 2020

The Government has recently published a number of changes to the Use Classes Order (in the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) which will come into force on 1 September 2020. The changes include:

- Revoking of Use Classes A, B and D
- Creation of class E (commercial, business, and service) which subsumes A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes) and B1 (business), and includes uses such as gyms, nurseries and health centres (previously in classes D1 and D2).
- Creation of classes F.1 (learning and non-residential institutions) and F.2 (local community).
- Expanding the list of uses not included in any class, to include uses formerly in A4 (drinking establishments) and A5 (hot food takeaways), and some uses formerly in D1 and D2 including cinemas and venues for live music performance.

The Inspector has asked the Council to consider what implications these changes may have for policies and allocations in the draft Calderdale Local Plan (including changes proposed in the January 2020 consultation paper). The Inspector has also asked for the Council's views on whether any modifications may be necessary to the policies/allocations and reasoned justifications.

The Calderdale Local Plan will establish policies which when adopted will be used in the determination of planning applications. While the making of any material change of use of any buildings or other land does constitute development requiring planning permission, a change of use to another use within the defined 'use class' does not amount to development, and therefore does not require planning permission. Therefore, the changes to the Use Class Order will have implications to a number of policies within the Local Plan including allocations and reasoned justifications.

The Government is implementing a comprehensive review of planning policy relating to the high street in order to support their recovery and revitalise town centres. This is in response to the emergence of internet shopping and out-of-town shopping centres, which, together with the impacts of Covid-19, has caused a huge downturn in the number of people travelling into town centres. The focus of this policy change is on the Use Classes Order and permitted development rights enabling the repurposing of buildings on high streets and within town centres. Implementing the changes to the Use Classes Order as detailed above will allow for greater flexibility to change uses within town centres without the need to obtain planning permission. There will also be potential wider implications to other policies including employment and mixed use sites.

The Local Plan has policies which aim to support and maintain a healthy mix of uses whilst enhancing the vitality and viability of Calderdale's town centres. The retailing and town centre policies which will be potentially affected are:

- RT1 Calderdale Retail Hierarchy and Town Centre Uses
- RT2 Primary Shopping Areas and Shopping Frontages
- RT3 Sequential Test and Retail Impact Assessments
- RT4 Local Retailing and Servicing Provision Outside of Centres
- RT7 Residential Use in Town Centres

The Plan was prepared under NPPF 2012 which recommended Local Authorities should define a network and hierarchy of centres, as well as defining the extent of the Town Centres and Primary Shopping Areas based on the Primary and Secondary Frontages and set policies that make clear which uses will be permitted in such locations. The aim of the Primary Shopping Frontages was to maintain the predominance of Class A1 retail uses, whilst the aim of the Secondary Shopping Frontages was to maintain a mix of retail and non-retail uses with the opportunity for a diversity of uses such as restaurants, cinemas and businesses. The new Use Class system effectively removes the control of local councils to determine such changes of use. The creation of a Class E will allow far greater flexibility to change uses without the need to apply for planning permission thereby allowing a retail shop for example to be converted to a restaurant, office or gym, or vice versa. Even before the changes to the Use Classes Order, the Government had removed the requirement to define primary and secondary frontages in the 2019 NPPF. The Council, therefore considers it necessary to amend policy, 'RT2 Primary Shopping Areas and Shopping Frontages', to remove the references to Primary and Secondary Frontages.

With the removal of Primary and Secondary Frontages from the Plan, there will be consequential changes to some of the retail policies. Policy 'RT1 Calderdale Retail Hierarchy and Town Centre Uses' states (including the changes recommended in response to MIQs): "Non-retail uses in centres will be managed through ~~the~~ Policy RT2 Primary Shopping Areas and Shopping Frontages ~~policy and~~ as set out in the Local Plan Policies Map." Policy 'RT7 Residential Use in Town Centres' also references Primary and Secondary Frontages. These will need amending due to the removal of Primary and Secondary Frontages from RT2.

The changes to the Use Classes Order does not remove the need for planning permission for material shopfront alterations and consent for signage. The Council considers it important to introduce further frontage policies incorporating some of the policy relating to primary and secondary frontages under a new policy to ensure the vitality of town centres is not lost due to the impact of changes of use from active frontages to inactive ones.

Changes to the Use Classes Order offers some added protection against the loss of learning, non-residential and community facilities, including museums, public halls and local shops, which are now included in new Classes F1 and F2. Use Class 'F2 Local Community Uses', is particularly important to ensure community facilities are protected by the planning system. The Use Classes changes also introduce restrictions on other uses such as, pubs/ drinking establishments, takeaways, cinemas, concert halls, bingo halls and dance halls. These are now deemed to be Sui Generis uses and consequently planning permission will be required to change between these individual uses as well as to any other use class. These

changes support the Local Plan policies, 'RT4 Local Retailing and Servicing Provision Outside of Centres', 'RT6 Cultural and Leisure Provision', 'HW4 Safeguarding Community Facilities and Services', and 'HW6 Hot Food Takeaways'. As a result it will be necessary to make some consequential minor modifications to these policies and supporting text to ensure consistency with the new Use Classes Order.

The Local Plan sets out a framework to support the growth of the Borough's economy which proactively meets the employment and development needs of business by setting policies for employment and allocates land for both Employment and Mixed Use sites. 'Employment use' in the policy wording of the Plan refers to activities falling within the B use classes (B1 – Businesses, B2 – General Industrial, and B8 – storage and distribution). The changes to the Use Classes Order retains B2 and B8, however revokes B1 uses which are subsumed within Class E. Therefore, there will be some significant consequential changes to the following policies and reasoned justifications:

- SD4 Provision of Land for future Employment Use Requirements
- SD5 Allocated Employment Sites
- SD6 Allocated Mixed Use Sites
- EE1 Safeguarding Existing Employment Areas, Land and Premises

The Council also acknowledges that changes will need to be made to Annex 1 of the Local Plan detailing car and bicycle parking standards. While no amendments are required to the parking guidelines and the types of development to which they refer, the use class column will be updated.

Comments are sought on the issue from interested parties which can be made through the Programme Officer.