

LONDON BOROUGH OF BRENT

Planning Committee

28th January 2004

REPORT NO : 6/04 FROM THE DIRECTOR OF PLANNING

FOR INFORMATION

NAME OF WARD: ALL

The Government's Intended Changes to the Use Classes Order

1.0 SUMMARY

- 1.1 This Report informs Members of the Government's intended revisions to the *Town & Country Planning (Use Classes) Order 1987 (as amended)*. The changes will come into effect by the Summer 2004.

2.0 RECOMMENDATION

- 2.1 That Members note the Government's changes and their implications for Brent.

3.0 FINANCIAL IMPLICATIONS

- 3.1 There are no direct financial implications arising from this Report.

4.0 STAFFING IMPLICATIONS

- 4.1 There are no direct staffing implications arising from this Report.

5.0 ENVIRONMENTAL IMPLICATIONS

- 5.1 It should enable the Council to exercise better control over the further development of potentially disruptive night time uses. This should limit associated noise and other disturbances caused to local amenity, thereby enhancing the quality of life for local residents in Brent

6.0 LEGAL IMPLICATIONS

- 6.1 Planning legislation establishes the fundamental principles of the land use planning system. Its detailed implementation is the subject of Guidance issued by the Office of the Deputy Prime Minister (ODPM). *The Town and Country Planning (Use Classes) Order 1987 (as amended)* (UCO) sets out classes of uses, e.g. shops, houses, residential institutions etc. The UCO provides that a move between activities within the same class is not development and therefore does not require planning permission.
- 6.2 The *Town and Country Planning (General Permitted Development) Order 1995 (as amended)* (GPDO) provides further flexibility by classifying certain moves between the Use Classes as permitted development, which similarly does not require express planning permission.

7.0 DETAIL

Introduction

- 7.1 Planning permission is required for material change of use of buildings and land. However, some uses are so similar in land-use planning terms - for example, noise, traffic generation, visual appearance, and parking - that an application for planning permission to change between them might be considered too time-consuming and unproductive.
- 7.2 In order to reduce the number of unnecessary applications dealt with by the planning system, the Town and Country Planning Act 1990 excludes from the definition of development (and hence from planning control) any change of use where both existing and proposed uses fall within one class of the Use Classes Order (UCO). The UCO is permissive. It removes the need for planning permission between certain specified uses.
- 7.3 The Planning Green Paper, published on 12 December 2001, set out the Government's proposals for reforming the planning system, to make it faster, simpler and more accessible. The Green Paper proposed to review the UCO to ensure that it is constructed in such a way as to allow deregulation where this would be consistent with delivering planning policy and wider objectives.

Public houses and bars

- 7.3 Results from Government-commissioned research, and most complaints from individuals and groups, have highlighted concerns about the A3 food and drink Use Class. Problems of noise, particularly from bars, arising from inadequate sound insulation; playing of loud music to attract custom (worsened by opening of windows and shop fronts) and also the spilling of customers onto the pavements. Another major concern was an increase in crime and anti-social behaviour, including people fouling and urinating in doorways, vomiting in the street, as well as other general rowdiness. Also, the hours of operation, although subject to licensing control, affects the levels of disturbance caused. In addition, there has been a proliferation and concentration of larger pubs and bars, with some new style operations being able to accommodate hundreds of patrons. The result is noise disturbance from the premises and from clients departing in the early hours of the morning and behaving in an anti-social manner.
- 7.4 Other environmental concerns have included difficulties in servicing of premises by refuse and cleansing vehicles, leading to an increase in the amount of rubbish on the streets. There have also been problems with noise and air quality relating to the smells and fumes from ducts and ventilation shafts in food establishments.

Fast-food takeaways

- 7.5 Another major issue concerning the current Use Classes Order, is the conversion of public houses into fast-food restaurants under the A3 class. Under the current structure, pubs and restaurants come under the same classification. This allows fast-food chains to buy former pubs and convert them into fast-food restaurants without the need for express planning permission.

- 7.6 Many local residents have concerns about the loss of a local facility, which arise because pubs in peripheral locations are attractive to fast-food developers due to their large car parks, and proximity to space needed to develop a drive-through facility. Many of the premises taken up by fast-food operators to date have been ones where the pub has closed down or has been sold by the breweries on the basis that they are no longer viable, although this is not always the case.
- 7.7 Other concerns relate to the impacts that a fast-food takeaway has with regard to traffic, in particular, for noise, safety and air pollution. The car traffic that can be generated by takeaways may be significant, with trips at unsociable hours and the disturbance associated with short term on-street parking. Environmental health legislation provisions deal with the nuisance that can arise from cooking smells and extractor fan noise. However, the pattern of activity arising from takeaways can involve late night use and the congregation of groups of people in the vicinity, not dissimilar in some ways to pubs and clubs. But, unlike these uses, there are no licensing provisions to help manage use of the premises or to place any onus on the operators to influence the behaviour of customers.

Proposed Reforms

- 7.5 A consultation paper which set out detailed proposals to reform the UCO was issued on 24th January 2002, with a closing date for comments by 24th April 2002. In addition, the consultation paper also looked at the current temporary use provisions under Part 4 of the GPDO. The Government received over 2000 responses to the consultation on the proposed reforms, and after a lengthy evaluation process, has announced the final key changes to the UCO. These are shown in the table below:

Activity	Current Use Class	New Use Class	Effect
A Class			
Internet cafes	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> classified as an A1 use 	<ul style="list-style-type: none"> No permitted change
Restaurants and cafes.	<ul style="list-style-type: none"> A3 	<ul style="list-style-type: none"> will remain class A3 But, this class will be changed to drop the reference to the sale of hot food for consumption off the premises. 	<ul style="list-style-type: none"> Change of use from Use Class A3 to A1 or A2 Use Classes will be permitted development. Any changes from A3 to the new Use Classes A4 and A5 will require planning permission, even if a licence exists
Pubs and bars.	<ul style="list-style-type: none"> A3 	<ul style="list-style-type: none"> classified under a new Use Class A4 	<ul style="list-style-type: none"> Both A4 and A5 Use Classes will be permitted to change use to A1, A2 or A3 Use Classes.
Takeaways.	<ul style="list-style-type: none"> A3 	<ul style="list-style-type: none"> classified under a new Use Class A5 (in response to concerns raised during consultation about the specific impacts on amenity) 	
Sui Generis			
Warehouse clubs	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> taken out of the Use Classes Order, to become sui generis 	<ul style="list-style-type: none"> No permitted change

Motor vehicle showrooms	<ul style="list-style-type: none"> • Sui Generis 	<ul style="list-style-type: none"> • Sui Generis 	<ul style="list-style-type: none"> • Will no longer enjoy permitted development rights for a change-of-use to any A1 use
D Class			
Late Night Leisure	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • New Use Class D3 • includes late night uses not covered by other Use Classes, such as nightclubs 	<ul style="list-style-type: none"> • Planning permission will be required for any change of use from or to D3 Use Class.

Any other changes of use will require planning permission.

7.6.1 There are no other changes proposed to the A1 or A2 Use Classes. No changes were proposed to the current B and C Classes. No further consultation is planned. The order will be made under the Town and Country Planning Act 1990, Section 55(2)(f) and is therefore not subject to Parliamentary procedures. The Government intends to make a Statutory Instrument by the summer 2004.

8. Conclusions

8.1 The changes to the UCO should have significant implications for local amenity in Brent and these are likely to be positive on the basis of the current proposals. The Council will be able to control changes of use from restaurants and cafes (which are unlikely to have an impact on local amenity) into pubs and bars or takeaways, from which disturbance has been a major problem in certain parts of the Borough.

9.0 BACKGROUND INFORMATION

Details of Documents:

- 9.1 *'Possible Changes To The Use Classes Order And Temporary Uses Provisions'*, Consultation Paper, Jan. 2002, ODPM .
- 8.2 Any person wishing to inspect the above papers should contact Dellé Odeleye, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex HA9 6BZ, Tel: 0208 937 5310

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