



How change of use is handled in the planning system
– tell us what you think

Issues paper



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Summary

To Let (A1 uses only); For Sale (B1 uses); Site for Sale (planning permission for B2 and B8 uses)

1. If you ever wondered what this means and why it makes sense to know, then read on...
2. As part of the Government's Plan for Growth, we announced a range of planning reforms including a review of how change of use is handled in the planning system that we believe could reduce the planning burden and support economic growth. The planning system¹ controls not only building work but also changes in the use of buildings or land. Planning permission is usually required for anything that is considered to be a 'material' change of use².
3. Certain uses of buildings and land are, however, considered so similar in land use planning terms that to require planning permission to change use would be an unnecessary burden. Secondary legislation (the Use Classes Order³) therefore defines broad classes of use for buildings or other land and provides that a change of use is not 'development' where the former use and the new use are both within the same use class.
4. Uses fall within four main categories:
 - **Class A** covers shops and other retail premises such as restaurants and bank branches
 - **Class B** covers offices, workshops, factories and warehouses
 - **Class C** covers residential uses
 - **Class D** covers non-residential institutions and assembly and leisure uses

There are subsets within each class. There are also uses that are described as sui generis, meaning that they are in a class of their own.
5. In addition, other legislation⁴ gives a general planning permission for specified changes of use between some use classes in the Use Classes Order. It does this by classifying certain changes of use between the use classes as permitted development.
6. Full details of the current Use Classes Order and associated permitted development rights are set out in Annex A and Annex B.

¹ The Town and Country Planning Act 1990.

² What constitutes a material change of use will depend on the circumstances of a particular case and will be determined in the first instance by the local planning authority for the area concerned.

³ The Town and Country Planning (Use Classes) Order 1987 (as amended). The 1987 order has since been amended, in 1991, 1992, 2005 (England only), 2006 (England only) and 2010 (England only).

⁴ Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

7. The Government wants to hear from anyone with an interest in how change of use is currently handled through the planning system and areas for possible changes. Set out below are some particular questions on which we would welcome your views. You may also want to offer general views and evidence. We would be particularly interested in any ideas on how the process of considering changes of use could be made less burdensome.

**Please send any views, comments or evidence you wish to provide to the Review Team at: UCORReview@communities.gsi.gov.uk
It would be helpful to have any comments by 1 September 2011.**

Background

8. We want to make sure that new development can take place to contribute to the delivery of strong and vibrant communities. We want to remove unnecessary barriers so that businesses succeed, homes can be provided and jobs created which will bring prosperity. Our aim is to ensure that full consideration is given to the balance between supporting growth and ensuring communities have the opportunity to influence their environment.
9. Many changes of use of land and buildings do require planning applications as they are considered to be 'development'. This can be a burden on business in terms of time and cost and may be of little value if the change of use does not impact adversely on the neighbourhood.

To reduce these burdens, we have two tools:

- the Use Classes Order, which is a significant deregulatory tool to remove the need to submit a planning application where the land use impact of the change of use is considered to be the same or less than the existing use
- the General Permitted Development Order, which goes further by allowing change between certain use classes, in defined circumstances, without the need for a planning application

The purpose of this review is to see if either tool can be reformed to make them even more deregulatory and to further remove unnecessary burdens.

10. The Government has already started looking at removing such burdens. Where there are no significant adverse impacts of change of use or development, the Government believes that it should be possible to proceed without the need for a planning application.
11. Change of use can be a contentious issue locally. Therefore there is scope for local planning authorities both to go beyond, and to restrict, the operation of the national Use Classes Order and its associated permitted development. Local development orders and the forthcoming neighbourhood development

orders⁵ allow local authorities to extend the types of permitted development that do not require a planning application. To restrict national permitted development rights, local planning authorities can issue an Article 4 direction, although this can attract compensation liabilities. Both measures need to be tested through local consultation.

12. There can be particular changes of use that can cause concern locally, such as **an estate agent changing to a betting shop, or a greengrocer changing to a funeral parlour**. These are changes that take place within the same use class and so do not need planning permission. In these circumstances the change of use is often opposed not because of the land use impact but for wider community reasons.
13. This can lead to calls on Government to change the make-up of the classes within the Use Classes Order to prevent such changes in the future. However it is often difficult to identify clear planning grounds for such a change.
14. Recent consultations involving proposals for changes to use classes include:
 - **Houses in multiple occupation:** In April 2010 the Government introduced a separate use class for houses in multiple occupation of not more than six persons (class C4) so that planning permission was required to change a dwelling house (class C3) into a small house in multiple occupation. In October 2010 this was in effect overturned and the legislation was amended allowing permitted development rights for changes from class C3 to C4.
 - **New schools:** In October 2011 ministers consulted on proposals to amend legislation to allow change of use widely from other uses to a school. This was in support of the Secretary of State for Education's policy on free schools. The consultation responses are being considered and a response will be published in the summer.
 - **Commercial use converting to residential use:** In April 2011 ministers published a consultation paper exploring the scope for permitted change of use from business (Class B1), general industry (Class B2) and storage and distribution (Class B8) uses to Class C3 dwelling house use. It also invited views on extending the current permitted development arrangements in relation to converting space over shops and other town centre uses (Classes A1 and A2) into residential accommodation.
15. As it is almost 10 years since the last substantial review of the approach to change of use, this review will provide a timely opportunity to consider whether there are other factors, such as more people working from home, possible temporary uses of buildings, changes in shopping habits and new industries which need to be better reflected in the consideration of land use impacts that form the basis for the Use Classes Order.

⁵ Proposals for Neighbourhood Development Orders have been set out in the Government's Localism Bill, currently being considered by Parliament.

16. This broader review provides an opportunity to stand back and consider the operation, impact and effectiveness for all parties of the current approach to dealing with change of use and consider alternatives.

How to get involved in this review

17. The review will offer opportunities for all those with an interest in this policy area to provide their views.
18. The first stage of the review will involve the collection of evidence on how change of use is currently handled within the planning system and ideas on what, if any, changes need to be made.
19. This paper sets out some questions and issues on which you may have views. This paper is not a formal public consultation. Rather it is designed to collect evidence from interested parties on where it would be beneficial to amend how change of use is currently handled within the planning system and to identify the possible improvements that could be made to further extend the deregulatory benefit of the Use Classes Order.
20. General evidence that interested parties wish to provide on specific problems arising from the current Use Classes Order and associated permitted development rights would also be helpful.
21. If a decision is taken to make changes to the current system following this review, those changes would be subject to a full public consultation at a later date.
22. The review is being run jointly by the Department for Communities and Local Government and the Department for Business, Innovation and Skills and will report to ministers before the end of 2011.

Invitation to submit evidence

23. We are not offering firm proposals for comment. Rather we want your thoughts and views on how change of use is currently handled through the planning system and areas for possible changes. A number of questions have been set out below to help focus responses and we would welcome your views on these in particular. We would also welcome more general views and evidence on issues that arise in respect of changes of use and the planning system, particularly any ideas on how the process of considering changes of use could be made less burdensome.
24. Please send any views, comments or evidence you wish to provide to the Review Team at: UCOreview@communities.gsi.gov.uk or:

David Wilkes
UCO Review Team
Planning Development Management Division
Department for Communities and Local Government
1/E2 Eland House
Bressenden Place
London
SW1E 5DU

Questions and issues

1. Should material change of use continue to be considered as 'development' and handled through the planning system? If not what alternative approach might be used ?

- In general, planning permission is required for 'development'. Change of use can be considered as 'development' and therefore under the current legislation change of use can require planning permission. This is because different land uses can have a variety of impacts on the surrounding neighbourhood and therefore need to be controlled.
- In many cases, when a change of use is proposed, there will be associated physical works to the buildings that comprise 'development' which will also require planning permission. However in other cases, changes of use may be proposed where there are no physical works e.g. a house converting into a doctor's surgery or dentist, although there are still possible impacts to be considered from the change in land use. In both cases it is currently the planning regime, through the development management process, that will determine the outcome. If change of use should be controlled there is then a question as to whether there is a route other than the planning system that would better serve the purpose.

2. Is the Use Classes Order an effective deregulatory tool to simplify the approach to managing change of use nationally in the planning system? If not, do you have views on what an alternative deregulatory approach to managing change of use might look like?

- The current management of change of use in the planning system through the Use Classes Order was introduced in 1972. The approach has remained the same although the basis of the classes included in the Order has changed over time. If you accept that managing change of use remains in the planning regime, it would be helpful to know whether you accept the Use Classes Order as the best basis for decisions on change of use, or if not, what alternative approaches to handling such changes would be appropriate.

3. The Use Classes Order and associated permitted development rights currently are a national regime for changes of use without planning applications. However, they can be extended locally to meet local needs through Local Development Orders (and in future, through Neighbourhood Development Orders). Is this model effective and is it sufficiently flexible to meet most circumstances?

- Under the current approach, certain changes of use are allowed at the national level without the need for planning applications by making changes to national permitted development rights. Local authorities also have flexibility at the local level to go beyond the national approach and allow further changes

of use locally by making a Local Development Order. The Localism Bill will provide for Neighbourhood Development Orders which are similar but triggered by neighbourhoods as part of a neighbourhood plan.

- The current approach offers a large degree of consistency nationally with local variation only where there are specific local issues. This is likely to be less administratively burdensome for businesses while allowing local freedoms where there is a recognised need. Possible alternatives would be for a local authority or group of authorities to create their own regime or for there to be a default national order which only applied where a local authority did not put in place its own regime.
- We would welcome views on whether the current balance between national flexibilities and local flexibilities to change of use is right. Should the approach to changes of use being allowed without planning applications be more focused on local decision making? Should there be more national de-regulation granting permitted development rights for more changes of use or is the balance about right?

4. Do you think that the current classes of use in the Use Classes Order are still appropriate?

- The current use classes are set out at Annex A to this paper. These have changed over time with reductions in the number of B classes while the A classes have been separated out further to take greater account of the land use impact of hot food takeaways and drinking establishments. There have also been changes to permitted development between classes, for example, A3, 4, and 5 classes can convert to A1 or A2 without specific planning permission.
- It is almost 10 years since the last substantial review of the Use Classes Order and there have been many changes in how we live and work, the nature of new businesses being created and the growth of leisure interests. This is reflected in public behaviour, tolerance and expectation which perhaps should also feed through into the planning system.
- Therefore we would be interested to know whether the manner in which current classes are divided and defined remains appropriate and whether their coverage is broadly right. Should there be fewer or more classes? Should the coverage of specific classes be expanded to allow more changes of use without a planning application, should the uses be divided into a greater number of classes to limit some of the existing freedoms, or should more types of use be classified as 'sui generis' thereby requiring planning applications in all cases?

5. The current regime seeks to secure a balance between deregulation and protecting the citizen. Has the right balance been struck or should there be more deregulation than is currently allowed through the Use Classes Order and permitted development rights?

- Annexes A and B set out those changes of use between different classes of the Use Classes Order that are currently allowed without the need for planning permission because they benefit from permitted development rights. The Government has recently proposed further de-regulation in a consultation to allow changes of use from commercial uses (classes B1, B2 and B8) to housing (class C3). However there are also calls for greater regulation and specific planning permission being required for such uses as children's homes (caring for small numbers of children), care in the community establishments and betting shops.
- We would welcome views on any further changes of use that could benefit from permitted development rights, or those uses where planning permission is not currently required but should be, and the reasons why.

6. Does the current operation of the Use Classes Order go far enough to remove inappropriate barriers to growth and allow for potential for changes of use that boost growth?

- The Use Classes Order and associated permitted development provide a right to change of use where the land use impacts are considered sufficiently similar. This means that a change of use can be established in advance of a planning application for associated physical development being submitted to the local planning authority. This removes uncertainty for the applicant in relation to change of use, with the local planning authority only required to consider the merits of the physical development.
- Therefore the Use Classes Order is a significant deregulatory tool that supports economic growth. We would be particularly interested in any evidence that points to the Order having unjustified negative impacts on growth in the economy and how these impacts on growth could be prevented.

7. How should ancillary uses be treated within the Use Classes Order?

- The decision on whether an ancillary (or secondary) use to the main use of land or a building requires planning permission for a change of use will depend on the circumstances of individual cases and in the first instance will be a matter of judgement for the local planning authority concerned. This may be a particular issue in relation to running a business from the home and new uses within existing retail premises. Does the consideration of whether a use is ancillary or not cause particular issues for certain types of use? How do you measure and deal with impact where over time the ancillary use becomes the main use. Are there ways in which these issues can be addressed?

8. Are the current permitted development rights relating to the temporary use still appropriate? If not, how do you think they should be amended?

- Permitted development⁶ also grants a general planning permission for the temporary use of land for up to 28 days in any calendar year, subject to a number of restrictions and conditions e.g. these provisions do not apply to the temporary use of buildings or to the use of land for advertisements. For some other uses, such as motor sports and markets, the permitted development rights are limited to not more than 14 days in total in the calendar year.
- These provisions can provide an important flexibility which enables many small-scale commercial and community activities, in both urban and rural areas, to go ahead without the cost and delay of obtaining planning permission. This benefits the local economy and, particularly in the case of activities on farm land, often constitutes an important source of revenue at the margins.
- However, we are aware that some temporary uses, for example, car boot sales and motor sports, even where they are operated for only for a relatively few days in the year, can give rise to significant concerns in some areas.
- The last review of these temporary use provisions took place almost 10 years ago. While this review found that the provisions remained appropriate and that no changes were required at that time, it would be helpful to know whether this remains the case or whether changes should be made to grant more or restrict freedoms for the temporary use of land.

9. Should change of use of buildings be allowed on a ‘temporary’ basis without the need for a planning application?

- Permitted development rights already exist (see question 8 above) that allow the temporary use of land. However there is increasing interest in removing barriers more widely to allow use on a temporary basis of empty buildings which otherwise would make no contribution to the local economy. This could be particularly attractive as part of encouraging high street and local area regeneration, encouraging start up businesses and providing for community use.
- Would there be benefits in introducing a class of use to provide for a change of use of a building for a specified time period? Should such temporary uses be restricted to certain types of former and future use only? Should there be a presumption that the temporary use could be allowed to become permanent subject to some form of local test of support/opposition. Is there a risk of creating a significant enforcement workload for the local authority where the temporary user extends occupation and use beyond the agreed time period?

10. In addition, the review team would welcome any further views or evidence on how the current Use Classes Order and associated permitted development regime is working.

⁶ Part 4 (Class B) of the Town and Country Planning (General Permitted Development) Order 1995.

Some areas where you might have further views are set out below:

- **Applying for planning permission is a helpful trigger for other actions:** The planning system offers a trigger mechanism for a much wider range of regulatory regimes than planning control, such as building regulations. Even where development and change of use are removed from requiring specific planning permission they are not removed from the requirement to comply with the other regulatory regimes. However the trigger point for the other regulatory regimes is lost. Is this an issue that needs to be of concern for this review?
- **The relationship between less control on change of use and neighbourhood plans:** This Government places great importance on the involvement of the neighbourhood in plan making at the neighbourhood and local levels. There is likely to be an expectation in neighbourhoods that they have created a vision for their areas which they expect to see delivered. This has to sit alongside both the existing Use Classes Order and permitted development regime. Is there a point beyond which it would be undesirable to remove the need for specific planning permission if the integrity of local plans is to be upheld?
- **There is a relationship between land use and its value:** It is recognised the established use or planning permission that any land or building has will be reflected in its market value. Therefore the greater the deregulation of change of use and the removal of the need for specific planning permission the more land value may influence any decision of future use of a site or building. This is therefore allowing the market to have a greater role in determining land use. Is this a relevant issue for the review?

Thank you for reading this paper and we hope it has encouraged you to share your views with the Department on how change of use is currently handled through the planning system and areas for possible changes. Hopefully the questions above have helped you focus responses and we would welcome your views on these questions in particular. However we would also welcome more general views and evidence on issues that arise in respect of changes of use and the planning system, particularly any ideas on how the process of considering changes of use could be made less burdensome.

Please send any views, comments or evidence you wish to provide to the Review Team at: UCOReview@communities.gsi.gov.uk. Or: David Wilkes, UCO Review Team, Planning Development Management Division, Department for Communities and Local Government, 1/E2 Eland House, Bressenden Place, London, SW1E 5DU.

It would be helpful to have any comments by 1 September 2011.

Summary of questions

1. Should material change of use continue to be considered as 'development' and handled through the planning system? If not what alternative approach might be used?
2. Is the Use Classes Order an effective deregulatory tool to simplify the approach to managing change of use nationally in the planning system? If not, do you have views on what an alternative deregulatory approach to managing change of use might look like?
3. The Use Classes Order and associated permitted development rights currently are a national regime for changes of use without planning applications. However, they can be extended locally to meet local needs through Local Development Orders (and in future, through Neighbourhood Development Orders). Is this model effective and is it sufficiently flexible to meet most circumstances?
4. Do you think that the current classes of use in the Use Classes Order are still appropriate?
5. The current regime seeks to secure a balance between deregulation and protecting the citizen. Has the right balance been struck or should there be more deregulation than currently allowed through the Use Classes Order and permitted development rights?
6. Does the current operation of the Use Classes Order go far enough to remove inappropriate barriers to growth and allow for potential for changes of use that boost growth?
7. How should ancillary uses be treated within the Use Classes Order?
8. Are the current permitted development rights relating to the temporary use still appropriate? If not, how do you think they should be amended?
9. Should change of use of buildings be allowed on a 'temporary' basis without the need for a planning application?
10. In addition, the review team would welcome any further views or evidence on how the current Use Classes Order and associated permitted development regime is working.

Annex A

Summary guide to Use Classes Order and permitted changes of use		
Use Classes Order 1987 including Amendments	Description	Conditions (See Note 1)
A1 Shops	Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, funeral directors etc.	No permitted change except to mixed use as a shop and single flat (see note 2) and vice versa
A2	Financial and Professional Services Banks, building societies, estate and employment agencies, professional and financial services, betting offices	Permitted change to A1 where a ground floor display window exists. Also as above to a mixed use as a single flat and A2 use and vice versa (see note 2)
A3 Restaurants and Cafes	Restaurants, snack bars, cafes	Permitted change to A1 or A2
A4 Drinking Establishments	Pubs and bars	Permitted change to A1, A2, A3
A5 Hot Food Takeaways	Hot food takeaway	Permitted change to A1, A2, A3
B1 Business (a)	Offices, not within A2	Permitted change to B8 where no more than 235m ²
(b)	Research and development, studios, laboratories, high technology	Permitted change to B8 where no more than 235m ²
(c)	Light Industry	Permitted change to B8 where no more than 235m ²
B2 General Industry (See Note 4)	General Industry	Permitted change to B1 or B8 B8 where no more than 235m ²
B8 Storage or Distribution	Wholesale warehouses, repositories	Permitted change to B1 where no more than 235m ²
C1 Hotels	Hotels, boarding and guest houses	No permitted change
C2 Residential Institutions	Residential schools and colleges, hospitals and convalescent/nursing homes	No permitted change
C2A Secure Residential Institution	Use for a provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks	No permitted change
C3 Dwelling Houses	Use as a dwelling house (whether or not as a sole or main residence by: a) a single person, or by people forming a single household; b) not more than 6 residents living together as a single household where care is provided for residents: or c) not more than 6 residents living together as a single household where no care is provided (other than a use within C4)	Permitted change to C4
C4 Houses in Multiple Occupation	Use of a dwelling house by not more than 6 residents as a house of multiple occupation (see note 4).	Permitted change to C3

D1 Non-residential Institutions	Places of worship, church halls, clinics, health centres, crèches, day nurseries, consulting rooms, museums, public halls, libraries, art galleries, exhibition halls, law court, Non residential education and training centres	No permitted change
D2 Assembly and Leisure	Cinemas, music and concert halls, dance, sports halls, baths, skating rinks, gymnasiums. Other indoor and outdoor sports and leisure uses, bingo halls	No permitted change
Sui Generis (See Note 3)	Theatres, houses in multiple paying occupation, hostels providing no significant element of care, scrap yards. Petrol filling stations and shops selling and/or displaying motor vehicles. Retail warehouse clubs, nightclubs, launderettes, dry cleaners, taxi businesses, amusement centres Casinos	No permitted change Permitted change - Sui Generis to D2

Notes: Updated 14 October 2010

1. The Town and Country Planning (Use Classes) Order 1987 is the principal order which has been subject to a number of subsequent amendments. Changes within a specific class do not require planning permission provided that the use subsists, the planning permission exists and no restrictive condition is attached. The 2006 amendments moved casinos from D2 to Sui Generis, introduced C2A for secure residential institutions and law court as a D1 specified use. The 2010 amendments alter C3 and introduce a C4 use class. The Town and Country Planning (General Permitted Development) (Amendment) (No2) (England) Order 2010 (SI No 2134) introduced a permitted change from C3 to C4.
2. Any operational development, such as effecting external appearance would, requires consent. Ground floor rooms with a shop window would need consent to change the whole or part of the ground floor for use as a single flat. For a further explanation see Town and Country Planning (General Permitted Development) Order 1995.
3. Sui Generis is a use not within a specific class.
4. Definition of a House in Multiple Occupation is as in Section 254 of the Housing Act 2004. Broadly this is when tenanted living accommodation is occupied as an only or main residence, where the occupiers are not related and share one or more basic amenity.

Annex B

Changes of use not requiring planning applications

Planning applications are not needed when both the present and proposed uses fall within the same 'class', or if the Town and Country Planning (General Permitted Development) Order says that a change of use is permitted from one class to another specified class.

For example:

- a greengrocer's shop could be changed to a shoe shop without permission as these uses fall within the same 'class',
- a restaurant could be changed to a shop or an estate agency as permitted development allows this change of use between use classes

However most external building work associated with a change of use is likely to require planning permission as this will constitute 'development'.

Set out below for ease of reference is a summary table of the existing changes allowed through permitted development rights

From	To
A2 (professional and financial services) when premises have a display window at ground level	A1 (shop)
A3 (restaurants and cafes)	A1 or A2
A4 (drinking establishments)	A1 or A2 or A3
A5 (hot food takeaways)	A1 or A2 or A3
B1 (business) (permission limited to change of use relating to not more than 235 square metres of floor space)	B8 (storage and distribution)
B2 (general industrial)	B1 (business)
B2 (general industrial) (permission limited to change of use relating to not more than 235 square metres of floor space))	B8 (storage and distribution)
B8 (storage and distribution) (permission limited to change of use relating to not more than 235 square metres of floor space)	B1 (business)
C4 (houses in multiple occupation)	C3 (dwelling houses)
Casinos (sui generis)	D2 (assembly and leisure)

Additionally, a planning application will not be required for change of use in certain circumstances:

- from A1 or A2 to A1 plus a single flat above
- from A2 to A2 plus a single flat above

These changes are reversible without an application only if the part that is now a flat was, respectively, in either A1 or A2 use immediately before it became a flat.

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