

Reform of the Use Classes Order

Lead department	Ministry of Housing, Communities and Local Government
Summary of proposal	Creates new 'Commercial, Business and Service', 'Local Community' and 'Learning and Non-Residential' use classes. Changes of use within a class will not be considered development and therefore, will not require planning permission.
Submission type	Impact assessment (IA) – 8 January 2021
Legislation type	Secondary legislation
Implementation date	1 September 2020
Policy stage	Final
RPC reference	RPC-CLG-5044(1)
Opinion type	Formal
Date of issue	15 February 2021

RPC opinion

Rating ¹	RPC opinion
Fit for purpose	The evidence and analysis supporting the EANDCB and the SaMBA are adequate. The IA could be significantly improved by expanding on the consideration of options and description of plans for monitoring and post-implementation review.

Business impact target assessment

	Department assessment	RPC validated
Classification	Qualifying regulatory provision (OUT)	Qualifying regulatory provision (OUT)
Equivalent annual net direct cost to business (EANDCB)	-£12.9 million	-£12.9 million <i>(2019 prices, 2020 pv)</i>
Business impact target (BIT) score	£64.5 million	£64.5 million
Business net present value	£111.1 million	
Overall net present value	£111.1 million	

¹ The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the [Better Regulation Framework](#). The RPC rating is fit for purpose or not fit for purpose.

RPC summary

Category	Quality	RPC comments
EANDCB	Green	The IA sets out clearly how the EANDCB was estimated and this figure is based upon sufficient evidence and analysis. There is a good discussion of the counterfactual.
Small and micro business assessment (SaMBA)	Green	The IA includes an adequate SaMBA, demonstrating that the measure could be particularly beneficial to small and micro businesses (SMBs).
Rationale and options	Weak	The IA would benefit significantly from discussing what other options and/or sub-options were considered, if any, perhaps drawing upon options considered during the 2018 consultation on planning reform.
Cost-benefit analysis	Satisfactory	The IA includes adequate analysis of impacts on communities and local authorities.
Wider impacts	Satisfactory	The IA includes sufficient discussion of wider impacts, including the measure's expected positive impact on competition.
Monitoring and evaluation plan	Weak	The IA would benefit significantly from providing information on how the impact of this specific measure will be proportionately evaluated.

Policy detail

Description of the proposal

This measure amends the Use Classes Order in England, creating three new use classes:

1. a new 'Commercial, Business and Service' class E, incorporating:
(a) the former A1 shops, A2 financial and professional services, A3 restaurants and cafes and B1 business use classes and (b) other uses such as gyms, nurseries and health centres (from the former D1 Non-residential and D2 Assembly and leisure use classes). It permits mixed use and allows freedom to move between uses within this class;
2. a new F1 'Learning and Non-Residential Institutions' class incorporates uses such as schools, libraries and art galleries (from the former D1 use class); and
3. a new F2 'Local Community' use class grouping together uses (a) for group activities of a more physical nature, such as swimming pools, skating rinks and areas for outdoor sports (from the former D2 use class) and (b) of buildings where use is principally by the local community.

Impacts of the proposal

The measure will enable building owners to change the use of some buildings without full planning permission, saving the costs of preparing such applications and associated fees. The department estimates that between 8,300 and 10,900 planning applications and prior approvals will be avoided each year, with an estimated saving of around £111 million (£64.8 million time savings and £46.2 million avoided fees) over ten years in present value terms. The IA assumes the impact on local authorities will be neutral, with the savings from processing fewer planning applications fully offsetting lost fee income. Therefore, the net present value (NPV) is the same as the monetised savings to business. The NPV figure equates to an EANDCB figure of -£12.9 million.

EANDCB

The IA sets out clearly how the direct impacts on business have been estimated and the EANDCB calculation appears to be based upon proportionate evidence and analysis.

Evidence and data

The IA acknowledges that limited data is available for monetising costs, in particular because the Government does not centrally record the number of change of use applications by use class. However, the IA does make good use of two existing datasets on the overall change of use planning applications and the hectares of land

which have changed use. These datasets have been used to provide an estimate of the relationship between total planning applications and change of use planning applications and prior approvals. Although the resultant estimates are subject to significant uncertainty, this approach appears to be proportionate and reasonably robust. The IA uses unit cost data from the 2009 report *Benchmarking the costs to applicants of submitting a planning application*. This report appears to remain the most authoritative data source but the IA would benefit from explicitly explaining why this is the case.

Although the annexes contain more detail, the IA would benefit from setting out the calculations more clearly and in more detail, particularly in relation to the estimated number of full applications that are expected to be avoided.

Counterfactual/baseline

The IA provides a good discussion and analysis of the counterfactual. The counterfactual correctly includes preparation work for scheme development, such as site plans and architects' drawings, costs that would be necessary in any case. The IA also adjusts its estimates of applications for development in line with expected GDP growth, based upon research establishing a relationship between the two. The department notes that this approach has been used in previous IAs.

Measures to mitigate any adverse impacts on communities

The IA sets out how the measures provide safeguards for local communities (see comment under 'cost-benefit analysis' below). The IA would benefit from providing greater clarity around the impact of such mitigating measures on business. For example, the proposed policy removes the former A4 Drinking establishments and A5 Hot food takeaway, as well as cinemas and concert, dance and bingo halls from any use classes (meaning a planning application for change of use will still be required), to ensure greater control over changes of use. This change appears to be in recognition that changes of use to or from these uses can give rise to important local considerations (e.g. protecting local pubs or preventing the proliferation of hot food takeaways and betting shops). The IA would benefit, in particular, from discussing what impact removing these types of uses from the use class might have on business.

SaMBA

The IA includes a brief but adequate SaMBA, given the deregulatory nature of the measure. The SaMBA notes the measure could be especially beneficial to SMBs, by allowing businesses to change their operating model more easily in response to market conditions. The SaMBA could be improved by providing more detail on the number of SMBs likely to be impacted by the measure.

Rationale and options

The IA provides a brief but adequate rationale for the proposal and why it is being introduced at the present time to assist economic recovery. However, the IA would benefit significantly from discussing whether other options and/or sub-options were considered, perhaps drawing upon options considered during the 2018 consultation on planning reform.

Cost-benefit analysis

Community and public sector impacts

The IA provides a good discussion of non-business impacts, including on communities and local authorities. It acknowledges that communities could be negatively impacted if certain local amenities or shops are lost to other uses through these reforms. However, the IA notes that this impact has been mitigated by the introduction of the F2 Local Community use class, which will help to protect uses that the community values such as shops outside main shopping areas, community halls, libraries, schools and places for outdoor recreation. In particular, it provides protection for small, isolated shops selling essential goods, such as those that may be found in rural areas. The IA could be improved by presenting results of consultation with local planning authorities, including any concerns they raised about managing high street or town centre development and to test the assumption around financial impacts on local planning authorities being neutral.

Risk and uncertainty

The IA explains how the measure could help business deal with the impacts of Covid-19 and the current economic environment because reducing barriers to changes of use may help businesses survive by adapting or diversifying (e.g. expanding or entering a different market). The IA would benefit from discussion around potential longer-term impacts of Covid-19 and related restrictions, for example in terms of a possible shift in retail economic activity away from high streets and town centres. In particular, the IA would benefit from addressing the extent to which the datasets used reflect the effects of Covid-19 related impacts on volumes of change of use and whether Covid-19 could lead to a desire for significant changes in usage of local amenities.

Wider impacts

The IA includes an adequate discussion of wider impacts, including how easing of regulatory restrictions on change of use are expected to have a positive impact on competition.

Monitoring and evaluation plan

The IA includes a brief section on monitoring and evaluation. It explains that the department does not plan to review the impacts this specific measure, but that it will be evaluated as part of the Government's package of planning reforms to support economic recovery. This section would benefit significantly from providing information on how the impacts of this specific policy change will be proportionately evaluated as part of the wider review.

For further information, please contact regulatoryenquiries@rpc.gov.uk