

Number 20

Planning – Use Classes Changes

Amongst the other fundamental changes occurring to the planning system, The Town and Country Planning (Use Classes) Order 1987 is to be amended this September and the changes will become operative at a date to be announced then. The Government envisages that there will be a Circular published at the same time. Each Use Class contains a variety of different uses and any change from one use to another use within the same Use Class does not need planning permission. Invariably however a change from one Use Class to another will need planning permission.

The changes will be of particular interest to restaurant and bar operators. The current law states that the A3 Use Class covers food and drink consumed on the premises, take away hot food, restaurants, pubs, snack bars and wine bars. Restaurants and cafes will be placed in a new A3 Use Class, pubs and bars into a new A4 Use Class and takeaways into a new A5 Use Class. In the future restaurant premises will not be able to be used as a pub/bar or for take away hot food without planning permission. This in part is as a result of the expansion that has occurred in the number of bars/pubs and is of course made more noticeable as a result of liberalisation of licensing laws.

Where a new use can genuinely be said to be ancillary, planning permission will not be necessary. Inevitably there will be many instances where a use has an ancillary use attached, such as a shop or restaurant which also incorporates a take away facility. Whether a use is ancillary or incidental is always a matter of fact and degree, although frequently Local Planning Authorities give help in their Supplementary Planning Guidance. The new Use Classes will, as with the current ones, apply to the primary purposes rather than ancillary purposes.

Of additional interest is the fact that warehouse clubs will now become established firmly as a sui generis activity (i.e outside existing other Use Classes) will mean that any change of use to that from another use will need planning permission.

Night clubs currently come within the assembly and leisure Use Class D2, covering use as a cinema, music hall, bingo and casino, dance hall, swimming pool, skating rink, gymnasium, and for indoor and outdoor leisure. The changes will mean that night clubs will come within a new Use Class D3 and will need planning permission if, for instance, they are currently used for the assembly and leisure use in Use Class D2. This too is a result of the concern of Government and Local Planning Authorities in the wake of a perceived explosion in entertainment activities, particularly in town centres where homes are nearby.

Based upon discussions with representatives of The Office of The Deputy Prime Minister, it is understood that these changes will apply to all existing uses. Thus if for instance an operator has a general A3 consent and has already implemented a bar and a restaurant consent, this will continue to be acceptable, but if he wishes to change the restaurant use to a bar, consent will be necessary, because it is in a separate Use Class and thus constitutes development. This aspect will however be clarified in the Government's new Circular advice.

PROPERTY

RadcliffesLeBrasseur
5 Great College Street
Westminster
London SW1P 3SJ

Tel +44 (0)20 7222 7040
Fax +44 (0)20 7222 6208
LDE 113

6-7 Park Place
Leeds LS1 2RU

Tel +44 (0)113 234 1220
Fax +44 (0)113 234 1573
DX 14086 Leeds Park Square

25 Park Place
Cardiff CF10 3BA

Tel +44 (0)29 2034 3035
Fax +44 (0)29 2034 3045
DX 33063 Cardiff 1

info@rlb-law.com
www.rlb-law.com

Summary of the Proposed Changes of Current UCO Provisions

- **A Use Class**

A summary of the Government's proposals for the 'A' Use Class is detailed below:

Class	Details	Permitted Change
A1: Shops and Retail Outlets	Internet service/cafés to be classified as A1. Otherwise, A1 to remain unchanged.	No change of use permitted.
A2: Financial and Professional Services	To remain as current provision.	Change to A1 permitted only if there is a ground floor display window.
(NEW) A3: Restaurants and cafés	Where the primary purpose is the sale & consumption of hot food on the premises.	Permitted change to A1 or A2.
(NEW) A4: Pubs and bars	Where the primary purpose is the sale/consumption of alcohol on the premises.	Permitted change to A1, A2, or A3.
(NEW) A5: Takeaways	Where the primary purpose is the sale of hot food for taking away.	Permitted change to A1, A2, or A3.
Sui Generis	Warehouse clubs to be classified as sui generis. Motor vehicle showrooms to remain classified as sui generis, but with permitted development rights allowing a change-of-use to A1 to be removed.	No change of use permitted.

- **B Use Class:**

No change to current provisions.

- **C Use Class:**

No change to current provisions.

- **D Use Class:**

A summary of the Government's proposals for the 'D' Use Class is detailed below:

Class	Details	Permitted Change
D1: non-residential institutions	To remain as current provision.	No change of use permitted.
D2: assembly & leisure	To remain as current provision.	No change of use permitted.
(NEW) D3: late night leisure	Nightclubs to be classified D3.	No change of use permitted.
Sui Generis	To remain as current provision.	No change of use permitted.

- **Temporary Uses:**

No change to current provisions.

Contact Trevor Standen on 020 7227 7242 or email trevor.standen@rlb-law.com

Trevor Standen
© RadcliffesLeBasseur
September 2004

Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing. For further information on property related issues please contact :

London Deepak Manghnani on 020 7227 7421 email: deepak.manghnani@rlb-law.com
Karen Mayne on 020 7227 7273 email: karen.mayne@rlb-law.com
Leeds Michael Thorniley-Walker on 0113 234 1220 email: michael.thorniley-walker@rlb-law.com

PROPERTY

RadcliffesLeBasseur
5 Great College Street
Westminster
London SW1P 3SJ

Tel +44 (0)20 7222 7040
Fax+44 (0)20 7222 6208
LDE 113

6-7 Park Place
Leeds LS1 2RU

Tel +44 (0)113 234 1220
Fax+44 (0)113 234 1573
DX 14086 Leeds Park Square

25 Park Place
Cardiff CF10 3BA

Tel +44 (0)29 2034 3035
Fax+44 (0)29 2034 3045
DX 33063 Cardiff 1

info@rlb-law.com
www.rlb-law.com