

Planning

The Government has confirmed that it will be introducing regulations in the New Year to reform the Use Classes Order. This piece of legislation defines the type of use to which particular premises may be put and allows a limited amount of change of use without formal planning permission. The changes have been made following pressure from local authorities about their inability to control proliferation of certain types of outlet – notably vertical drinking establishments and fast food takeaways – and also ensure that valuable amenities were not lost.

The proposed changes would see the current A3 class split into 3 distinct components. The new A3 use would apply only to restaurants or cafes. A change of use to A1 or A2 will be permitted but all other changes of use will require planning permission. Two new classes of use would be created - a new A4 use would apply to pubs and bars and takeaways would be classified as A5. Both classes will be permitted a change of use to A1,2 or 3 but all other proposed changes will require planning permission.

In addition, a new D3 use will be created for late night leisure outlets. This will clarify the classification of nightclubs and planning permission will be required for any change of use from or to a D3 classification. The Government had originally proposed classifying nightclubs in the same use as pubs and bars.

The proposals will restrict development of hybrid outlets and are likely to result in commercial premiums for outlets with A4 use in areas where this is restricted. They will also enable local authorities such as Westminster to exert greater control over licensed premises through planning policy. The planning policy will be able to specify the exact location of A4 outlets or restrict development to only A3 use to promote restaurants but not pubs and bars. Definitions will be drawn up by Government on the type of outlets to be categorized as restaurants, pubs and bars and any tests to be used in respect of mixed use outlets.

Retailers would be advised to ensure that existing mixed use outlets are classified as such in planning terms and any planning permissions or certificates so that the proportion of liquor to food sales can be varied later without any reference to use classes. It will also be important for operators to check their lease terms for references to A3 use.