

Rossendale Local Plan Examination

RESPONSE TO EMAIL re Changes to the Use Class Order (3 August 2020)



1. Introduction

This Paper sets out the Council's response to the Inspectors' queries about the implications of the changes to the Use Class Order on the Local Plan.

The Inspectors' queries are copied below:

On 21 July, the Government published The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. These come into force on 1 September 2020. Use classes A, B and D will no longer exist. A new class E (commercial, business, and service) will be created. This subsumes A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes) and B1 (business), along with uses for indoor sport, recreation or fitness, or for the provision of medical or health service or for a crèche, day nursery or day centre, where principally to visiting members of the public. New classes F.1 (learning and non-residential institutions) and F.2 (local community) subsume some uses formerly in D1 and D2. F.2 also includes shops mostly selling essential goods, including food, to visiting members of the public (in certain circumstances). The list of uses not included in any class is expanded to include uses formerly in A4 (drinking establishments) and A5 (hot food takeaways), and some uses formerly in D1 and D2 including cinemas and venues for live music performance.

These changes have implications for a number of policies in the Local Plan.

The Council is therefore requested to produce a brief note explaining whether the employment and retail policies and the associated reasoned justifications need to be modified to reflect the changes to the Use Classes Order that will come into effect on 1 September 2020. Furthermore, the Council is also requested to consider and explain in that note whether any other parts of the Local Plan need to be modified to reflect the changes to the Use Classes Order that will come into effect on 1 September 2020.

This note will then need to be consulted on together with the other evidence in preparation. So in the first instance, can the Council let the Inspectors know when this note could be made available and build it into the wider programme of work. Once we know when it can be produced and consulted upon, can the Council also make sure it is briefly picked up on the latest news webpages so that people are aware the matter is being considered.

2. Council's Response

The main driver of this change to the Use Class Order has been to enable the re-purposing of buildings on high streets and in town centres. This will help town centres recover from the economic impact of Covid-19

The new concept of 'Local Community' uses – Class F2 – has been introduced to ensure important community facilities are protected through the planning system. Again, changes of use within this class do not require planning permission.

More town centre uses are now to be classed as sui generis, such as hot food takeaways.

(a) Do the employment and retail policies and the associated reasoned justifications need to be modified to reflect the changes to the Use Classes Order that will come into effect on 1 September 2020?

EMPLOYMENT

(i) Summary of Changes to B classes

In respect of Business Uses the changes now mean that:

- Class B1 (a,b and c) (Business) has been revoked and effectively replaced with the new Class E(g). This applies to:
 - B1(a) Offices - Other than a use within Class A2 (Financial and Professional Services)
 - B1(b) Research and development of products or processes
 - B1(c) Industrial processes
- Class E(g) is defined as

Uses which can be carried out in a residential area without detriment to its amenity:

- E(g)(i) Offices to carry out any operational or administrative functions,
 - E(g)(ii) Research and development of products or processes
 - E(g)(iii) Industrial processes
- Use B2 (General Industrial) remains valid
 - Use B8 (Storage and Distribution) remains valid

(ii) Employment Land and Development policies

The following Policies refer to Use Class B1:

The Council's Strategic Policy – EMP1 identifies the requirement for employment land in the Borough of 27ha based on Use Classes B1 B2 and B8.

Policy EMP2 identifies sites for allocation and protection in Use Classes B1 B2 and/or B8. This policy also includes five mixed-use sites, identifying sites for a wider range of uses including housing and former Class A uses.

Policy EMP3 seeks to protect existing employment uses in Use Class B1 B2 or B8 in order to maintain a supply of employment land in the Borough, unless justification can be made.

Policy EMP4 refers to how applications for 'employment generating development' including extensions to existing premises, will be considered. As such this policy is not affected by the Use Class Order changes.

Policy EMP5 refers to employment development (listed as B1 B2 B8 and A2 (smaller than 100m²)) in non-allocated employment areas. This policy aims to be flexible and for SMEs.

Policy EMP6 deals specifically with Futures Park as a mixed-use site and lists a large number of acceptable uses classes, including A and B use classes.

Policy EMP7 (New Hall Hey) lists B1 B2 and B8 (in criteria e) as being acceptable uses.

In all the above cases the Council is proposing a Main Modification to replace any reference to B1 in the emerging Local Plan Policies or related Explanation text with E(g). This will therefore include:

E(g) Provision of:

- E(g)(i) Offices to carry out any operational or administrative functions,
- E(g)(ii) Research and development of products or processes
- E(g)(iii) Industrial processes

RETAIL

(iii) Summary of Changes to A classes

Class A is revoked from 1 September 2020.

- Class A1/2/3 shops, financial and professional services and restaurants and cafes) are effectively replaced with the new Class E(a,b,c)
- A4/5 uses (drinking establishments and hot food takeaways) are not covered by the new Class E and become defined as 'Sui Generis'

Class E is introduced from 1 September 2020.

In 11 parts, Class E more broadly covers uses previously defined in the revoked Classes A1/2/3, B1, D1(a-b) and 'indoor sport' from D2(e):

- **E(a)** Display or retail sale of goods, other than hot food
- **E(b)** Sale of food and drink for consumption (mostly) on the premises
- **E(c)** Provision of:
 - **E(c)(i)** Financial services,
 - **E(c)(ii)** Professional services (other than health or medical services), or
 - **E(c)(iii)** Other appropriate services in a commercial, business or service locality
- **E(d)** Indoor sport, recreation or fitness (not involving motorised vehicles or firearms)
- **E(e)** Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)
- **E(f)** Crèche, day nursery or day centre (not including a residential use)
- **E(g)** Uses which can be carried out in a residential area without detriment to its amenity:
 - **E(g)(i)** Offices to carry out any operational or administrative functions,
 - **E(g)(ii)** Research and development of products or processes
 - **E(g)(iii)** Industrial processes

Other changes relating to Retail include:

F2 Local community (newly defined) includes:

- **F2(a)** Shops (mostly) selling essential goods, including food, where the shop's premises do not exceed 280 square metres and there is no other such facility within 1000 metres

(iv) RETAIL POLICIES

Chapter 3 of the emerging Local Plan discusses Retail policy. During the Hearings it was acknowledged that this Policy should be broadened to discuss the hierarchy and the role of the town centres, which will make reference to

include the work currently being undertaken by the Council in Rawtenstall, Bacup and Haslingden (Action 6.1). As such there will be further Main Modifications proposed to this policy and these will refer to the re-purposing of buildings in these centres. Other Main Modifications are being proposed to the Retail policies as discussed at the Examination.

Strategic Policy R1 – Retail and Other Town Centre Uses refers to use class A1. It is proposed this is amended to E(a).

Proposals that require planning permission which would result in the loss of A1 (E(a) uses in the PSA of the town, district and local centres will only be supported where:

...

Policy R2 – Rawtenstall Town Centre Extension refers to use classes based on the previous Use Class Order. This should be re-worded to refer to Class E - Commercial, Business and Service (all sub-classes) as well as drinking establishments (now sui-generis) and F2(b) – halls or meeting places for the principal use of the local community.

Policy R3 (Development and Change of Use in District and Local Centres) refers to the previous Class A uses. These references need to be replaced with the new Class E and reference made specifically to hot food takeaways and drinking establishments, which are now sui generis.

Policy R4 refers to existing local shops (formerly A1 but as of 1 September such a use may fall under E(a) or possibly F2(a) which is defined as "*Shops (mostly) selling essential goods, including food, where the shop's premises do not exceed 280 square metres and there is no other such facility within 1000 metres*".

This policy and explanation needs to be amended to explain the two use classes and strengthen protection of shops that fall under Class F2(a). Other than this the policy remains appropriate.

Policy R5 refers to Hot Food Takeaways which are now sui generis so any reference to Use Class A5 should be removed. Other changes to this policy were discussed at the Hearings and modifications proposed.

(b) Please consider and explain in that note whether any other parts of the Local Plan need to be modified to reflect the changes to the Use Classes Order that will come into effect on 1 September 2020

The Parking Standards set out in Appendix 1 should be amended to ensure that the new Use Classes are used.

Other parts of the Local Plan, particularly for example the Spatial Strategy may need to be amended to make reference to the overall thrust of Government policy which prompted these changes to the Use Class Order.

The policy relating to Hot Food Takeaways (R5) and Local Shops (R4) have already been covered in the above sections.

The proposed Main Modifications are set out in Appendix A.

Appendix A – Proposed Main Modifications to the Local Plan to align with the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

In the table below, the proposed wording to be deleted is shown as strikethrough while text to be added is underlined.

Policy ref./No.	Page/ para. No.	Modification
EMP1	49	Amend policy: The Council. Together with developers and other partners, will seek to provide sufficient employment land to meet the Borough's requirement of 27 hectares for business, general industrial or storage and distribution (Use Classes B1 <u>E(g)</u> , B2 and B8) for the period up to 2034.
EMP1	49/ 114	Amend explanation text: Whilst there is a current oversupply in the short term, the ELR evidences a need for new office accommodation (B1a) <u>E(g)(i)</u> in the longer term to meet the forecast growth in the service sector, and suggests that this could be located in Rawtenstall.
EMP1	50/ 117	Amend explanation text: The ELR has identified an overall current supply of 16.4 ha (net) throughout Rossendale, from extant permissions, as well as existing and allocated employment space, having taken into account recommendations for de-allocations and release to uses other than B1 <u>E(g)(i)</u> , B2 and B8.
EMP1	50/ 118	Amend explanation text: The Council will allocated 27 ha of employment land for business, general industrial and storage or distribution (Use Classes B1 <u>E(g)</u> , B2 and B8) within Rossendale over the plan period (2014 <u>2019-2034</u>).
EMP2	51	Amend policy: The following sites shown on the Policies Map are allocated and protected for business, general industrial or storage and distribution (Use Classes B1 <u>E(g)</u> , B2 or B8 respectively) in the period 2019-2034.
EMP2	51/T able 2	Delete all reference to B1 and replace by E(g) Delete all reference to B1(c) and replace by E(g)(iii) Delete all reference to A1 and replace by E(a) Delete all reference to A2 and replace by E(c) Delete all reference to A3 and replace by E(b) Delete all reference to A4, A5 or D2 and replace by Sui generis
EMP2	53/ 120	Amend explanation text: Based on the range identified, the Council is looking to identify 27 ha of B-class employment land in Rossendale over the plan period.
EMP3	55	Amend policy: Proposals on all employment sites/premises for re-use or redevelopment other than B-use class employment <u>E(g)</u> , B2 or <u>B8</u> uses will be assessed under the following criteria:

EMP5	57	Amend policy: New small scale employment development (Use Classes B1 E(g) , B2, B8, and A2 E(c) (A2 E(c) limited to under 100m ² of new floorspace)), will be permitted in areas where employment is not the principal land use provided there would be no detriment to the amenity of the area in terms of scale, character, noise, nuisance, disturbance, environment and car parking.
EMP6	58	Amend policy: The following uses are considered to be acceptable: i. Employment uses comprising B1 (Business) <u>E(g) (Business)</u> , B2 (General Industrial) and B8 (Storage or Distribution); ii. Hotel (Use Class C1), Restaurants and cafes (Use Class A3 E(b)) and drinking establishments (Use Class A4 Sui generis); iii. Leisure uses (Use Class D2 Sui generis and F2); iv. Retail (Use Class A1 E(a)); v. Pedestrian and cycle route – “Valley of Stone” Greenway and link to Lee Quarry; vi. Transit site for Gypsies and Travellers.
EMP7	60	Amend policy: The following uses are considered to be acceptable: e) Employment uses comprising B1 E(g) (Business) , B2 (General Industrial) and B8 (Storage or Distribution).
R1	64	Amend policy: Proposals that require planning permission which would result in the loss of A1 E(a) uses in the PSA of the town, district and local centres will only be supported where:
R1	66/ 151	Amend explanation text: The loss of A1 E(a) uses ¹ in all town, district and local centres will be resisted unless the criteria in this policy are met. ¹ as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) include shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafes <u>business for the display or retail sale of goods, other than hot food, principally to visiting members of the public.</u>
R2	66	Amend policy: The following mixes of uses are considered to be appropriate: i. Retail Commerce, Business and Service (Use Class A1 E); ii. Hotel (Use Class C1); iii. Restaurants and cafes (Use Class A3); iv. Drinking establishments (Use Class A4 Sui generis); v. Leisure uses (Use Class D2 Sui generis and F2); vi. Employment uses comprising B1 (Business); viii. Residential units above ground floor level.

R3	67	<p>Amend policy: Policy R3: Development and Change of Use in <u>Town, District and Local Centres and Neighbourhood Parades</u></p> <p>The boundaries of the District and Local Centres <u>these centres</u> are defined on the Policies Map. The following criteria apply for change of use and development in District and Local Centres <u>these centres</u>:</p> <p>a) Planning permission will be granted for A1, A2, A3 <u>Class E and A4</u> <u>for Pub and drinking establishment (Sui generis) uses</u> which support the role and function of District and Local centres <u>these centres</u>.</p> <p>b) A5 uses <u>(Hot food takeaways (Sui generis))</u> will be permitted where the proposal would not adversely impact, either individually or cumulatively, on the function, vitality and viability of the centre, subject to the provisions of other policies in this Plan.</p> <p>c) Planning permission will be not be granted for non-retail uses (including the loss of A1 <u>Class E use</u>) unless it can be shown that there is no demand for retail or commercial use or the property was last occupied by a non-retail/non-commercial use. This will need to be demonstrated through an active 12 month marketing process showing that the property has been offered for sale or rent on the open market at a realistic price and that no reasonable offers have been refused.</p>
R3	68/ 154	<p>Amend explanation text: This policy seeks to protect A1, A2, A3 and A4 <u>Class E uses</u>² including shops, financial and professional services, restaurants and cafes, and <u>Sui generis uses such as drinking establishments in Rossendale's town, district, and local centres and neighbourhood parades</u>. These uses are protected to enable the centres to continue to meet local needs, to remain competitive and be resilient to future economic changes. A5 uses <u>(Hot food takeaways (Sui generis use))</u> will only be permitted where the proposal does not adversely impact on the function, vitality and viability of the centre. Proposals for non-retail uses need to demonstrate that there is no demand for retail or commercial use or the property was last occupied by a non-retail/non-commercial use.</p>
R4	68	<p>Amend policy text: Development proposing the change of use or loss of any premises or land currently or last used as a local shop (Use Class A1 E(a) <u>or possibly F.2(a) for shops of no more than 280 sqm and located more than 1km away from similar facilities</u>) outside of the defined town centre, district <u>and</u> or local centres <u>or neighbourhood parade</u> boundaries will be permitted where it can be demonstrated that:</p>

R4	69	<p>Amend explanation text:</p> <p>It is recognised that local shops outside of town, district and <u>or</u> local centres or neighbourhood parades can provide a useful function in meeting people's day to day shopping needs and constitute a sustainable form of necessary infrastructure reducing the need to travel by car. <u>This is especially the case for shops under Class Use F.2 (a) which are no more than 280 sqm in size and located more than 1km from other shops.</u> The Council therefore will seek to protect such facilities where they provide a valuable resource to the local community. Supporting evidence should be provided demonstrating that retention as a shop is no longer feasible.</p>
R5	69	<p>Amend policy:</p> <ul style="list-style-type: none"> • Development for A5 use would not adversely contribute to obesity <u>refuse applications for new hot food takeaways in wards where more than 22% 15% of Year 6 pupils or 10% of Reception class age pupils are classified by Public Health England as obese;</u>
Appendix 1: Parking Standards	118-120	<p>Delete reference to A1 and replace by <u>E(a)</u></p> <p>Delete reference to A2 and replace by <u>E(c)</u></p> <p>Delete reference to A3 and replace by <u>E(b)</u></p> <p>Delete reference to A4 Drinking Premises and replace by <u>Sui Generis Drinking Premises</u></p> <p>Delete reference to A5 Hot Food Takeaways and replace by <u>Sui Generis Hot food takeaways</u></p> <p>Delete reference to B1 Offices/Light Industry and replace by <u>E(g) Offices, Research and Development and Industrial Processes which can be carried out in residential areas without affecting their amenities</u></p> <p>Delete reference to D1 Non-residential Institutions and replace by:</p> <ul style="list-style-type: none"> • <u>E(e)</u> for Medical and Health centres, • <u>E(f)</u> for Crèches, Nurseries or Day centres • and <u>F.1</u> for Higher and Further Education; Primary and Secondary Schools; Sixth Forms; Training and Conference Centres; Art galleries, Museums, Libraries; Public Halls/Places of Worship • Delete reference to D2 Assembly and Leisure and replace by <u>Sui generis for Cinemas and Concert Halls; F.2 for Other leisure buildings; Playing Pitches and Stadia</u>