

HOW CHANGE OF USE IS HANDLED IN THE PLANNING SYSTEM AND THE IMPLICATIONS FOR SUSTAINABLE FOOD AND FARMING

Why Sustain is responding to this proposed change in the planning system

Sustain: the alliance for better food and farming advocates food and agriculture policies and practices that enhance the health and welfare of people and animals, improve the living and working environment, enrich society and culture and promote equity. We represent around 100 national public interest organisations working at international, national, regional and local level (listed on our website www.sustainweb.org).

This response has been prepared following consultation with colleagues from the Sustain alliance, and with attendees at a food and spatial planning conference we organised in July 2011¹. It represents the general, rather than detailed views of members of these networks, many of which will also be responding separately. This response will focus solely on the food and farming implications of planning because this is our area of expertise.

A healthy and sustainable food and farming system is essential for our well-being and, as part of this, a well planned retail sector that provides healthy, affordable and culturally appropriate food is an important part of influencing people's diets. In recent years some local authorities have been using Use Classes to restrict the over-concentration of hot-food takeaways² and many local authorities have policies on food retail³ to try and facilitate retail diversity that meets the need of local residents.

Use Classes can be a very effective way to ensure both that some types of retail are not over-concentrated, and that others are not completely absent, thereby helping to maintain or create a range of retail outlets. Sustain is therefore keen for Use Classes to be maintained and, in fact, extended.

Response

Set out below are responses to the consultation questions set out in the "issues" paper⁴, focusing on the implications for sustainable food and farming.

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?

¹ A summary of the presentations and discussions is available here http://www.sustainweb.org/localactiononfood/food_spatial_planning/

² Waltham Forest Local Development Framework – Hot Food Takeaway Supplementary Planning Document (2009), London Borough of Waltham Forest <http://www.walthamforest.gov.uk/adoption-statement-hot-food-takeaways-spd.pdf>, Barking and Dagenham SPD "Saturation Point" (2010), London Borough of Barking and Dagenham, <http://moderngov.barking-dagenham.gov.uk/mgConvert2PDF.aspx?ID=25199>

³ Good Planning for good food report (2011), Sustain www.sustainweb.org

⁴ How change of use is handled in the planning system – tell us what you think: Issues paper (June 2011), DCLG <http://moderngov.barking-dagenham.gov.uk/mgConvert2PDF.aspx?ID=25199>

We believe that material change of use should continue to be considered to be development and handled through the planning system, as different uses clearly have different environmental, economic and social effects on a local area. For example, the impact of five pubs on a mostly residential street will be different from the impact on a street with offices and DIY shops.

The Use Classes Order is a fundamental building block of the planning system, both for supporting local and neighbourhood plans, and for managing development. It can be used to determine whether planning permission is needed and, if so, whether it is given.

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?

We believe that the Use Classes Order is an effective way to ensure that minor planning changes (those within a Use Class) do not have to go through the planning system. We are concerned that there is a presumption that the planning system is overly burdensome and needs to be deregulated, which is not well founded.

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?

No comment.

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

The Use Class classifications in current use are good, but we suggest a further division of retail A1 uses in the following way for the reasons outlined below (this is similar to how Use Class B1 is split into offices, research and development and light industry).

<p>A NEW RETAIL USE CLASS (A1)</p> <ul style="list-style-type: none">a. Small convenience store (up to 250 sq m)b. Supermarket – larger convenience store (over 250 sq m)c. Small comparison store (up to 250 sq m)d. Larger comparison store (over 250 sq m)e. Pharmacyf. Other retail (hairdressers, travel & ticket agencies, domestic hire shops, dry cleaners, funeral directors, internet cafes, sandwich bars)
<p>A local planning authority, through its local plan (and local development order), or a local community through its neighbourhood plan (and neighbourhood development order) would define which changes between the retail sub-categories within the use class needed planning permission and which did not.</p>

Convenience retailing⁵ provides everyday items, including food, drinks (non-alcoholic and alcoholic), newspapers/magazines, tobacco, confectionery and non-durable household goods.

⁵ National Planning Retail Forum, Retail Definitions Working Group, Draft Definitions for Retail Planning, October 2008

Comparison retailing⁶ provides 'non perishable' items not on a frequent basis, which are often stocked in a wide range of sizes, styles, colours and qualities. These include clothing, footwear, toys, DIY goods, household and recreational goods such as furniture, carpets, computers, televisions and white goods (fridges, dishwashers etc).

Central government has acknowledged the importance of having a thriving and diverse retail market local to where people live⁷. Use Classes can help to provide this by giving planners a way to understand and manage the uses of the buildings in their local area. Unfortunately, retail is currently an area where planners cannot distinguish between types of A1 retail, because A1 uses - whether they are convenience or comparison goods - are all designated with the same Use Class. If A1 were sub-divided as suggested above, planners could ensure that a range of comparison and convenience retail is available for local people.

Amendments to the Use Classes Order have also been suggested by the Greater London Authority in The Cornered Shops Report⁸ which was prepared during the discussions around the London Plan. We agree with the recommendations in this report, particularly those that suggest that the Government should amend the Use Class Order to distinguish between “essential” retail such as greengrocers and bakers, and “service” retail, and to create a new category for small shops.

Importance of distinguishing between comparison and convenience retail

The Commission on Social Determinants of Health (WHO) recognises that our environments should be better designed to encourage healthy eating.⁹ Currently there is no easy way for planners to determine whether there are sufficient food retailers to provide such an environment.

We know that many people are unable easily to obtain healthy and affordable food¹⁰. This is a complex problem influenced by many factors and research has shown that accessibility to a healthy diet may be influenced by the socio-economic status of the person, by the location of shops, whether the food is affordable and good quality, and personal choice. Perversely, people on lower incomes might end up paying more than the better-off for healthier food¹¹ and in areas of high deprivation there is more likely to be diet-related ill-health.

The planning system can help to tackle some of these elements by recognizing, and helping to protect or create, retail environments that help rather than hinder the process of shopping for a healthy diet. For example:

- Convenience outlets in neighbourhood shopping centres are important for many people who live in urban areas especially the elderly, socially isolated, and people who find it difficult to use transport to go out of their area for shopping.
- Neighbourhood convenience shops can offer price competition, opportunities for smaller producers and a greater variety of foods for people from different cultures.

⁶ National Planning Retail Forum, Retail Definitions Working Group, Draft Definitions for Retail Planning, October 2008

⁷ Draft National Planning Policy Framework (July 2011),

<http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicyframework/>

⁸ Cornered Shops, GLA (2010) (page 45)

http://www.london.gov.uk/sites/default/files/Final%20draft%20small%20shops_0.pdf

⁹ Closing the gap in a generation: Health equity through action on the social determinants of health, World Health Organization, 2008

http://www.who.int/social_determinants/thecommission/finalreport/closethegap_how/en/index1.html

¹⁰ The London Health Inequalities Strategy; Draft for Public Consultation (August 2009), Greater London Authority <http://www.london.gov.uk/mayor/priorities/health/docs/health-inequalities-strategy-draft-consult.pdf>

¹¹ “Inequalities in food and nutrition challenging “lifestyles”” (Dowler, Caraher, and Lincoln) in Challenging Health Inequalities: from Acheson to Choosing Health (Dowler & Spencer) (2007), Policy Press http://books.google.com/books?id=lpangCPsvoAC&pg=PA127&lpg=PA127&dq=liz+dowler+et+al+2001&source=bl&ots=Bob9EwKOV_&sig=u9yWrPBjTZSe_uflx2UrYyfSjAQ&hl=en&ei=ZUbwSqHOLomNjAel9fi7CA&sa=X&oi=book_result&ct=result&resnum=1&ved=0CAoQ6AEwAA#v=onepage&q=&f=false

Some local authorities¹² specifically mention convenience shopping, greengrocers, bakers and post offices in their Core Strategies. The London Plan, in Policy 4.8, wants Local Development Frameworks to “support convenience retail particularly in District, Neighbourhood and Local Centres, to secure a sustainable pattern of provision and strong lifetime neighbourhoods”¹³. We believe there needs to be a Class Use Order classification to help local authorities to fulfil this function.

Importance of distinguishing between large and small format stores

Smaller format shops can help to increase the retail diversity of an area, enhance local competition, stimulate local markets, and support other small and medium enterprises and, thereby, local employment¹⁴. They are also important in terms of location because they may be on the high street, in neighbourhood centres, or isolated shops in residential areas. Local shops may be more practical for people who live on their own and find it difficult to carry large amounts of shopping in one shopping trip. In some areas, small neighbourhood shops are the only realistic food shopping option for people with limited mobility, so maintaining them is vital.

Sustain believes that, by ensuring that there is a Use Class specifically for smaller format stores, this would help to facilitate competition in the grocery market. This is currently very concentrated with more than 75% of grocery spending in the UK going to four retailers (and 30% going to one)¹⁵.

Even though there are recognised policies, e.g. in the London Plan, that require local authorities to support small shops (policy 4.9) it will be difficult to do this unless Use Classes are, first, retained and second, amended in the way we propose. The London Plan only applies, of course, to local authorities in London, but there are other local authorities across the country (as cited in the Good Planning for Good Food report) who are keen to support small shops and independent retailers.

Change of use from A4 to A1

Another concern is the change of use from a pub (A4) to a small format supermarket (A1)¹⁶. This change is allowed under the current system without planning permission. Although permission may be required for other stages of the process e.g. signage, or cooling units the end use is not always identified, therefore making it difficult to raise objections. The impact on the local area between a pub and a small format supermarket could be significantly different e.g. traffic, food delivery. We therefore suggest that changes from A4 to A1 should require planning permission.

Open space, agriculture and growing food

Use Classes can also be developed to apply to open space to help local authorities understand the different types of land in their area and to better allocate land that would be designated as “Local Green Space”, (as proposed in the draft National Planning Policy Framework). Open Space Use Classes would also better integrate agriculture and forestry into the mainstream planning system. We therefore suggest main use class category (Use Class E) covering open space, with the following use classes.

- E1 – Local Green Space
- E2 - Parks and other informal open space
- E3 – Playing fields and recreational facilities, including school playing fields
- E4 – Non Commercial food growing (including allotments, statutory and non-statutory)

¹² Good Planning for Good Food (2011), Sustain

http://www.sustainweb.org/localactiononfood/food_and_planning/

¹³ London Plan, Spatial Development Strategy for Greater London (2011), Mayor of London

<http://www.london.gov.uk/sites/default/files/The%20London%20Plan%202011.pdf>

¹⁴ Plugging the Leaks; Making the most of every pound that enters your local economy (2002), New Economics Foundation http://www.pluggingtheleaks.org/downloads/plm/plm_ptl_handbook.pdf

¹⁵ UK Grocery Shoppers trading down to discount chains (August 2011), Reuters

<http://www.reuters.com/article/2011/08/16/britain-grocers-kantar-idUSL5E7JG10T20110816>

¹⁶ For example The Feathers pub in Chorlton, Manchester

E5 - Agricultural land (as defined under Section 336 of the Town and Country Planning Act 1990) E6 - Forestry and woodland

We believe this will not only help to retain commercial agricultural land, but also help meet the high level of demand from many local people for local food growing spaces¹⁷.

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?

No Comment

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?

Currently one of the most challenging consequences of the concentration of the grocery sector into four main supermarkets is that it is difficult for smaller retailers both to enter the market, and then survive and thrive. Although the planning system does recognise the need for encouraging retail diversity in town centre development, and encouraging local distinctiveness, as we argue in this response, the Use Classes Order could be retained and further developed to help planners implement this. Whilst planners cannot do this on their own, they can help to facilitate this via a change in Use Classes (and we support the policy in the London Plan that proposes that large retail developments could support smaller independent retailers through planning obligations – policy 4.9).

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

No Comment

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

No comment

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

No comment

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.

No Comment

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Suzanne Natelson, Project Officer
Sustain: the alliance for better food and farming
Suzanne@sustainweb.org

¹⁷ For example allotment waiting lists - <http://www.telegraph.co.uk/foodanddrink/5422485/Allotment-waiting-lists-reach-up-to-40-years.html>