Dear Inspector

**Suffolk Coastal Local Plan – Amendments to the Use Classes Order**

Thank you for your letter dated 29th July 2020. The letter has been posted on the Examination webpages.

The Council has closely reviewed the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, which were made on 20th July and which come into force on 1st September 2020, and the changes which these bring in in relation to the Town and Country Planning (Use Classes) Order 1987.

In summary, the Regulations introduce a new Class E which subsumes the current Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) and Class B1 (business). Class A4 (drinking establishments) and Class A5 (hot food takeaways) become *sui generis* uses. Class E will also cover other uses, including some that are currently within Class D, including indoor sport, recreation and fitness uses, the provision of medical or health services and use as a creche, nursery or day centre, where these are principally for visiting members of the public.

The Regulations also revoke the current Class D (D1 non-residential institutions and D2 assembly and leisure) and introduce a new Class F1 which will include any use for the provision of education, the display of works of art, as a museum, as a public library or reading room, as a public hall or exhibition hall, for or in connection with public worship or religious instruction or as a law court. A new Class F2 is also introduced which will include a shop mostly selling essential goods, including food, to visiting members of the public (provided the premises are up to 280sqm and there is no other such facility within a 1,000 metre radius), a hall or meeting place for the principal use of the local community, an area or place for outdoor sport or recreation, or an indoor pool or skating rink.
There is a transitional period which exists within the Regulations (covering 1st September 2020 to 31st July 2021) in relation to Permitted Development applications and to Article 4 directions, and transitional arrangements related to applications submitted prior to 1st September 2020, and therefore the existing Use Classes will remain directly relevant to some degree over this period.

The Council has considered the new Regulations in terms of their relationship with the policies of the Suffolk Coastal Final Draft Local Plan (January 2019) including the proposed Main Modifications consulted on during May to July 2020.

There are a number of policies in the Local Plan that contain specific reference to A Class or B1 Class uses which will be replaced by the new Class E. These are contained in Chapter 4 Economy and in Chapter 12 Area Specific Strategies (including allocations). The strategy and policies of the Local Plan have been informed by the Council’s evidence base. Of particular relevance to policies that cover A Class, B1 Class and D Class uses are the Ipswich & Waveney Economic Areas Employment Land Needs Assessment (Document D4), Ipswich Economic Area Sector Needs Assessment (Document D3), Ipswich Economic Area Employment Land Supply Assessment (Document D2) and the Ipswich Borough and Suffolk Coastal District Retail and Commercial Leisure Town Centre Study (Documents D6-D9).

The evidence underpinning the policies in the Local Plan relating to retail and employment uses has been drawn up reflecting national policy as set out in the National Planning Policy Framework (NPPF). Whilst the forthcoming changes to the Use Classes Order may enable some movement between e.g. retail and business use without planning permission, paragraph 20 of the NPPF states that strategic policies should set out an overall strategy for the pattern, scale and quality of development and to make sufficient provision for (amongst other needs) employment, retail, leisure and other commercial development. This approach is reflected in NPPF paragraph 35 which states that, to be positively prepared, and therefore to be ‘sound’, a Plan should provide a strategy which as a minimum seeks to meet the area’s objectively assessed needs. The Local Plan logically does this by setting out policies to guide and manage employment development and to guide and manage retail development, and in doing so also reflects the requirement in Section 19 of the Planning and Compulsory Purchase Act 2004 to have regard to national policies and advice contained in guidance issued by the Secretary of State and the requirement at Section 20(5)(b) for the plan to be ‘sound’.

The policies in the Local Plan, along with the supporting text, will – as the courts have explained – be interpreted in a straightforward manner having regard to their context and to common sense. The references to various use classes in the Use Classes Order is part of that context, but it is only part. Read correctly, the policies are clear in their intentions in relation to the needs for the employment and retail uses that they are seeking to provide for and manage. In consequence, the policies will be effective in these intentions in the context of development management (i.e. the determination of planning applications) even after the UCO changes have come into effect on 1st September 2020. The policies themselves and the supporting text are clear in the type(s) of development that are envisaged. Whilst the Council’s future ability to manage some changes of use between existing A1, A2, A3 and B1 uses may be impacted by the new Regulations (as, in
principle, planning permission may not be needed), applications for new development will continue to be considered against the relevant policies in the Plan through consideration of the policy wording and supporting text, with appropriate reference to the evidence base. As an example, policy relating to new employment development (SCLP4.2) reflects the needs for what are currently B Class uses as is evident through the supporting text and the policy wording. Conditions could be attached to the grant of any planning permissions, in accordance with paragraph 55 of the NPPF, where this is necessary to ensure that the development will continue to meet the intentions of the policy (for example, where it will be important for a development to remain as a business use in reflection of the policies and the associated evidence base). Conditions could manage future potential impacts, such as amenity or town centre first considerations, for other potential uses that fall with Class E. The policies can therefore still be applied in a development management context alongside the amended Use Classes Order.

The approach to B2 and B8 employment uses will not be directly affected by the changes, and policy related to these uses can continue to be implemented as written.

For those A Class uses which become sui generis (i.e. Classes A4 and A5), planning permission will be required for any development or change of use to or from these uses, and therefore policies relevant to these Use Classes will continue to enable these uses to be appropriately managed.

In relation to uses that would fall under the new Classes F1 and F2, it is considered that whilst the new Regulations introduce new changes that can take place without planning permission (for example from a community hall to a shop selling essential goods) policy seeking to protect community facilities would remain applicable where planning permission is needed. Further, as set out above, in relation to granting permission for new community facilities, conditions could be attached where this is necessary to manage any future potential changes. The Plan reflects policy contained in paragraph 92 of the NPPF by planning positively for the provision of community facilities and by guarding against their unnecessary loss.

The primary legislation surrounding the preparation and adoption of the Local Plan is principally set out in Sections 19 and 20 of the Planning and Compulsory Purchase Act 2004. As explained above, the Council has had regard to national policies and advice contained in guidance issued by the Secretary of State in preparing the Plan, and has also met the other relevant requirements. The NPPF sets out the considerations for determining whether a Plan is ‘sound’ (as required under Section 20 of the 2004 Act), and the Local Plan has been prepared in a manner consistent with the NPPF. Therefore the Council considers that there is no legal reason that the new Use Classes Order Regulations should prevent the Plan from proceeding to adoption, and the Plan would remain legally compliant as per paragraph 35 of the NPPF.

Notwithstanding that the Council has positively prepared the Plan in a manner consistent with the NPPF by setting out a strategy and policy to meet identified needs the Council will of course, as required, monitor the implementation of the Plan, and will review the Plan where evidence indicates that this is appropriate. The Council’s Local Development Scheme (Document E1a)
confirms this position by stating that the Local Plan will be monitored on an annual basis and will then be the subject of a review within five years of adoption (page 16).

The Council is aware that the Government wishes to see Local Plans progress rapidly and, aligned with this ambition, the Council also wishes to continue with the Examination and looks forward to progressing the Plan to adoption at the earliest opportunity, if you conclude that (with modifications) it is ‘sound’ and legally-compliant. The Council therefore looks forward to hearing from you in due course.

Yours sincerely

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East Suffolk Council