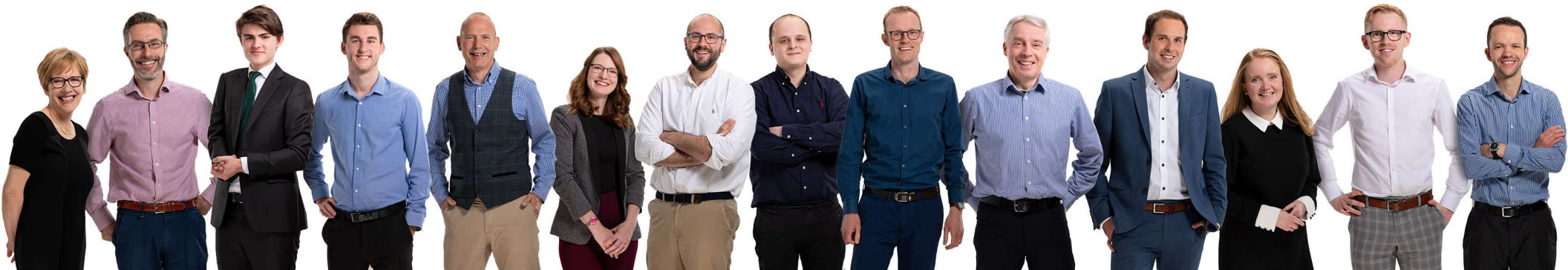




## Use Classes Order

Amendments 2020





## The Basics

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- Land uses in England are defined by The Town and Country Planning (Use Classes) Order 1987
- Land uses that are not included in a specified Use class are considered Sui Generis
- Land use classes help Planning Authorities strategically target growth and helps protect vulnerable groups



# Change of Use of Land

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- **Section 55 of the Town and Country Planning Act 1990** sets out the meaning development
- *“Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any **material change in the use** of any buildings or other land”.*
- Use classes allow planning decision makers to assess whether a material change in use of the land has or will occur.
- A change to another use that falls within the same Use Class Order does not constitute a material change in use of the land.
- *“in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class”.*

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## The 'old' Use Class Order is divided into the following areas

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- The old use classes were divided between 4 different classes, with each class being sub-divided into specific uses.
- Importantly, a change between these sub-groups consists of a change of use and would therefore require planning permission.
- Broadly speaking, the old Use classes are broken down into retail/hospitality (class A), industrial/production (class B), residential uses (class C) and institutional/education/entertainment (class D)

## Part A

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- **A1 Shops** - 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
- **A2 Financial and professional services** - Financial services such as banks and building societies, professional services (other than health and medical services) and including estate and employment agencies. It does not include betting offices or pay day loan shops - these are now classed as “sui generis” uses (see below)
- **A3 Restaurants and cafés** - For the sale of food and drink for consumption on the premises - restaurants, snack bars and cafes
- **A4 Drinking establishments** - Public houses, wine bars or other drinking establishments (but not night clubs) including drinking establishments with expanded food provision
- **A5 Hot food takeaways** - For the sale of hot food for consumption off the premises.



## Part B

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- **B1 Business** – Uses which can be carried out in a residential area without detriment to its amenity. **This class is formed of three parts:**
  - B1(a) Offices - Other than a use within Class A2 (see above)
  - B1(b) Research and development of products or processes
  - B1(c) Industrial processes
- **B2 General industrial** - Use for industrial process other than one falling within class B1 (excluding incineration purposes, chemical treatment or landfill or hazardous waste)
- **B8 Storage or distribution** - This class includes open air storage.

# Part C

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- **C1 Hotels** - Hotels, boarding and guest houses where no significant element of care is provided (excludes hostels)
- **C2 Residential institutions** - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres
- **C2A Secure Residential Institution** - Use for a provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks
- **C3 Dwellinghouses** - This class is formed of three parts
  - C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child
  - C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems
  - C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger
- **C4 Houses in multiple occupation** - Small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

## Part D

- **D1 Non-residential institutions** - Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law court. Non-residential education and training centres
- **D2 Assembly and leisure** - Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used).



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# Sui Generis

- 'Sui generis' is a Latin term that, in this context, means 'in a class of its own'.
- Certain uses are specifically excluded from classification by legislation, and therefore become 'sui generis'. These are:
  - theatres
  - amusement arcades/centres or funfairs
  - launderettes
  - fuel stations
  - hiring, selling and/or displaying motor vehicles
  - taxi businesses
  - hostels (providing no significant element of care)
  - waste disposal installations for the incineration, chemical treatment or landfill of hazardous waste
  - nightclubs
  - casinos
  - betting offices/shops



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# Old Parks Farm

- The question here was where the use of the highlighted pieces of land were compatible with the future proposed residential conversion of the other element of the farm.
- Our designs re-oriented the site to keep HGV's away from the form the residential elements of the site.
- The space between the two elements of the site and the nature of the work that takes place on site mean that the amenity of future residents would be protected.

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## Summary of the 'old' Use Class order

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- Relatively unchanged for many years, the 2020 alterations provided the biggest shake we have seen for decades.
- The benefits of the old system allowed for decision takers and plan makers to identified vulnerable uses and it helps provide a framework for sustainable patterns of development.
- Some criticism of the of system would be that there is lack of flexibility, that the previous system was to prescriptive and that it hampered economic activity.
- Although proponents of the old class allocations would say that provision made by the General Permitted Development Order allow for sufficient flexibility.
- So what has the Government introduced to improve the system?...

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# Amendments 2020

Come into effect 1<sup>st</sup> September

# New Use Class - E

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- Use class E will absorb existing classes A1, A2, A3, B1, and parts of D1 and D2.
- Class E will be considered as a general “commercial, business and service” use class.
- Changes in land use within Class E will not require planning permission.
- The changes take effect on 1 September 2020 but there is a “material period” from 1 September 2020 to 31 July 2021 which phases some of the changes relating to applications and PD rights.
- During the “material period” references to uses and use classes in the General Permitted Development Order will remain as currently defined in the current UCO. This will allow a period of grace for development currently permitted under the GDPO to happen with reference to the current use class definitions.
- For “live” applications for planning permission submitted before 1 September 2020 (including ones submitted between now and September) which refer to uses or use classes in the current UCO, they must be determined by reference to those old use classes. Once implemented, however, in the absence of controls in the permission such uses may fall within the new classes for the purposes of the UCO.



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# Summary

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- Many Local Plans have historically tried to protect A1 shop and retail uses particularly in town centre locations. This alteration to the Use Class Order signals a step change from the Government to provide a greater level of flexibility to landowners.
- The new approach aims to promote the vitality and viability of town centres by allowing more diversification in a way that can respond to rapid changes in the retail and leisure sectors.
- The potential implications of permitted changes in use outside town centres may also have unintended consequences.
- Other changes introduce more restrictions rather than flexibility. Partly in response to the impact of the Covid-19 crisis, there is added protection against the loss of learning, non-residential and community facilities, including museums public halls and local shops
- The grey area relating to food/beverage outlet's classification as A3 or A5 will become a key area of dispute e.g. it is not clear whether a mixed restaurant and takeaway use is now in the new E class or sui generis.

# Use Class F1

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- A new Use Class F1 absorbs the remaining parts of current Class D1 that are not in the new Class E – *“learning and non-residential institutions”*. This will include education, non-commercial galleries, museums, libraries, public halls, places of worship and law courts.
- Any use not including residential use –
  - a) the provision of education, *(schools, colleges etc. – former use class D1)*
  - b) for the display of works of art (otherwise than for sale or hire), *(galleries – former use class D1)*
  - c) as a museum *(former use class D1)*
  - d) as a public library or public reading room, *(former use class D1)*
  - e) as a public hall or exhibition hall, *(former use class D1)*
  - f) for, or in connection with, public worship or religious instruction *(churches etc. – former use class D1)*

## Use Class F2

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- “*local community*” uses. This absorbs part of current Class A1 and D2 and includes small corner shops, local community halls, swimming pools and outdoor recreational areas.
- Class F2 contains a wide range of different types of land use, and has been designed to allow communities to provide the types of facility they need with greater ease
- Class F2 is for local community use. Specifically, any use as:
  - (a) a shop mostly selling essential goods, including food, to visiting members of the public in circumstances where—
    - (i) the shop’s premises cover an area not more than 280 metres square, and
    - (ii) there is no other such facility within 1000 metre radius of the shop’s location,
  - (b) a hall or meeting place for the principal use of the local community,
  - (c) an area or place for outdoor sport or recreation, not involving motorised vehicles or firearms,
  - (d) an indoor or outdoor swimming pool or skating rink.

Cinemas, concert halls pubs, wine bars and takeaways will become a sui generis use with no permitted changes.

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## Can these be taken away?

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- Authorities are not necessarily powerless in this process. In practical terms, they still have option to apply Article 4 Direction which restricts certain types of development that can take place on a site/building/land.
- It has yet to be seen if Authorities will look to limit the permitted change of use between uses found within the new Use Classes.
- The question of whether a material change of use of the land will be the key examination for decision makers and those advising land-owners and applicants.

# Covid-19, the Internet and Conservatism

- The amendments to the use class order tie in with the Governments “build, build, build” rhetoric. Class E has been designed to offer a greater level of flexibility to “high-street” and town center services. Planning permission will not be required to change from one use falling within Class E to another.
- The response has been accelerated by the financial implications of the pandemic, but the decline of town centers has been well documented since the emergence of internet shopping and out-of-town shopping centre’s like Meadow Hall and the Trafford Centre.
- The part of mainstream conservative thinking is that business and the free-market is hampered by an overly prescriptive planning system. It is hoped that the new, broader use class will stimulate economic activity and bring dis-used town center floorspace back into use.
- However the wider implications of the new flexibility have yet to be seen. There is an element of uncertainty to how much power local authorities will have to apply additional restrictions to these permitted changes of use.



# About Planning & Design

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- Started in 1999. Formed company in 2002
- Comprising town planners and architectural designers
- Offices - Derby based with office in Sheffield, plus sub offices in Macclesfield and Matlock
- Wealth of knowledge from a range of backgrounds
- Public sector experience
- Happy to provide free initial advice

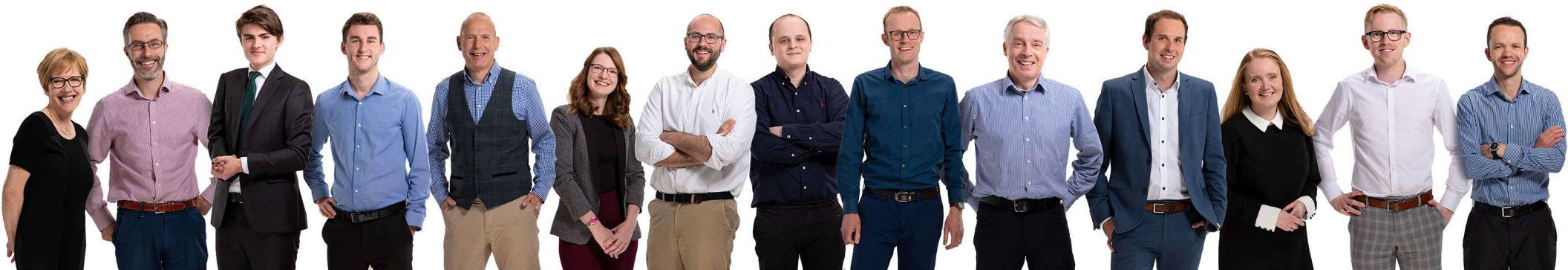


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## Our Team

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Comprising town planners, architects, masterplanners and architectural assistants our staff bring a wealth of experience from a range of backgrounds and various parts of the UK. Our planners have worked in the public & private sectors, and have excellent working relations with Local Planning Authorities. This often proves invaluable and is a key to our success.





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