

Westminster City Plan 2019-2040 – Examination in Public

Response to Inspector's Matters, Issues and Questions

Changes to the Use Classes Order – Additional Question for Matter 1 Procedural/legal requirements

18) What are the implications of the changes to the Use Classes Order set out above on the legal compliance and soundness of the City Plan particularly with regard to (but not limited to) objectives 2, 3 and 4 and the policies contained within the Spatial Strategy, Housing and Economy and Employment sections of the City Plan?

1. Now in force as of the 1st September 2020, the recent changes to the Use Classes Order (UCO), which must be used by Local Planning Authorities (LPAs) when deciding new planning applications (excluding those which fall under the transitional arrangements), presents a number of conflicts with the currently proposed version of the draft City Plan. We are particularly concerned about conflicts that the recent UCO changes result in with regards to the Economy and Employment sections of the City Plan.
2. Changes made to the UCO seek to provide flexibility for commercial occupiers in England and support declining highstreets and town centres through the creation of the broad 'Commercial, business and service' use class (Class E). The changes to the UCO reflect the need to broaden and diversify uses within town centres to respond to a change in retailing and customer behaviour towards a greater experience led environment. This would allow for a diversification of uses to support the function of town centres. As currently drafted, there are several policies within the draft Local Plan that contain specific reference to A Class or B1 Class uses which need to be replaced by the new Class E Use. We consider those in relation to employment and retail as currently worded, are not in the spirit of the amended UCO and seek to prevent or limit the flexibility to allow changes between different uses which sit within the new Use Class E from taking place, consequently making the plan 'unsound'.
3. Most notably Policy 15 which seeks to protect A1 uses along the high street as opposed to their occupation with other uses which can underpin demand for retail, generate footfall and contribute towards place-making. Under the new UCO, this policy is no longer *consistent with*

national policy, where A1 use class no longer exists and other uses such as gyms and businesses now fall within the same use class as A1 retail and are therefore considered as an acceptable use along the Highstreet, not requiring planning permission for changes of use, despite Policy 15's position. It is also not *effective or justified*, given the evident and sustained challenges retailers are facing in the market today, which we cover in our previous representations.

4. The proposed policy approach for seeking affordable housing contributions from office developments under Policy 10 has also become outdated and inconsistent with national policy where, under the new UCO, offices are now considered as 'Class E' as opposed to its own use class. The latest draft wording of Policy 10 to date, as set out in WCC's response to in relation to the Inspector's Matter 4 issues and questions regarding Housing (WCC_MIQ_Matter 4) clarifies that Policy 10 has been modified to remove the reference to 'changes of use' and will only to apply to proposals generating 'net increases in floorspace'. Further wording should be added to clarify that any changes of use which fall under 'Class E' (i.e retail to office or vice versa) would therefore not be required to make an affordable housing contribution, unless there is a net increase in floorspace over 1,000sqm in line with the current policy approach. Where there is a net increase in floorspace over 1,000 sqm, a mixed use contribution should only be liable in relation to the net additional floorspace created by a development. For instance, a mixed use contribution should not be required for the demolition and replacement of floorspace within uses that fall under 'Class E' and should only be payable on the uplift of area above that which is existing.
5. We therefore consider policies affected by the changes to the UCO, particularly Policy 15, are unsound when tested against the requirements of NPPF Paragraph 35 and cannot be implemented as currently written. Given that the UCO is already in effect, we request that WCC amend the relevant City Plan policies prior to the examination hearings accordingly.