

ITEM No. 9

Report No 596/96

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

15 AUGUST 1996

SUBJECT: REVIEW OF THE TOWN AND COUNTY PLANNING (USE CLASSES)
(SCOTLAND) ORDER 1989

REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT

Abstract: This report outlines draft proposals for amending the Use Classes Order in order to resolve identified operational problems. Local Planning Authorities are invited to make representations to the Scottish Office.

1 RECOMMENDATION

It is recommended that the observations contained in this report form the basis of a response to the Scottish Office.

2 INTRODUCTION

- 2.1 One of the bedrocks of the development control system is the use Classes Order. Although there are several unique land uses, the majority of uses are grouped together in a number of generalised categories or classes. No planning consents are necessary for a property to change its use within the same Use Class, or under certain specified circumstances, between Classes.
- 2.2 The Use Classes Order was last reviewed in 1989 and in the light of operational expertise the current review and suggested alterations have been brought forward.

3 PROPOSED AMENDMENTS

- 3.1 **Special Industrial Use Classes:** There are a number of Special Industrial Use Classes which incorporate some of the most onerous industrial activities. These were not amended in 1989 and have remained virtually unchanged since 1948. The Review Paper suggests that the Special Classes are now anachronistic and of little actual benefit as the industries have largely declined or disappeared. "The Government feels that the legislation which applies to SIUC processes is now sufficiently comprehensive to control potential pollution arising from the deletion of the SIUC's. In addition, we do not believe that the impact, in land use terms, of the processes covered by the SIUC's is sufficiently different from other industrial uses to justify retaining separate classes" **Accordingly it is recommended that the SIUC's be deleted and all such processes be included in Class 5 (general industry).**
- 3.2 **Response:** Undoubtedly the SIUC's are of little relevance to the modern day industrial scene and the principle of deletion is generally supported. The one concern is that the other, non-planning legislation referred to are often reactive, ie they become relevant after the industry has commenced operation and problems are

encountered. A requirement for planning approval would allow these considerations to take place before implementation (eg through an environmental impact assessment) thus saving abortive expenditure, work by the enforcing agencies and nuisance to residents etc. The Secretary of State should satisfy himself that these problems will not arise.

- 3.3 **Bed and Breakfast Use:** To function as a bed and breakfast facility technically requires planning consent for a change from Class 14 (houses) to Class 12 (hotels and hostels). The Government feels that a householder should be permitted some scope for bed and breakfast activities without having to seek planning consent. **Accordingly it is proposed to extend Class 14 to permit a house to be used for bed and breakfast for not more than 90 nights per annum, provided no more than 50% of the bed spaces (up to a maximum of 4) are let at any one time.**
- 3.4 **Response:** This proposal is very welcome and is fully supported, as are the thresholds suggested. Indeed Angus District Council adopted a similar, sensible but unofficial approach to this subject.
- 3.5 **Hot Food Take-Aways:** This use is currently contained within Class 3 which includes restaurants. It is now acknowledged that they present quite different problems and consent should be required to change from one to the other. One complication, however, is that many restaurants/cafes also incorporate an element of takeaway. **Accordingly a number of options are offered:**
- a) make hot food takeaways sui-generis, ie not placed in any of the standard use classes. Planning authorities would have to determine the extent to which a restaurant could have a takeaway facility without requiring consent (ie deminimis or ancillary);
 - b) add an "amenity test" to Class 3 which would provide that only takeaways which do not affect amenity are in class 3, others being sui-generis;
 - c) introduce two separate classes with again an "amenity test" coming into effect with a proposed change from restaurant to takeaway.
- 3.6 **Response:** Takeaways have certainly created problems and the intention to revise the Order is welcome. The "amenity test" required for two of the options will undoubtedly be of a nature that is open to interpretation - they always are. Agents will no doubt argue that their client's proposal complies with the test, with planning Authorities often arguing the contrary. This would be avoided with option (a) with the only bone of contention being the extent of takeaway from a restaurant which would be determined by the Planning Authority. There would be no arguments over an indecisive amenity test, the Council's decision being final, except of course, for the normal legal challenges.
- 3.7 **Car Showrooms To Shop:** At present car showrooms are permitted to change to retail (Class 1) without any requirement to seek planning consent. This has led to numerous supermarkets being established in out-of-centre locations, often contrary to local planning policies. **Accordingly it is proposed to restrict this automatic right to car showroom buildings of 235 square metres in area or less.** This threshold is the same as that used in Class 13 for storage to general industry.

- 3.8 **Response:** this too has caused problems in Angus and therefore a restriction is to be welcomed. However, even the threshold of 235 square metres could create contraventions of local retailing policies. The question must be put as to why any threshold should be put in place. Preference would be for car showrooms to simply remain as sui-generis with no rights to any change without planning consent.
- 3.9 The only significant problem encountered in Angus but not addressed, is the ability of a restaurant proposal to be granted which can then be used as an office without the requirement to seek consent. This has been a problem in "prime" shopping areas where sit-down restaurants are accepted as part of the shopping experience but many office uses are not. Valuable and essential retail frontage is being lost to offices by these means. This is an issue that the Review Paper should investigate and address.

4 FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications.

5 CONSULTATION

- 5.1 The Director of Law and Administration and the Director of Finance have been consulted in the preparation of this report.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

AA/JJ/MR
6 August 1996

Alex Anderson
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