

Representees: Carolyn Cottier, Linda and Barry Cottier
Date: 14th September 2020
Examination NHDC Local Plan (2011-2031)
Response: ED194 Updated Schedule of Further Matters,
Issues and Questions (14th August 2020)
RESPONSE: MATTER 29 - Recent Changes Use Classes Order

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29.1 Do any of the Local Plan policies – particularly, but not limited to, those relating to the economy and town centres – need to be modified to reflect the changes to the Use Classes Order that will come into effect on 1 September 2020?

The Inspector asks whether there are any Local Plan Policies which need to be modified to reflect changes in the Use Classes Order that came into effect on 1st September 2020.

He says that on 21 July, the Government published The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 which then came into force on 1 September 2020.

He lists only a select few of the total changes which came into effect however and which affect this Plan.

The Inspector asks, “do any of the Local Plan policies – particularly, but not limited to, those relating to the economy and town centres – need to be modified....”

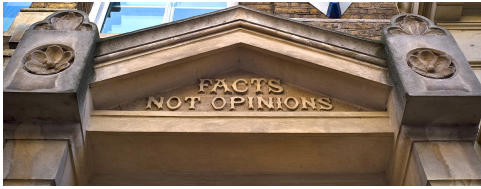
Only economy and town centres were explicitly stated, although the door was opened for others policy connections to be relayed to him, if anyone could be bothered enough to look up what they might be.

The Plan’s policies relating to house building and land supplies are undeniably the most contentious within it, but it is also these policies which can be affected and improved through implementation of these new options and changes.

The new measures implemented in July included three sets of amendments to the Town and Country Planning (General Permitted Development) (England) (Order) 2015 (the “GPDO”) and one set of amendments to the Town and Country Planning (Use Classes Order) 1987 (the “Use Classes Order 1987”).

The article “Planning Reforms 2020” lists all of them. See Appendix 1 for that fuller coverage. It says:

“In short, the amendments to the GPDO introduce new permitted developments rights (“PDRs”) which allow for the development of new residential accommodation without the need for express planning permission. The new PDRs permit the construction of additional storeys on existing residential or commercial premises and the demolition and re-development of freestanding blocks of flats and certain commercial buildings for residential purposes. The amendment to the Use Classes Order 1987 increases the



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flexibility to repurpose commercial premises such as shops and offices to uses that were previously in separate classes without applying for planning permission.”

Source: <https://www.bristows.com/viewpoint/articles/planning-reforms-2020/>

So these new approaches need fully reflecting in the NHDC Local Plan.

In the Plan a new policy could be added:

“When seeking to address housing needs, the demolition and/or re-development of vacant, unused or derelict commercial buildings, properties and freestanding blocks of flats must be prioritized for use towards the fulfilment of any existing housing targets. The local authorities must focus on regeneration of brownfield sites, vacant or under-used commercial sites and utilize them first and foremost. Local Authorities should not resort to seeking the declassification of any green spaces or established Green Belt boundaries for fulfilment of housing targets, until brownfield site options have been fully declared through production of an exhaustive land register (HELAA), rationally explored through the SHLAA and SHMA, then selected through a transparent recorded process, justified as to why they are preferred, actively developed and responsibly delivered. The declaring of exceptional circumstances cannot occur until brownfield options no longer exist in quantity enough to satisfy a very significant majority of the objectively assessed housing need. The use of previously developed land should be treated in all circumstances as the clear priority.”

The swiftest most sustainable route for North Herts to address its own housing needs as well as the excess needs it claims to have inherited from Luton, is through the utilization of empty properties and derelict brownfield sites. This is the most sustainable and environmentally friendly route for Luton to take towards addressing its own need, and helping others to meet theirs’. It is also the most sustainable route for North Herts to take.

Luton’s Plan is currently under review, and it is a priority to ensure that Luton declares and uses up all of its empty commercial properties of all shapes and sizes laying wasted, dormant and in some case even falling derelict yet numbering at least 1,382, although probably more, in quantity. See the Addendums of empty commercial properties in both districts for the fairly exhaustive list of sites we would like the Inspector to ensure the Councils apply these new amendments to.

The latest amendments to the GPDO encourages policy makers, inspectors and authorities to ensure the activation of this great resource.



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The wastage of disused brownfield sites has been discouraged before, but now the new enabling of developers to avoid some of the red tape associated with demolishing and re-developing the many vacant buildings across the UK give us all a range of opportunities.

The changes will also enable new homes to be developed and delivered faster, helping to address the country's need for more residential housing in a less destructive way.

See Addendums attached for the full listings of available empty commercial properties in Luton and North Herts:

MATTER-21,22,29-ADDENDUM-CertificateNewSettlement-26Feb2016.pdf

MATTERS-21&22-ADDENDUM-MAP,LandSupplyNorthOfLuton-a3p_tcm3-26954.pdf

MATTERS-21,22,29-ADDENDUM-Brownfield Housing Conversion (LBC).ods

MATTERS-21,22,29-ADDENDUM-BrownfieldMaxNos(LBC)-107SitesAddedFrom2017.csv

MATTERS-21,22,29-ADDENDUM-BrownfieldSiteReportByLBC-Dec2019.pdf

MATTERS-21,22,29-ADDENDUM-ConfirmationFilingNewSettlement&SIC-01Mar2017.pdf

MATTERS-21,22,29-ADDENDUM-EmptyHomesStrategy2009-2014(LBC).pdf

MATTERS-21,22,29-ADDENDUM-EvidenceOfLuton'sBuilds-15Sep2020.docx

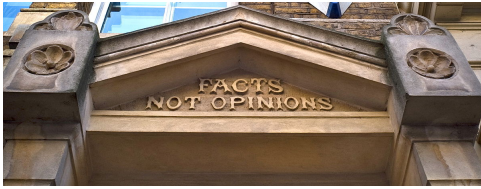
MATTERS-21,22,29-ADDENDUM-FOI 165 Empty Properties 721-(LBC-FOIR17Jul2012).xlsx

MATTERS-21,22,29-ADDENDUM-HOU-014(FromLutonSHLAA).csv

MATTERS-21,22,29-ADDENDUM-LUTON-NewhomesbuiltbyhousingassociationsStarts.csv

MATTERS-21,22,29-ADDENDUM-LUTON-NewhomesbuiltbyprivatedevelopersCompletions.csv

MATTERS-21,22,29-ADDENDUM-LUTON-NewhomesbuiltbyprivatedevelopersStarts.csv



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**MATTERS-21,22,29-ADDENDUM-LUTON-
TotalnumberofnewhomesbuiltCompletions.csv**

MATTERS-21,22,29-ADDENDUM-LUTON-TotalnumberofnewhomesbuiltStarts.csv

MATTERS-21,22,29-ADDENDUM-NewEmptyHomesStrategy2015-2020(LBC)-.pdf

**MATTERS-29,21,22-ADDENDUM-EvidenceAppendix-Commercial-properties-with-a-
rateable-value-over-10k-(including-reliefs)-v.12Feb2020.xls**

**MATTERS-29,21,22-ADDENDUM-EvidenceAppendix-Commercial-properties-with-a-
rateable-value-under-10k-(including-reliefs)-v.12Feb2020.xls**

**MATTERS-29,21,22-ADDENDUM-EvidenceAppendix-empty-commercial-properties-
v.12Feb2020.xls**

MATTERS-29,21,22-ADDENDUM-Land&AssetsOwnedByNHDC-Apr2017.xls

MATTERS-29,21,22-ADDENDUM-NHDC Brownfield Register 2019 update.pdf

MATTERS-21,22,29-ADDENDUM-LandSuppliesLutonUnmetNeed-15Sep2020.docx

**MATTERS-21,22,29-ADDENDUM-
Property&LandSuppliesInGov'sProperty&LandAssetDatabase-15Sep2020.docx**

**MATTERS-21,22,29-ADDENDUM-RE_FOIR-
LandSuppliesLutonUnmetNeed(EmptyCommercials)-15Sep2020.docx**

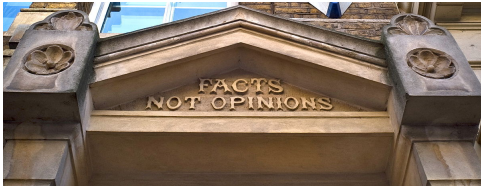
MATTERS-21,22,29-ADDENDUM-Copy of FOI - B82466.xlsx

MATTERS-29,21,22-ADDENDUM-LocalAuthorityH-M.xls

MATTERS-29,21,22-ADDENDUM-LocalAuthorityN-R.xls

North Herts shares its HMA with Luton, and also claims it needs help with creating extra property space, hence North Herts is claiming it has “exceptional circumstances”, and is calling upon the Inspector to approve that 82 per cent its entire housing be allocated upon protected Green Belt protected land. So how do these recent changes to the Use Classes Order relate to this?

The answer is twofold:



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Firstly North Herts must use up all it's derelict land, such as that disused industrial area around Hitchin train station. And all of the many other overlooked sites. Clearly these amendments help alleviate North Herts Council's claimed "exceptional circumstance" due to "lack of land" when combined with honest disclosure of land truly available and proactive regeneration. This is now not just allowed but actively encouraged by Government.

Secondly, in the light of these changes, why doesn't North Herts get assistance from Luton instead? The obvious answer is that both councils should start using up of all these vacant brown property sites within Luton. This directly relates to Matter 29.

The solutions made possible by these amendments, perfectly encourage and support this more sustainable approach, and as such should be immediately worked with not wasted.

The presumption in favour of sustainability has already been declared as a baseline and these amendments have such far-reaching consequences, they must figure as a separate central main policy as well as be reflected coherently throughout other smaller policies. See the lists of sites actually owned by North Herts, some of which these amendments would support the use of, for residential purposes.

Look at these detailed lists, which are what should have been listed in the up-to-the-current-time-and-still-missing Housing Economic Land Availability Register, and compare the sheer number to the very sparse pathetically reduced list presented in the 2019 NHDC Brownfield Register in support of the Plan - as though these are their only options!

By comparison I note many discrepancies between the two lists, the one from the Plan is undoubtedly incomplete, and this gives the false impression that there are fewer sites affected by this opportunity to enhance sustainable practise than what there really are.

In his letter to the Inspector dated 23 March, Jamie Melvin from Natural England considered the SHLAA incomplete also and thus their official position was to refrain from offering additional input until the further work needed was done on the SHLAA for them to have actually something adequate to comment on. They stated that their position did not differ from the Chiltern Conservation Board's stance at that time and nothing has been done to alter that ever since.

So their position is clear. Obviously the use of empty commercial space is preferable above the destruction of a Green Belt land site which is currently under



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consideration as an AONB and also sits directly next to an existent AONB (as in east of Luton's case).

See addendum: MATTERS-21,22-ADDENDUM-NaturalEngland, JamieMelvin-ReNorthHertsLP-ResponseToExaminer-23Mar2018.pdf

As both Luton and North Herts all share the same Housing Market Area a large Housing Economic Land Availability Assessment should be produced for each authority's area and if working together, should then be viewed as a collective mass of land. Then it would be easy to see with complete clarity and transparency all of the land-sites now lying empty; empty commercial properties and/or disused brownfield sites and empty residential. At the minute no one can see what either Council really has laying empty within their boundaries unless they search the Government's databases as we have. Yet these are the precise things that should have been included already by the Council.

However such wastage-points can now be put back online, fully activated and turned into residences. Under these new amendments it can happen quickly.

A comprehensive register including all vacant commercial properties, if compiled would be perfectly in line with these new stipulations and also the previously existent requirement of keeping a Housing Economic Land Availability Register (which is missing in entirety but should have always been presented) as a part of THIS Local Plan process.

The vacant disused commercial buildings should be used up first, as they are laying derelict in so many cases, and that is neither sustainable nor justifiable; to take Green Belt away from people and their communities when there is such a vast amount of disused space simply rotting and inside urban areas that seek regeneration. And now the obstacles to reutilizing that land have been fully removed and legislation introduced that fully supports its regeneration for residential purposes. So there can be no excuses to take the path of least resistance which is to ignore all of that and instead just give license to snatch the Green space.

The Government has said that the new measures "Will both support the high street revival by allowing empty commercial properties to be quickly repurposed and reduce the pressure to build on green fields land by making brownfield development easier." [2]

[2] <https://www.gov.uk/government/news/pm-build-build-build>



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The article also says, “The amendments to the GPDO will encourage the development of brownfield sites by enabling developers to avoid some of the red tape and costs associated with demolishing and re-developing vacant buildings. The changes will also enable new homes to be developed faster, helping to address the countries need for more residential housing.”

The inclusion of ‘adequate natural light’ as a prior approval consideration in the GPDO will go some way to allay concerns that PDRs have resulted in poor quality residential developments^[6] and will also support the governments promise to ‘build better and build beautiful’^[7]. However, there is likely to be concern that without the need for planning permission local authorities will not have the opportunity to properly scrutinise new developments and assess whether there is sufficient local infrastructure to support the developments.”

Therefore now is the perfect time to put polices in the Plan to maximise upon this opportunity and use it to resolve some of the schisms and acrimony that this extremely unpopular and imbalanced Local Plan has caused.

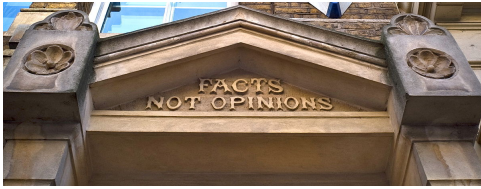
North Herts Local Plan should have a new policy added saying that, “For its fulfilment of residential need and OAN housing delivery, the usage and re-development of vacant properties, brownfield sites and any previously developed land-sites must be actively identified, favoured, prioritised and preferred over and above any declassification and use of Green Belt land or greenspace.”

Destruction of virgin forest, ancient woodlands and beautiful Green Belt is highly wasteful, damaging and unsustainable but these new amendments work some way towards addressing that bad and dangerous habit.

APPENDIX 1

The article “Planning Reforms 2020” summarises thoroughly all of the amendments relevant to the Changes to the Use Classes Order.

Source: <https://www.bristows.com/viewpoint/articles/planning-reforms-2020/>



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Planning reforms 2020 - Bristows

https://www.bristows.com/viewpoint/articles/planning-reforms-2020/

Planning reforms 2020

05.08.2020

Introduction

In July 2020 a series of planning measures were laid before Parliament to give effect, in part, to the Government's pledge to reform the planning system and "build, build, build" economic recovery following the COVID-19 pandemic^[1].

The new measures implemented in July include three sets of amendments to the Town and Country Planning (General Permitted Development) (England) (Order) 2015 (the "GPDO") and one set of amendments to the Town and Country Planning (Use Classes Order) 1987 (the "Use Classes Order 1987").

In short, the amendments to the GPDO introduce new permitted developments rights ("PDRs") which allow for the development of new residential accommodation without the need for express planning permission. The new PDRs permit the construction of additional storeys on existing residential or commercial premises and the demolition and re-development of freestanding blocks of flats and certain commercial buildings for residential purposes. The amendment to the Use Classes

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Introduction

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In short, the amendments to the GPDO introduce new permitted developments rights ("PDRs") which allow for the development of new residential accommodation without the need for express planning permission. The new PDRs permit the construction of additional storeys on existing residential or commercial premises and the demolition and re-development of freestanding blocks of flats and certain commercial buildings for residential purposes. The amendment to the Use Classes Order 1987 increases the flexibility to repurpose commercial premises such as shops and offices to uses that were previously in separate classes without applying for planning permission.

The Government has said that the new measures "Will both support the high street revival by allowing empty commercial properties to be quickly repurposed and reduce the pressure to build on green fields land by making brownfield development easier."^[2]

The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020^[3] introduces a series of new classes of PDRs into Schedule 2 of the GPDO which will come into force on 31 August 2020:

- Part 1
 - Class AA: enlargement of a dwelling house by the construction of additional storeys.



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- Part 20
 - Class AA: new dwelling houses on detached buildings in commercial or mixed use;
 - Class AB: new dwelling houses on terrace buildings in commercial or mixed use;
 - Class AC: new dwelling houses on terrace buildings in use as dwelling houses;
 - Class AD: new dwellings on detached buildings in use as dwelling houses.

Each class allows for the construction of up to two additional storeys of residential accommodation (or one storey if the existing premises only has one storey), subject the prior approval of specified matters by the local planning authority (the “LPA”) and certain limitations, including restrictions on height and a requirement that the old building have been constructed between 1 July 1948 and 28 October 2018. Premises that have been developed as a result of a change of use in accordance with other parts of the GPDO are excluded from these PDRs.

The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020^[4] introduces one new PDR, Class ZA, to Schedule 2, Part 20 of GPDO. This Class will come into force on 31 August 2020. Class ZA allows for the demolition of a single detached building in existence on 12 March 2020 that was used for office, research and development or industrial processes, or a free standing purpose built block of flats, and its replacement, subject to certain limitations and an application for prior approval, by an individual detached block of flats or a single detached dwellinghouse. The old building must have been built before 1990 and have been vacant for at least six months before the date of the application for prior approval. Premises that have been developed as a result of a change of use in accordance with other parts of the GPDO are excluded from this PDR.

Firstly, the PD Regulations 2020 introduce a new PDR, Class A, to Schedule 2 Part 20 of the GPDO. This Class allows for the construction of up to two storeys of new flats on the topmost residential storey of an existing, purpose built, detached block of flats. The new PDR is subject to prior approval by the LPA for specified matters and certain limitations, including height restrictions and the requirement that the existing building have been constructed between 1 July 1948 and 5 March 2018. Premises that have already benefitted from a PDR to change its use to residential are excluded from this PDR. Developers have three years from the date of prior approval to build the new flats.

Secondly, from the 1 August 2020 anyone seeking to use PDRs to change the use of a premises to residential will need to ensure that all habitable rooms have ‘adequate natural light’. If this is not achieved then the LPA must refuse prior approval.

Thirdly, the PD Regulations 2020 introduce Class BA to Part 4 of Schedule 2 of the GPDO, which doubles the time that land not within the curtilage of a building can be used for temporary purposes between 1 July 2020 and 31 December 2020. The existing Class B PDR for temporary use of land only relates to land not within the curtilage of a building.

Amendments to Town and Country Planning (Use Classes Order) 1987

Section 55(2)(f) of the Town and Country Planning Act 1990 (the “Act”) provides that a change of use of a building or land does not involve a ‘development’ for the purpose of the Act if the new use and former use are within the same Use Class. Therefore, no planning permission is required to implement a change of use if it is within a Use Class. The provisions in the new Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the “Use Classes Regulation 2020”) amend the Use Classes in



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the GPDO by revoking Parts A and D of the Schedule to the GPDO and inserting a new Schedule 2 which provides for three new Use Classes:

- Use Class E (Commercial, Business and Service): which subsumes previous Use Classes A1 (shops), A2 (Financial and Professional Services), A3 (Restaurants and Cafes) and Class B1 (Business) along with uses for indoor sport, recreation or fitness, or for the provision of medical or health service or for a crèche, day nursery or day centre, where principally to visiting members of the public.
- Use Class F.1 (Learning and Non-Residential Institutions): which subsumes some of the uses in existing Use Classes D1 and D2.
- Use Class F.2 (Local Community): which subsumes some of uses in existing Use Classes D1 and D2, along with “a shop selling essential goods, including food, to visiting members of the public” in certain circumstances.

Notably, pubs, libraries, village shops and other uses that are “essential to the lifeblood of the communities” will not be covered by these new Use Classes.

The new Use Classes will come into force on 1 September 2020, so planning applications submitted prior to this date will be determined by reference to the previous Use Classes.

Implications of the amendments

The reforms should kick-start the construction industry and create new construction related jobs. This will be a welcome boost to the economy following the lull created by COVID-19.

The amendments to the GPDO will encourage the development of brownfield sites by enabling developers to avoid some of the red tape and costs associated with demolishing and re-developing vacant buildings. The changes will also enable new homes to be developed faster, helping to address the countries need for more residential housing.

The inclusion of ‘adequate natural light’ as a prior approval consideration in the GPDO will go some way to allay concerns that PDRs have resulted in poor quality residential developments^[6] and will also support the governments promise to ‘build better and build beautiful’^[7]. However, there is likely to be concern that without the need for planning permission local authorities will not have the opportunity to properly scrutinise new developments and assess whether there is sufficient local infrastructure to support the developments.

Use Class E will benefit commercial landlords of shops and offices who currently have vacant premises due to the effects of COVID-19, enabling them to more easily change the use of their premises to ones that are in higher demand, e.g. residential. This Use Class should also encourage the regeneration of local high streets that have been in decline due to changes in consumer behaviour by enabling shops to be converted more easily to e.g. cafes and restaurants.

A Planning Policy Paper setting out further details of the Government’s plans for radical planning system reforms was due to be published in July 2020, but unfortunately this is yet to surface. The paper is expected to address proposals for a ‘zonal’ planning system.



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[1] Announcement made by Prime Minister Boris Johnson on 30 June 2020.

[2] <https://www.gov.uk/government/news/pm-build-build-build>

[3] Laid before Parliament on 21 July 2020.

[4] Laid before Parliament on 21 July 2020.

[5] Laid before Parliament on 24 July 2020.

[6] Carmona, M. et al (2020), A Housing Design Audit for England: an independent national audit conducted by UCL for CPRE, the countryside charity, and the Place Alliance which found that about three quarters of new housing developments are mediocre or poor.

[7] See the [Living with Beauty Report](#) written by the Build Better, Build Beautiful Commission.