

Purbeck Local Plan

(2018 - 2034)

Proposed Main Modifications

Dorset Council response to The Town and Country Planning
(Use Classes) (Amendment) (England) Regulations 2020



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Introduction

1. The council has prepared this paper as a response to The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, and to address questions raised by the Inspector examining the Purbeck Local Plan and the following request from the Planning Inspector who is examining the local plan:

'The Council considers the implications of the changes to the use classes order and permitted development rights which were laid before Parliament on Tuesday (21 July) for the soundness of the Local Plan and how these might be best addressed.'

2. The Purbeck Local Plan is being examined to determine whether it is legally compliant and sound. The tests of soundness include:
 - a) 'Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
 - b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
 - c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
 - d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework.'
(Paragraph 35, National Planning Policy Framework).

Changes to the use classes order – the 2020 Regulations

3. Regulation 13 of the The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 amends the Use Classes Order in relation to England by inserting a new Schedule 2. The revised Schedule 2 provides for the following new classes of use and subsumes the following uses from the 1987 Order:

New classes of use – 2020 instrument	Subsumed classes of use – 1987 instrument
Class E (commercial and business services)	Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) and Class B1 (business), and parts of Class D1 ((a) and (b)) and part (indoor sport and recreation) of D2 ((e))
Class F.1 (learning and non-residential institutions)	Class D1 (non-residential institutions) - with the exception of D1 (a) and (b) which are in the new Class E.
Class F.2 (local community)	Class D1 (non-residential institutions) and Class D2 (e) (assembly and leisure) – (Note: only part of class D2 (e) is subsumed within the new class, namely swimming pool (indoor or outdoor) and skating rink, the remainder of this former class is subsumed in the new Class E).

Table 1: Summary changes to the use classes order

4. Regulation 10(7)(b) of the 2020 instrument inserts further uses into article 3(6) of the Use Classes Order 1987 which cannot be included within a specified class of that Order. The uses comprise:
- as a public house, wine bar, or drinking establishment;
 - as a drinking establishment with expanded food provision;
 - as a hot food takeaway for the sale of hot food where consumption of that food is mostly undertaken off the premises;
 - as a venue for live music performance;
 - a cinema;
 - a concert hall;
 - a bingo hall; and
 - a dance hall.

Implications of changes to the use classes order on the Purbeck Local Plan

5. The changes to the use classes are likely to have a particular effect on the policies and chapter of the emerging local plan relating to the 'Economy', and specifically policies: EE1, EE2 and EE3. In accordance with national planning policy the council gathered evidence which it used to develop and justify its spatial strategy which would in turn '...create the conditions in which businesses can invest, expand and adapt.' (Paragraph 80 National Planning Policy Framework). Whilst taking account of policy relating to town centres, which states that 'Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.' (Paragraph 85 of the National Planning Policy Framework). The council's evidence includes: Bournemouth Dorset and Poole workspace strategy, Purbeck economic projections background paper October 2017 and Poole and Purbeck town centres retail and leisure study final report.
6. Subject to proposed Main Modifications, the council is satisfied that it's local plan is sound, but acknowledges that it is necessary to consider further revisions (to be presented through proposed Main Modifications consultation) to reflect the effects of changes to use classes order which are now in effect, 1st September 2020, before the local plan is adopted. Despite this government has not changed primary legislation relating to the preparation of local plans nor has the national planning policy framework been changed. The revisions suggested by the council are therefore limited to those that are necessary to avoid confusion with the new use classes' order, whilst at the same time seeking to ensure that the strategies for meeting the areas needs have been positively prepared and that the policies in the local plan are justified, effective and consistent with national planning policy.
7. In some instances the council acknowledges that changes between uses in the newly defined use class (as defined in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 – comprising Class E, F.1 and F.2) would not require planning permission from 1st September 2020, but has not suggested substantive changes to its spatial strategies or policies because to do so would be inconsistent with current national planning policy or the evidence that supports these policies. The preparation of the Dorset Council Local Plan (scheduled to be adopted in 2023) gives the council the opportunity to fully consider the implications of changes to the use classes order by gathering suitable evidence and developing appropriate strategies to meet Dorset's, and therefore Purbeck's, future development needs.
8. The table below summarises the council's response in respect to the following policies/text:
 - H4 – Moreton Station / Redbridge Pit;
 - H5 - Wool;

- Paragraph 200 – preamble supporting text relating to Policy EE1;
- EE1 – Employment land supply;
- Local plan Glossary;
- EE2 – Planning for employment;
- EE3 – Vibrant town and local centres;
- I4 – Recreation, sport and open space; and
- I7 – Community facilities and services.

Consideration of the implications of the 2020 regulations on the submission draft Purbeck Local Plan and proposed Main Modifications:

Reference to development in policy/supporting text of the Purbeck Local Plan that now falls within Class E. F.1 or F.2 of the Use Classes Regulations 2020.	Proposed Main Modification/submission draft policy	Council action	Justification/discussion
Submission draft Purbeck Local Plan, Policy H4 and proposed Main Modification (MM) 35.	<p>Exert from proposed MM35: 'Subject to the requirements of other policies in this plan, development on this site will be expected to:</p> <p><u>a. provide care accommodation designed in consultation with local health and social care providers to meet the changing needs of older and disabled people in Purbeck. The scheme should aim to provide:</u></p> <p><u>I. 65 extra care units; and</u></p> <p><u>II. 10% of its overall housing requirement as supported housing for the elderly or age specific housing;</u></p>	No revision to proposed MM35.	The proposed Main Modification to the policy specifies that the allocation is made in order to deliver convenience retail floor space and not a specific use class as is common practice in relation to retail development. The council notes the implications of the order around changes between uses in the same class. It has not sought to specifically address these implications with further changes in respect to policy H4. The council is satisfied that proposed Main Modification as drafted is sufficiently clear and unambiguous, justified with evidence and consistent with its spatial strategy for meeting the area's needs for retail floor space.

	<p><u>b. provide 20% of its overall housing requirement in accordance with M4(2) building control optional standards to meet the needs of the elderly and/or disabled people;</u></p> <p><u>c. provide 350sqm of convenience retail floor space;</u></p>		
<p>Submission draft Purbeck Local Plan, Policy H5 and proposed MM38</p>	<p>Exert from proposed MM38: 'Land at Wool as shown on the policies map will help to meet the District's development needs by providing a total of around 470 new homes and a around 65-bed unit extra care units facility, community facilities and supporting infrastructure. The type of care provided will be dependant on the changing needs of older people in Purbeck and in consultation with local health and social care providers. The type of care provided will be dependent on the changing needs of older people in Purbeck and in consultation with local health and social care</p>	<p>No revision to proposed MM38.</p>	<p>The proposed Main Modification to the policy specifies that the allocation is made in order to deliver convenience retail floor space and not a specific use class as is common practice in relation to retail development. The council notes the implications of the order around changes between uses in the same class. It has not sought to specifically address these implications with further changes in respect to policy H4. The council is satisfied that proposed Main Modification as drafted is sufficiently clear and unambiguous, justified with evidence and consistent with the local plan</p>

	<p>providers. Housing development on all the allocated sites in Wool will be expected to:</p> <p><u>a. provide 20% of its overall housing requirement in accordance with M4(2) building control optional standards to meet the needs of the elderly and/or disabled people as they occur;</u></p> <p><u>b. provide 350sqm of convenience retail space;</u></p>		<p>spatial strategy for meeting the area's needs for retail floor space.</p>
<p>Submission draft Purbeck Local Plan, paragraph 200: Workspace Strategy (2016).</p>	<p>Exert from submission draft Purbeck Local Plan (paragraph 200):</p> <p>‘Overall the Workspace Strategy identifies that for the Eastern Dorset HMA:</p> <ul style="list-style-type: none"> • 70% of demand is for industrial uses, including B1c, B2 and B8 use classes; and • 30% of demand is for office and research and development in use classes B1a and B1b.’ 	<p>Insert clarification (as an Additional Modification 15), through a footnote, after first reference to the 2016 Workplace Strategy which states that:</p> <p><u>‘The 2016 Workplace Strategy refers to the classes of use defined in the 1987 Use Classes Order (as amended) before The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 took effect.’</u></p>	<p>Taking account of the changes to legislation on use classes in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, the council considers that the Additional Modification is needed to ensure that the local plan is clear and unambiguous whilst still reflecting relevant evidence.</p>
<p>Submission draft Purbeck</p>	<p>Exert from submission draft Policy</p>	<p>Revision to proposed MM61:</p>	<p>The council acknowledges that</p>

Local Plan, Policy EE1 and proposed MM61.

EE1:

'The following employment sites below, and identified on the policies map, will be safeguarded for employment uses (B1, B2 and B8).'

'The following employment sites below, and identified on the policies map, will be safeguarded for employment uses (B1, **including uses in classes B2, and B8 or any other light industrial uses falling outside these classes**).

changes between uses in the newly defined use class do not require planning permission from 1st September 2020.

In accordance with the National Planning Policy Framework, and based on relevant evidence, the council's emerging local plan:

- outlines a strategy for encouraging sustainable economic growth at key employment sites; and
- identifies sites for local and inward investment.

Safeguarding land for appropriate employment uses is an important part of the council's strategy. Noting the changes to the use classes order, the council's evidence indicates that there is a need to secure land for light industrial uses including use as offices, businesses involved in research and development and uses involving industrial processes not falling within Class B2.

The revision to the proposed Main Modification reflects the change to use classes order and current national planning policy, at the same time as the council's evidence on this issue.

<p>Submission draft Purbeck Local Plan, glossary. Proposed MM83</p>		<p>Add the following definition to glossary for the Purbeck Local Plan (proposed MM83) to define light industrial uses.</p> <p><u>Light industrial uses comprise use for: a) an officer to carry out any operational or administrative functions, b) the research and development of products or processes, or c) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.</u></p>	<p>Taking account of the changes to legislation on use classes in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, the council considers that the proposed Main Modification is needed to ensure that the local plan is clear and unambiguous, as a response to the revision of MM61.</p>
<p>Submission draft Purbeck Local Plan, Policy EE2 and proposed MM63.</p>	<p>Exert from proposed MM63: ‘The Council will regularly monitor its employment land supply, requirements <u>and the need for employment land. It will assess whether the supply of safeguarded employment land needs to be updated as part of the review of the policies and strategies in this plan.</u> and</p>	<p>Revision to proposed MM63: ‘The Council will regularly monitor its employment land supply, requirements <u>and the need for employment land. It will assess whether the supply of safeguarded employment land needs to be updated as part of the review of the policies and</u></p>	<p>The council acknowledges that changes between uses in the newly defined use classes do not require planning permission as of 1st September 2020.</p> <p>In accordance with the National Planning Policy Framework, and based on relevant evidence, the council’s emerging local plan:</p> <ul style="list-style-type: none"> • outlines a strategy for

consider the re-designation of identified employment land for alternative suitable uses if there is no prospect of bringing the site forward for employment uses over the plan period.

Where there is no reasonable prospect of a planning application being submitted

Proposals for development in use classes other than B1, B2 or B8 uses **on the safeguarded employment land identified in Policy EE1 alternative uses** may be permitted where **development** they are appropriate to the location and the proposal:

- a. would not result in an excessive reduction in the supply of employment land for B1, B2 and B8 uses, taking into account;
 - i. the overall amount;
 - ii. range; and
 - iii. choice of available employment land for the remainder of the plan period'

(References to former use classes highlighted)

strategies in this plan. and consider the re-designation of identified employment land for alternative suitable uses if there is no prospect of bringing the site forward for employment uses over the plan period.

Where there is no reasonable prospect of a planning application being submitted Proposals for development in use classes other than B1, B2, or B8 uses **or light industrial uses on the safeguarded employment land identified in Policy EE1 alternative uses** may be permitted where

development they are appropriate to the location and the proposal:

- a. would not result in an excessive reduction in the supply of employment land for **B1, B2 and B8, and light industrial** uses, taking into account;
 - i. the overall amount;
 - ii. range; and
 - iii. choice of available employment land for the

encouraging sustainable economic growth at key employment sites; and

- identifies sites for local and inward investment.

Securing suitable uses on safeguarded employment land is an important part of the council's strategy. Noting the changes to the use classes order, the council's evidence indicates that there is a need to secure land for use as offices, businesses involved in research and development and uses involving industrial processes not falling within Class B2.

The revision to the proposed Main Modification reflects the change to use classes order and current national planning policy at the same time as the council's evidence on this issue. Whilst the revision to the proposed Main Modification was not discussed at the hearing sessions the council does not consider that it has any substantive effects on the local plan as the scope of the policy will be reduced since changes between uses in the newly defined use class do not require planning permission.

<p>Submission draft Purbeck Local Plan, Policy EE3 and proposed MM65</p>	<p>Exert from proposed MM65: ‘Ground floor changes of use in town and local centres within Class A of the Use classes Order may will be permitted, provided that the proposed use would not harm the vitality, viability and functionality of the centre as a whole.’</p> <p>Under the heading ‘Existing provision’: ‘Development leading to the loss of uses within Class A1, A2 and A3 or the loss of D1 and D2 uses will only be permitted if:</p> <p><u>f. it can be proven that the provision is surplus to requirements;</u></p> <p><u>g.</u> the change of use would not harm the vitality and viability of the town centre or local centre; and</p> <p><u>h.</u> it can be demonstrated that there is no market interest to acquire or invest in the site for retail or leisure uses and the facility had been realistically</p>	<p>remainder of the plan period’</p> <p>Revision to proposed MM65: ‘Ground floor changes of use in town and local centres within Class A of the Use classes Order may be permitted, provided that the proposed use would not harm the vitality, viability and functionality of the centre as a whole’.</p> <p>Under the heading ‘Existing provision’: ‘Development leading to the loss of uses within Class E A1, A2 and A3 or the loss of D1 and D2 uses will only be permitted if:</p> <p><u>f. it can be proven that the provision is surplus to requirements;</u></p> <p><u>g.</u> the change of use would not harm the vitality and viability of the town centre or local centre; and</p> <p><u>h.</u> it can be demonstrated that there is no market interest to acquire or invest in the site for retail</p>	<p>The council’s suggested revision to proposed MM65 responds to the newly defined classes of use in the Use Classes Amendment Regulations 2020. The council notes that changes between uses within the newly defined use classes would not require planning permission.</p> <p>The first revision to the proposed Main Modification responds to the legislative changes to the former use classes order. The council suggests taking out reference to Class A of the former order in recognition of the changes implemented through the 2020 Regulations (noting transitional arrangements in Regulations 3 and 4). Noting that some changes between existing uses in town and local centres will no longer require planning permission, the suggested revision to the proposed Main Modification still requires the council to consider the effects on vitality/viability/functionality of changes from existing uses that require planning permission. The council considers that this approach is consistent within national planning policy relating to ensuring the vitality of town centres</p>
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marketed for nine months over the twelve-month period prior to the application being submitted; **and**

- i. **the impact of proposed development on European sites, alone or in combination with other existing and proposed development, will be screened for likely significant effects under the Conservation of Habitats and Species Regulations (amended) (EU exit), 2019. Where this is found to be the case an appropriate assessment (to include any necessary mitigation) will be required (taking into account the lifetime of the development) to show how the development will avoid adverse impact on the integrity of the relevant European site(s).'**

~~or leisure uses and the facility had been realistically marketed for nine months over the twelve-month period prior to the application being submitted~~ **the impact of proposed development on European sites, alone or in combination with other existing and proposed development, will be screened for likely significant effects under the Conservation of Habitats and Species Regulations (amended) (EU exit), 2019. Where this is found to be the case an appropriate assessment (to include any necessary mitigation) will be required (taking into account the lifetime of the development) to show how the development will avoid adverse impact on the integrity of the relevant European site(s).'**

and the sequential test.

The second revision suggested by the council to proposed Main Modification 65 would have an effect on the scope of Policy EE3 but not alter the approach in the Local Plan as a whole. The effect of the proposed Main Modification would be to narrow the policies scope as it would no longer require development leading to the loss of the former D1 use (Non-residential institutions) and D2 use (Assembly and leisure uses) being assessed against criteria in this policy. Having regard to the effect of Policy I7 (the examples of the community facilities referenced in the supporting text for this policy appear to include a number of uses falling with the former D1 and D2 use classes – the list in the supporting text is not closed and the council considers that D1/D2 uses could necessarily also be defined as community facilities), and as Policy EE3 specifically relates to vibrant town and local centres, the council does not consider that the suggested revision to the proposed Main Modification will have a substantive effect on the local plan as whole. Because of their definition, no

		<p>other facility within 1000 metres of the shops location, the council assumes that community shops (use class F.2 in the new order) would not be located in local and town centres. For these reasons it has not sought to refer to these uses under the part of the policy relating to existing provision.</p> <p>The council has suggested that former criteria h. should be deleted and revised as detailed in the proposed Main Modification. As the council has acknowledged that changes between uses in the newly defined use classes (in this case Class E) do not require planning permission, the former requirement in criterion h., in so far as it refers only to retail or leisure uses, would not be effective on the assumption that, if economically viable, the change between uses in the same class could have occurred without any intervention from the planning system in response to market demand.</p> <p>The revision to the proposed Main Modification no longer references public open space/community facilities. Policies I3, I4 and I7 of the council's local plan relate to Green Infrastructure, open space and community facilities. The</p>
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			<p>requirement in Policy EE3 in regard to open space and sports/recreational buildings duplicates the effects of other policies elsewhere in the local plan and is not therefore necessary.</p>
<p>Submission draft Purbeck Local Plan, Policy I4 and proposed MM75</p>	<p>Exert from proposed MM75: 'New facilities Residential development <u>on allocated sites</u> will be required to make provision for formal and informal recreation, sport and/or open space facilities on-site. to achieve the identified Fields in Trust benchmark guideline. Facilities should be designed to provide for lifetime use. In exceptional circumstances, <u>where appropriate</u> only, the Council will consider a financial contribution to provide and/or enhance facilities off-site, <u>or a combination of on-site and off-site facilities</u>. Where a gap in provision is identified <u>major residential sites (10 dwellings or more) will be required to make a financial contribution to provide and/or enhance facilities off-site. The Council will not seek formal and informal recreation, sport and/or open space facilities on-site, or</u></p>	<p>No revision to proposed MM75</p>	<p>The council notes the implications of the order around changes between uses in the same class. It has not sought to specifically address these implications with further revisions to the proposed MM relating to Policy I4 as these would not require planning permission and therefore would not fall under the scope of this policy. Changes of use that would require planning permission would fall under the scope of this policy and therefore the policy remains unchanged.</p>

	<p><u>financial contributions, for minor residential development.</u></p> <p>Safeguarding existing facilities</p> <p>All open space, sport and recreation areas will be protected in accordance with national policy. Any loss of these uses will only be permitted where there is a proven excess of such provision and the proposed loss will not result in a current or future shortfall in the plan period; and/or suitable replacement facilities are provided;</p> <p><u>or the benefits of alternative sports and recreation provision would outweigh the loss of the current or former use.</u></p> <p>Replacement Facilities</p> <p>Any replacement provision will take account of the needs of the area and current standards of open space, sport and/or recreational provision but should be equivalent to, or an improvement upon, the existing resource, in terms of size, attractiveness, quality and accessibility.'</p>		
<p>Submission draft Purbeck Local Plan, Policy 17 and proposed MM 81</p>	<p>Exert from proposed MM 81: 'New community facilities and services will be encouraged to</p>	<p>No revision to proposed MM 81</p>	<p>The council notes the implications of the order around changes between uses in the same class. It has not sought to specifically</p>

	<p>locate within a defined settlement boundary. Proposals outside of a settlement boundary should be able to satisfy the following criteria:</p> <ul style="list-style-type: none"> a. the use cannot reasonably be met within a settlement, and the facility: <ul style="list-style-type: none"> i. meets an identified local need; ii. is located close to a settlement in an accessible location; and iii. its impact on landscape, environment and local character is minimised <p>New development and provision of community facilities and services</p> <p>New development should demonstrate that it can be adequately served by community facilities and services. Where shortfalls in the capacity of existing community facilities and services are identified, appropriate developer contributions will be sought to ensure adequate funding is available to accommodate the impacts of the development.</p> <p>Where a development would generate its own pressures that</p>		<p>address these implications with further revisions to the proposed MM relating to Policy 17 as these would not require planning permission and therefore would not fall under the scope of this policy. Change of use that would require planning permission would fall under the scope of this policy and therefore the policy remains unchanged.</p>
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	<p>would require the delivery of specific supporting community facilities and services, the Council will expect such facilities and services to be delivered on-site or close by. Alternatively, where an applicant can provide robust justification, the Council will, in the first instance, seek to secure off-site provision of the equivalent value of on-site provision and where this is demonstrated to be undeliverable, the payment of a commuted sum to the equivalent amount of on-site provision. These requirements are set out in the sites policies and IDP.</p> <p>Replacement facilities and services</p> <p>Development (including change of use) that would replace an existing community facility/services <u>that are delivered by private sector organisations, run by individuals or companies for profit</u> with a new community facility or service will only be permitted if:</p> <ul style="list-style-type: none">b. the replacement is equivalent to, or an improvement on, what will be replaced;c. it replaces a facility(ies) or service(s) that has been proven to be no longer		
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	<p>needed, suitable or viable; and</p> <p>d. it would provide an alternative community facility(ies) or service(s) that would support a demonstrable local need.</p> <p>Where the existing site is unsuitable for the current use and requires relocation, the new site must meet the criteria listed above for new facilities and services.</p> <p>Safeguarding existing facilities and services</p> <p>Development (including change of use) that would result in the loss of existing community facilities/services will only be permitted if:</p> <p>e. the applicant demonstrates that the current community facility/service has been sufficiently and realistically marketed without success for a continuous period of at least 9 months within the 12 month period prior to submitting the planning application; and</p> <p>f. the planning application is supported by a viability assessment, which shows that the current use is no longer viable. The applicant</p>		
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	<p>will be expected to fund the independent verification of the submitted viability assessment by a person appointed by the Council.</p> <p><u>Development (including change of use) that would result in the loss of existing facilities / services that are delivered by public bodies, or private bodies delivering public services, or non-profit organisations, will only be permitted where suitable evidence justifying the loss is submitted by the applicant.</u></p>		
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Table 2: Council's response to changes to use classes order in respect to emerging policies H4, H5, EE1, Glossary, EE2, EE3, I4 and I7.

