



CONSULTATION ON THE REVISION OF THE USE CLASSES AND ASSOCIATED PERMITTED CHANGES OF USE



Isle of Man
Government
Reiltys Ellan Vannin

A Consultation Document
November 2014

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Minister's Introduction

I am pleased to introduce this consultation paper relating to the review of the use classes, which aims to update and expand the Isle of Man's use classes to ensure it is fit for purpose for the future. Furthermore, I am also pleased to be consulting on further changes to our permitted development rights to allow certain changes of use to take place without the need to apply for planning approval.

This consultation document is just one of a number of proposed changes to the planning system aimed at increasing customer focus, improving efficiency and delivering better value for money.

I would therefore urge everyone who has an opinion about the use classes and the proposed changes of use to consider and respond to this consultation document.

Phil Gawne MHK
Minister for Infrastructure

Introduction

1. The Government wants to streamline the planning legislation to cut bureaucracy, and to provide greater clarity to the public and businesses alike.
2. This consultation paper sets out proposals for a revised set of use classes and a revised set of permitted development rights (allowing certain changes of use to occur without the need to obtain planning approval). Comments on these proposals are welcomed. Details as to how to contribute are detailed at page 30 of this consultation document.

Background

3. Planning legislation controls the use of land and buildings as well as its appearance. The Town and Country Planning (Permitted Development) Order 2012 puts uses of land and buildings into various categories known as "Use Classes". There are currently 8 use classes defined within the Order, which are as follows:
 - Class 1 Shops
 - Class 2 Financial and professional services
 - Class 3 Food and drink
 - Class 4 Offices
 - Class 5 Research and development, light industry
 - Class 6 Storage or distribution
 - Class 7 Hotels and hostels
 - Class 8 Hospitals, nursing homes and residential institutions
4. Article 6 of the Town and Country Planning (Permitted Development) Order 2012 ('the 2012 PDO') clarifies that a change of use within a use class does not involve development. Therefore, a change from a shoe shop (Class 1) to a sweet shop (Class 1) is not classed as development and would not require a planning approval.
5. Furthermore, Schedule 3 of the 2012 PDO sets out 7 classes for a change of use which can occur without the need to obtain a planning approval from the Department. These are as follows:
 - Class 1 Residential care homes
 - Class 2 Guest house
 - Class 3 Taking in guests
 - Class 4 Use of 2 or more flats as a single dwellinghouse
 - Class 5 Working from home
 - Class 6 Childminding
 - Class 7 Afforestation

6. However, these changes of use do not apply if the change contravenes a planning condition imposed on the grant of a planning approval.

Purpose of the review

7. The purpose of the review is to consider the expansion of the use classes and the associated permitted changes of use with the view to eliminate the need for planning applications for development which have a minor impact and which are not in the public interest to pursue.

Proposed changes to the use classes

8. The Department is proposing to amend the existing use classes and create some new use classes. This is to ensure that the Island has a comprehensive list of use classes that are fit for purpose for the future. This will help to eliminate the need for unnecessary planning applications for a change of use where a change is proposed within the same use class. Furthermore, clarifying the use classes for the Island will assist in the formulation of planning policies in the future. The new use classes being proposed are:

- Class A Shops
- Class B Financial and professional services
- Class C Food and drink
- Class D Food and drink with hot food takeaways
- Class E Hot food takeaways
- Class F Offices
- Class G Research and development, light industrial
- Class H General industrial
- Class I Storage and/or distribution
- Class J Hotels and hostels
- Class K Residential establishments
- Class L Secure residential establishments
- Class M Dwellinghouses
- Class N Houses in multiple occupation
- Class O Medical/health facilities
- Class P Non-residential educational facilities
- Class Q Community and cultural uses
- Class R Assembly and leisure

9. These new use classes are discussed in more detail below.

10. In addition to the new use classes, the Department is proposing to clarify the following uses which do not fall within any of the above use classes and are given the technical term 'sui generis', i.e. 'of its own kind'. This is not an exhaustive list of such uses. There may be other uses that do not fit into a use class and therefore would be classed as a sui generis use.
- (a) An amusement arcade or centre, or a funfair;
 - (b) For the sale of fuel for motor vehicles;
 - (c) For the sale or display for sale of motor vehicles;
 - (d) For a taxi business or business for the hire of motor vehicles;
 - (e) As a scrapyard, or a yard for the distribution of minerals, or the breaking of motor vehicles;
 - (f) As a waste recycling station, waste transfer station or for disposal or installation for the incineration, chemical treatment, or landfill of waste;
 - (g) As a waste management facility;
 - (h) As a night-club;
 - (i) Large Houses in Multiple Occupation – Use of property by more than 6 residents;
 - (j) A use associated with the provision of funeral services;
 - (k) Dry cleaners.
11. A change of use application would be required to change to/or from any of the proposed sui generis uses unless the change being proposed would be permitted development.

Question 1

Should the following uses be classified as being "sui generis":

- (a) An amusement arcade or centre, or a funfair?
- (b) For the sale of fuel for motor vehicles?
- (c) For the sale or display for sale of motor vehicles?
- (d) For a taxi business or business for the hire of motor vehicles?
- (e) As a scrapyard, or a yard for the distribution of minerals, or the breaking of motor vehicles?
- (f) As a waste disposal installation for the incineration, chemical treatment, or landfill of waste?
- (g) As a waste management facility?
- (h) As a night-club?
- (i) Large Houses in Multiple Occupation – Use of a property by more than 6 residents?
- (j) A use associated with the provision of funeral services?
- (k) As a dry cleaners?

Please state your reasons for your answers.

Shops

12. The existing use class (Class 1) is defined as follows:
“Use for all or any of the following purposes –
- (a) for the retail sale of goods other than hot food;
 - (b) as a post office;
 - (c) for the sale of tickets or as a travel agency;
 - (d) for the sale of sandwiches or other cold food for consumption off the premises;
 - (e) for hairdressing;
 - (f) for the display of goods for sale;
 - (g) for the hiring out of domestic or personal goods or articles,
- where the sale, display or service is to visiting members of the public.”
13. The Department proposes expanding the types of uses that fall within the definition of a shop to include the following:
- As a laundrette;
 - For the reception of goods to be washed, cleaned or repaired;
 - Internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet.
14. Currently, the sale and display of motor vehicles currently falls within Class 1. Due to the location of existing car showrooms being located on business parks or industrial estates, it is considered inappropriate to allow car showrooms to change to a general retail shop, as this could encourage out of town retail. Therefore, it is proposed to exclude the sale and display of motor vehicles from this use class; thus becoming a sui generis use. A ‘sui generis’ use is a use which does not fall within any of the use classes and are given the generic term ‘sui generis’, i.e. ‘of its own kind’.
15. The use class will also be renamed Class A Shops.

Question 2

Should the following uses fall within the existing “shops” use class:

(a) Use as a laundrette?

(b) Use for the reception of goods to be washed, cleaned or repaired?

(c) Use as an Internet Cafe?

Please state your reasons for your answers.

Question 3

Are there any other uses which should fall within Class A shops? If yes, please specify the uses, and outline why they should fall within Class A shops.

Financial and professional services

16. The existing use class (Class 2) is currently defined as follows:
"Use for the provision of –
- (a) financial services (including the services of a bank, building society or insurance broker);
 - (b) professional services (other than health or medical services), including estate agency, but excluding legal or architectural services;
 - (c) a betting office;
 - (d) a booking office for a driving school; or
 - (e) a job centre;
- where the services are provided principally to visiting members of the public."
17. The Department is proposing expand the types of uses that may fall within this use class. It is proposed to amend the definition to as follows:
- "Use for the provision of-
- (a) financial services, or
 - (b) professional services (other than health or medical services), or
 - (c) any other services (including use as a betting office) which it is appropriate to provide in a shopping area,
- where the services are provided principally to visiting members of the public."
18. It should be noted that betting offices, booking office for a driving school and a job centre would still continue to fall within this use class. The "any other services" definition may include uses such as nail or beauty salons.
19. Legal and architectural uses could quite easily fall within the definition of professional services as long as the services they provide are principally to visiting members of the public. These uses can be found within town centres and are not materially different to other professional services such as estate agents. It is considered that there is no valid justification to exclude them as professional services and therefore, it is proposed to amend this class so as to allow legal or architectural services to fall within the above use class provided the services they provide are principally to visiting members of the public, instead of them being classed as a sui generis use.
20. The use class will also be renamed Class B Financial and professional services.

Question 4

Do you agree/disagree with the revised definition for financial and professional services?

Please state your reasons for your answer.

Food and drink

21. The existing use class (Class 3) is currently defined as follows:
"Use for the sale of food and drink for consumption on the premises or of hot food on the premises (including use as a restaurant, cafe, wine bar or public house)".
22. It is proposed to retain the existing use class. The use class will also be renamed Class C Food and drink.
23. It should be noted that the existing Class 3 use class does not cover hot food takeaways. These are currently defined as a 'sui generis' use; however, it is proposed to create two new use classes relating to hot food takeaways. The new use classes would be:
 - Class D Food and drink with hot food takeaways; and
 - Class E Hot food takeaways.
24. The new Class D will be defined as follows:
"Use for the sale of food and drink for consumption on the premises and the sale of hot food for consumption off the premises"
25. While the new Class E will be defined as follows:
"Use for the sale of hot food for consumption off the premises"

Question 5

Should the following use classes relating to hot food takeaways be created:

(a) Class D Food and drink with hot food takeaways?

(b) Class E Hot food takeaways?

Please state your reasons for your answers.

Offices

26. The Department is proposing to clarify the office use class. The existing use class (Class 4) is defined as follows:

“Use as an office other than a use within Class 2”

27. It is proposed to amend the definition to as follows:

“Use –

(a) as an office other than a use within Class B (Financial and professional services);

or

(b) as a call centre.

28. The use class will also be renamed Class F Offices.

Question 6

Should call centres fall within the revised "office" use class?

Please state your reasons for your answer.

Research and development, light industry

29. The Department is not proposing to amend the existing Class 5 use class, apart from renaming the class, as follows:

- Class G Research and development, light industrial.

30. It should be noted that this use class covers the use for all or any of the following purposes –

(a) for research and development of products or processes, or

(b) for 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.

Question 7

Should the existing "research and development, light industry" use class remain unaltered, apart from amending the name of the class?

Please state your reasons for your answer.

Storage or distribution

31. The Department is proposing to clarify the storage or distribution use class. The existing use class (Class 6) is defined as follows:

“Use for storage or as a distribution centre.”

32. It is proposed to amend the definition to “use for storage and/or as a distribution centre”, as in most cases buildings are either used for storage and/or as a distribution centre. The use class will also be renamed Class I Storage and/or distribution.

Question 8

Should the existing “storage or distribution” use class be amended to “storage and/or distribution”?

Please state your reasons for your answer.

General industrial

33. In addition, the Department is also proposing to create a new use class to encompass general industrial uses, which will be called Class H General industrial.
34. The new use class would cover uses that involve carrying out an industrial process which does not fall within the “research and development, light industrial” use class.
35. The phrase “industrial process” is used within the 2012 PDO; however, this phrase is currently not defined within 2012 PDO.
36. It is proposed to include a definition for this phrase, which is as follows:

“industrial process” means a process for or incidental to any of the following purposes:—

- (a) the making of any article or part of any article (including a ship or vessel, or a film, video or sound recording);
 - (b) the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article; or
 - (c) the getting, dressing or treatment of minerals;
- in the course of any trade or business other than agriculture, and other than a use carried out in or adjacent to a mine, quarry, or waste management facility.

Question 9

Should "industrial process" be defined in the new use classes order?

Please state your reasons for your answer.

Question 10

Do you agree/disagree with the proposed definition for an industrial process?

Please state your reasons for your answer.

37. Currently, general industrial uses are classed as a 'sui generis' use and therefore would require a planning approval for a change of use from one type of industrial process to another, e.g. a brewery to a sweet factory.
38. The creation of a new use class would remove the need for planning applications to be submitted for those uses that fall within the new use class. This proposal would help to remove a perceived obstacle to economic growth.
39. It should be noted that any waste management facility would be a 'sui generis' use.

Question 11

Should a new use class for "general industrial" uses be created?

Please state your reasons for your answer.

Question 12

Do you agree/disagree with the proposed definition for general industrial uses, i.e. "Use for the carrying out of an industrial process other than one falling within Class G (Research and development, light industrial)"?

Please state your reasons for your answer.

Hotels and hostels

40. This use class (Class 7) is currently defined as a “use as a hotel or boarding or guest house where, in each case, no significant element of care is provided.”
41. The existing use class is not particularly clear on whether hostels are actually included within the definition. The Department is proposing to amend the definition to make reference to hostels for clarity purposes. The definition will be: “use as a hotel, boarding or guest house or as a hostel where, in each case, no significant element of care is provided.”
42. The use class will also be renamed Class J Hotels and hostels.

Question 13

Do you agree/disagree that the definition be amended to refer to hostels?

Please state your reasons for your answer.

Hospitals, nursing homes and residential institutions

43. This use class (Class 8) currently covers the following:
 - Use as a hospital or nursing home
 - Use for the provision of residential accommodation and care to people in need of care.
44. The Department is proposing to rename the use class and to expand the uses that fall within this use class, namely residential schools, colleges or training centres. The revised use class will be renamed “Class K Residential establishments”.
45. The following uses will fall within the revised use class:
 - Use for the provision of residential accommodation and care to people in need of care (other than a use within Class M (dwellinghouses)).
 - Use as a hospital or nursing home.
 - Use as a residential school, residential college or residential training centre.
46. Care is currently defined as “personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder.”
47. It is proposed to amend the definition, in relation to this class, to include personal care of children and medical care and treatment.

Question 14

Should the "Use as a residential school, residential college or residential training centre" be included within the revised use class?

Please state your reasons for your answer.

Question 15

Should the definition of care be amended to include "personal care of children and medical care and treatment"?

Please state your reasons for your answer.

New Use Classes

48. The Department is proposing 7 additional classes to those already mentioned above. These are:
- Class L Secure residential establishments
 - Class M Dwellinghouses
 - Class N Houses in multiple occupation
 - Class O Medical/health facilities
 - Class P Non-residential educational facilities
 - Class Q Community and cultural uses
 - Class R Assembly and leisure

Secure residential establishments

49. This new use class would be defined as a "use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, or secure hospital."

Question 16

Should a new use class for "secure residential establishments" be created?

Please state your reasons for your answer.

Question 17

Should the following establishments fall within the new "secure residential establishments" use class:

- (a) Prison?
- (b) Young offenders institution?
- (c) Detention centre?
- (d) Secure training centre?
- (e) Custody centre?
- (f) Short-term holding centre?
- (g) Secure hospital?

Please state your reasons for your answers.

Dwellinghouse

50. This new use class would be defined as a "use as a dwellinghouse (whether or not as a sole or main residence) by –
- (a) a single person or by people to be regarded as forming a single household;
 - (b) not more than 6 residents living together as a single household where care is provided for residents; or
 - (c) not more than 6 residents living together as a single household where no care is provided to residents (other than a use within Class N Houses in Multiple Occupation)"
51. This use class groups together uses as a dwellinghouse, whether or not the sole or main residence, by single person, any number of persons living together as a family, or by no more than 6 persons living together as a single household. The key element in the use of a dwellinghouse for non-family purposes is the concept of a single household. The single household concept will provide more certainty over the planning position of small group homes, which play a role in community care, and which are aimed at enabling disabled and mentally disordered people to live as normal lives as possible in touch with the community.
52. In the case of small residential care homes or nursing homes, staff and residents will probably not live as a single household and the use will therefore fall into the residential establishments use class (Class K), regardless of the size of the home.
53. This dwellinghouse class not only includes families, or people living together under arrangement for the provision of care, but also other groups of people, not necessarily related to each other, who choose to live on a communal basis as a single household.

54. The common feature of all premises which can generally be described as dwellinghouses is that they are buildings that ordinarily afford the facilities required for day to day private domestic existence.
55. The criteria for determining whether the use of particular premises should be classified within this use class include both the manner of the use and the layout/design of the premises. Premises can properly be regarded as being used as a single dwellinghouse where they are:
- A single, self-contained unit of occupation which can be regarded as being a separate 'planning unit' distinct from any other part of the building containing them;
 - designed, or adapted, for residential purposes – containing the normal facilities for cooking, eating and sleeping associated with use as a dwellinghouse;
 - used as a dwelling, whether permanently or temporarily, by a single person, a family, or more than one person living together like a family, as a single household.
56. This interpretation would exclude such uses as bed-sitting room accommodation if the occupants share some communal facilities within a building, such as a bathroom or lavatory. Within use class M (dwellinghouse) or within use class N (Houses in Multiple Occupation), the "planning unit" is likely to be the whole building in use for the purposes of multiple residential occupation, rather than each individual unit of accommodation.
57. Sheltered housing development will usually fall within this use class M (dwellinghouse).

Question 18

Should a new use class for a "dwellinghouse" be created?

Please state your reasons for your answer.

Question 19

Do you agree with the definition that a dwellinghouse is a residence for:

- (a) a single person or by people to be regarded as forming a single household;*
- (b) not more than 6 residents living together as a single household where care is provided for residents; or*
- (c) not more than 6 residents living together as a single household where no care is provided to residents (other than a use within Class N)*

Please state your reasons for your answers.

Houses in multiple occupation

58. In light of the recent secondary legislation on Houses in Multiple Occupation, i.e. Housing (Definition of Flat or House in Multiple Occupation) Order 2013 and the Housing (Registration) Regulations 2013 introduced by the Department of Environment, Food and Agriculture (DEFA), the Department is proposing to create a new use class to cover houses in multiple occupation. For continuity purposes, the proposed definition of a house in multiple occupation will be the same as DEFA's definition of a house in multiple occupation which is as follows:

"A house or flat is in "multiple occupation" if it is occupied by more than one household and at least one of those households –

- (a) Occupies accommodation which shares, or lacks, basic amenities; or
- (b) Occupies its accommodation as its only or main residence."

59. However, this is subject to the following qualification:- premises that are exempt from registration under regulation 7 of the Housing (Registration) Regulation 2013 do not constitute a house or flat in multiple occupation. The Regulations do not apply to premises that are:

- (a) occupied only by persons in the same family;
- (b) occupied by 6 or fewer persons where the building or part of the building includes, in addition to its other habitable rooms, no more than one kitchen and two bathrooms;
- (c) registered in compliance with current legislation pertaining to tourism, and used solely for tourism purposes;
- (d) designated for detention of detainees under section 11(1) of the Custody Act 1995;
- (e) used solely as a child (secure accommodation) establishment;
- (f) a registered adult care home;
- (g) a registered children's care home;
- (h) provided by a charity for persons who are homeless; or
- (i) subject to inspection by the Department of Education and Children in the discharge of its functions.

60. This use class would be defined as a "use of a property by not more than six residents as a "house in multiple occupation"".

61. It should be noted that the exempted premises may fall within a different use class, e.g. a registered adult care home may fall within the residential establishment use class (Class K).

62. Furthermore, it should be noted that is proposed to exclude houses in multiple occupation which have more than 6 people sharing. Such uses will be classified as a sui generis use.

Question 20

Should a new use class for "houses in multiple occupation" be created?

Please state your reasons for your answer.

Question 21

Do you agree/disagree with the proposed definition for "houses in multiple occupation, i.e. "A house or flat is in "multiple occupations" if it is occupied by more than one household and at least one of those households –

(a) Occupies accommodation which shares, or lacks, basic amenities; or

(b) Occupies its accommodation as its only or main residence."

Please state your reasons for your answer.

Medical/health facilities

63. This new use class would be defined as:

"Any use not including residential use for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner."

Question 22

Should a new use class for "medical/health facilities" be created?

Please state your reasons for your answer.

Question 23

Do you agree/disagree with the proposed definition for "medical/health facilities"?

Please state your reasons for your answer.

Non-residential educational facilities

64. This new use class would be defined as:

- “Any use not including a residential use –
(a) as a crèche, day nursery, after school facility or day centre; or,
(b) for the provision of education.”

Question 24

Should a new use class for “non-residential educational facilities” be created?

Please state your reasons for your answer.

Question 25

Should the following uses fall within the new use class for “non-residential educational facilities”:

- (a) Crèche?*
- (b) Day nursery?*
- (c) After school facility?*
- (d) Day centre ?*
- (e) The provision of education?*

Please state your reasons for your answers.

Community and cultural uses

65. This new use class would be defined as:

- “Any use –
(a) as a community centre;
(b) for the display of works of art (otherwise than for sale or hire);
(c) as a museum;
(d) as a public library or public reading room;
(e) as a public hall or exhibition hall;
(f) for, or in connection with, public worship or religious instruction; or
(g) as a law court.”

Question 26

Should a new use class for "community and cultural uses" be created?

Please state your reasons for your answer.

Question 27

Should the following uses fall within the new use class for community and cultural uses:

- (a) Community centre?*
- (b) For the display of works of art (otherwise than for sale or hire)?*
- (c) Museum?*
- (d) Public library or public reading room?*
- (e) Public hall or exhibition hall?*
- (f) For, or in connection with, public worship or religious instruction?*
- (g) Law court?*

Please state your reasons for your answers.

Assembly and leisure

66. This new use class would be defined as:

"Any use –

- (a) as a cinema;
- (b) as a concert hall;
- (c) as a bingo hall;
- (d) as a casino;
- (e) as a theatre;
- (f) as a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreation, not involving motorised vehicles or firearms."

Question 28

Should a new use class for "assembly and leisure" be created?

Please state your reasons for your answer.

Question 29

Should the following uses fall within the new use class for "assembly and leisure":

- (a) Cinema?*
- (b) Concert hall?*
- (c) Bingo hall?*
- (d) Casino?*
- (e) Theatre?*
- (f) Swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreation, not involving motorised vehicles or firearms*

Please state your reasons for your answers.

General Provisions

67. There is currently one general provision relating to use classes in the 2012 PDO which states that:
- “Use of buildings or other land for a purpose of any of the classes specified in Schedule 4 is specified for the purpose of section 6(3)(e) of the Act (change of use within a class does not involve development)”.
68. It is proposed to amend the provision to make it clearer as to what the purpose of this provision is. The following is therefore proposed:
- “Subject to the provisions of this Order, where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose within the same class will not be taken to involve development of the land”.
69. It is proposed that additional provisions are required to clarify the use classes. It is proposed the following provisions are included in a new use classes order:
- i) Reference to a building includes references to land occupied with the building and used for the same purposes, e.g. builder’s merchant, which has outdoor storage.
 - ii) A use which is included in and ordinarily incidental to any use in a class specified in the Schedule is not excluded from the use to which it is incidental merely because it is specified in the Schedule as a separate use, e.g. administration offices within a brewery.

- iii) Where land on a single site or on adjacent sites used as a single undertaking is used for purposes consisting of or including purposes falling within classes G (Research and development, light industrial) and H (General industrial) in the Schedule, those classes may be treated as a single use of that land for the purposes of this Order, so long as the area used for a purpose falling within class H is not substantially increased as a result, e.g. a manufacturing company which carries out research and development (Class G) on one part of a site and a general industrial process (Class H) on another part may be treated as a single use for that land.

Question 30

Should the following provisions be included in a new use classes order:

- i) *Reference to a building includes references to land occupied with the building and used for the same purposes?*
- ii) *A use which is included in and ordinarily incidental to any use in a class specified in the Schedule is not excluded from the use to which it is incidental merely because it is specified in the Schedule as a separate use?*
- iii) *Where land on a single site or on adjacent sites used as a single undertaking is used for purposes consisting of or including purposes falling within classes G (Research and development, light industrial) and H (General industrial) in the Schedule, those classes may be treated as a single use of that land for the purposes of this Order, so long as the area used for a purpose falling within class H is not substantially increased as a result?*

Please state your reasons for your answers

Proposed new classes of permitted development

70. Planning legislation controls the use of land and buildings as well as its appearance. In many cases involving similar types of use, a change of use of a building or land does not need planning approval. Planning approval is not needed when both the present and proposed uses fall within the same 'class', as it does not involve development¹, or if the Town and Country Planning (Permitted Development) Order 2012 says that a change of class is permitted to another specified class. **It should be noted most external building work associated with a change of use is likely to require planning approval.**
71. For example, a greengrocer's shop could be changed to a shoe shop without approval as these uses fall within the same 'class', and a dwellinghouse could be changed to a residential care home as the Town and Country Planning (Permitted Development) Order 2012 allows this type of change to occur without requiring planning approval to be obtained from the Department.
72. It is proposed to expand the list of permitted changes to allow the following changes of use to occur without the need to obtain a planning approval via a planning application to the Department.
73. However, these changes of use would not apply if it would contravene any condition lawfully imposed on the grant of a planning approval for the development of the land. For example, if a condition of an existing approval states that the use of the building shall only be used for light industrial purposes only, that building would not be able to change its use to a Research and Development, Light Industrial use unless a planning approval had been granted via a planning application.

¹ Section 6 of the Town and Country Planning Act 1990 provides a meaning of development. Development means the carrying out of building, engineering, mining or other operations in, on, over or under land, or making of any material change in the use of any buildings or other land.

Proposed Permitted Changes of Use

From	To
B (Financial and professional services) when premises have a display window at ground level	A (shop)
C (Food and Drink)	A or B
D (Food and Drink with hot food takeaways)	A or B or C
E (Hot food takeaways)	A or B or C or D
G (Research and development, light industrial) (permission limited to change of use relating to not more than 200 square metres of floor space)	I (Storage and/or distribution)
H (General industrial)	G
H (General industrial) (permission limited to change of use relating to not more than 200 square metres of floor space))	I
N (Houses in multiple occupation)	M (Dwellinghouses)
Large houses in multiple occupation (Sui Generis)	M

74. In respect of the proposed changes of use relating the classes B, C, D and E, these changes will be restricted to areas which will be defined in a schedule, which will be attached to a new permitted development order. For the benefit of this consultation, these areas are likely to be areas defined as an 'area of predominantly shopping use' or 'mixed use' in the 1982 Development Plan, Local Plans and Area Plans.
75. The 200 square metre restriction for a change of use from Class G (Research and Development, Light industrial) or H (general industrial) to Class I (storage and/or distribution) is to ensure large industrial units are prevented from becoming a storage and/or distribution use which may therefore reduce the amount of industrial floorspace for Class G (Research and development, light industrial) and Class H (General industrial) uses.

Question 31

Should the following changes of use be included in a new permitted development order:

- (a) Class B (Professional and financial services) to Class A (Shops)?*
- (b) Class C (Food and drink) to Class A (Shops)?*
- (c) Class C (Food and drink) to Class B (Professional and financial services)?*
- (d) Class D (Food and drink with hot food takeaways) to Class A (Shops)?*
- (e) Class D (Food and drink with hot food takeaways) to Class B (Professional and financial services)?*
- (f) Class D (Food and drink with hot food takeaways) to Class C (Food and drink)?*
- (g) Class E (Hot food takeaways) to Class A (Shops)?*
- (h) Class E (Hot food takeaways) to Class B (Professional and financial services)?*
- (i) Class E (Hot food takeaways) to Class C (Food and drink)?*
- (j) Class E (Hot food takeaways) to Class D (Food and drink with hot food takeaways)?*
- (k) Class G (Research and development, light industrial) to Class I (Storage and/or distribution)?*
- (l) Class H (General industrial) to Class G (Research and development, light industrial)?*
- (m) Class H (General industrial) to Class I (Storage and/or distribution)?*
- (n) Class N (Houses in multiple occupation) to Class M (Dwellinghouses)?*
- (o) Large houses in multiple occupation to Class M (Dwellinghouses)?*

Please state your reasons for your answer.

Question 32

Should the changes of use relating to Classes B, C, D, and E be restricted to areas defined as 'predominantly shopping' or 'mixed use' in the Development Plan?

Please state your reasons for your answer.

76. In addition, it is proposed that a planning application is not required for change of use in the following circumstances:

- from class A (shops) or class B (professional and financial services) to class A (shops) plus up to two flats above, e.g. sweet shop (class A) or bank (Class B) to sweet shop with two flats above;
- from class B (professional and financial services) to class B plus up to two flats above, e.g. betting office to betting office with two flats above.

77. These changes would be reversible without an application only if the part that is now a flat was, respectively, in either class A or class B use immediately before it became a flat.
78. This is useful in those instances where the former use is over two storeys of the building and the new use of the building wishes to see the upper floors being used for residential purposes. Allowing this contributes to the vitality and viability of our towns and villages.
79. Furthermore, the proposed changes are not about altering the physical appearance of the building, i.e. should a second entrance be required, which would require a planning approval via a planning application.

Question 33

Should the following changes of use be included in a new permitted development order?

- (a) *Class A or class B to class A plus up to two flats above?*
(b) *Class B to class B plus up to two flats above?*

Please state your reasons for your answers.

80. Furthermore, it is proposed that further clarity is needed in respect of the existing permitted changes of use that are contained within the 2012 PDO.
81. The following table below details the proposed changes.

Existing permitted change – Class 1 Residential care home

The change of use of a building from use as a dwellinghouse to use as a residential care home, or from use as a residential care home to use as a dwellinghouse.

Exceptions:

A change of use within this Class is not permitted if the building in question –

- (a) has more than 5 bedrooms; or
(b) is in an area which, on the Development Plan, is zoned for industrial, retail or business use; or
(c) there would be more than 5 persons receiving care

In this Class “residential care home” means –

- (a) premises mentioned in section 1(1) (a) of the Nursing and Residential Homes Act 1988; and any premises provided by or on behalf of the Department of Social Care under the Children and Young Persons Act 2001

Proposed changes to Class 1 Residential care home

It is proposed to clarify that this change of use can occur only in areas zoned as predominantly residential in the Development Plan.

Furthermore, it is proposed to clarify that the change of use is from a dwellinghouse (Class M) to residential care home that falls within Class K Residential establishments

In light of the proposed changes to the use classes and the repeal of the Nursing and Residential Homes Act 1988, it is proposed to modify the permitted change.

It is proposed to amend the Class, as follows:

“The change of use of a building from use as a dwellinghouse (Class M) to use for the provision of residential accommodation and care to people in need of care or nursing home (Class K), or from a use for the provision of residential accommodation and care to people in need of care or nursing home (Class K) to use as a dwellinghouse (Class M).

Exceptions:

A change of use within this Class is not permitted if the building in question –

- (a) has more than 5 bedrooms; or
- (b) is in an area which, on the Development Plan, is not zoned as predominantly residential; or
- (c) there would be more than 5 persons receiving care”.

Existing permitted change – Class 2 Guest-house

The change of use of a building from use as a guest-house to use as a dwellinghouse.

Proposed changes to Class 2 Guest-house

It is proposed to extend the permitted development rights to allow boarding houses to change its use back to a dwellinghouse.

Existing permitted change– Class 3 Taking in guests

The change of use of a building from use as a dwellinghouse to combined use as a dwellinghouse and as a guest house.

Proposed changes to Class 3 Taking in guests

It is proposed to allow a building being used as a combined use as a dwellinghouse and as a guest house to change its use back to a dwellinghouse.

The condition relating to the number of bedrooms that may be used for guests will remain unchanged at 3 bedrooms.

Existing permitted change - Class 4 Use of 2 or more flats as a single dwellinghouse

The change of use of a building from use as 2 or more dwellings to use as a dwellinghouse.

Proposed changes to Class 4 Use of 2 or more flats as a single dwellinghouse

It is proposed to change the provision for clarity purpose to ensure the provision covers dwellinghouse and flats.

The class will be renamed 'Class 4 Use of 2 or more flats or dwellinghouses as a single dwellinghouse'.

The definition for the class will be defined as follows:

"The change of use of a building from use as 2 or more flats or dwellinghouses to use as a single dwellinghouse."

Existing permitted change - Class 5 Working from home

The change of use of a building from use as a dwellinghouse to combined use as a dwellinghouse and by the householder as an office for conducting any business

Exception:

A change of use within this Class is not permitted if the business involves persons other than the householder working in or calling at the buildings.

Conditions:

No sign advertising the business or indicating its nature may be placed on the exterior, or within the curtilage, of the building or otherwise so as to be visible from outside the building.

Proposed changes to Class 5 Working from home

It is proposed to allow a building being used as a combined use as a dwellinghouse and by the householder as an office for conducting any business to change its use back to a dwellinghouse.

It is proposed to delete the condition relating to the restriction on advertisements, as the control of advertisements is dealt with under separate legislation, i.e. Town and Country Planning Control of Advertisements) Regulations 2013.

Existing permitted change to Class 6 Childminding

The change of use of a building from use as a dwellinghouse to combined use as a dwellinghouse and by the householder as a child-minder

Conditions:

- (1) No more than 6 children (including children of the householder) may be looked after at any time.
- (2) No sign advertising any activity as a child-minder or indicating its nature may be placed on the exterior, or within the curtilage, of the building or otherwise so as to be visible from outside the building

In this Class "child-minder" means a person acting as a child minder within the meaning of section 63 of the Children and Young Persons Act 2001.

Proposed changes to Class 6 Childminding

The change of use of a building from used as a dwellinghouse to combined use as a dwellinghouse and by the householder as a child-minder to change its use back to a dwellinghouse.

It is proposed to delete the condition relating to the restriction on advertisements, as the control of advertisements is dealt with under separate legislation, i.e. Town and Country Planning Control of Advertisements) Regulations 2013.

Due to legislative changes, the meaning of childminder will now need to be amended to refer to section 21(3) of the Regulation of Care Act 2013.

Existing permitted change to Class 7 Afforestation

Class 7 Afforestation

The afforestation of any land

Exception:

A change of use within this Class is not permitted if the area of land, together with any adjoining land being afforested at or about the same time, exceeds 0.5ha.

Proposed changes to Class 7 Afforestation

No changes proposed.

Question 34

Do you agree/disagree with the proposed amendments to the existing permitted changes of use:

(a) Class 1 Residential care home?

(b) Class 2 Guest-house?

(c) Class 3 Taking in guests?

(d) Class 4 Use of 2 or more flats as a single dwellinghouse?

(e) Class 5 Working from home?

(f) Class 6 Childminding?

Please state your reasons for your answer.

Impact of changes

82. The proposed changes aim to update and expand the Island's Use Classes to ensure it is fit for purpose for the future. The changes to the permitted development rights will allow certain changes of use to take place without the need to apply for planning approval. These changes will help to remove bureaucracy and support the economy by removing the requirement to submit an application for those changes. In turn, this will free up officers time to concentrate on more complex applications.
83. Furthermore, in light of the proposed changes, a consequential amendment will be required to the definition of "use class" within the Town and Country Planning (Certificates of Lawful Use or Development) Regulations 2005 (as amended), so as to refer to a new use classes order.

How to Respond

84. The Department welcomes representations by anyone who wishes to comment on this consultation document. We would encourage the submission of clear and concise responses using the online survey at <https://www.snapsurveys.com/wh/s.asp?k=141649284042>.
85. It should be noted that a response does not guarantee that changes proposed in a response will be implemented.
86. Arrangements will be put in place for those who do not have access to the internet to submit paper copies of their responses to the address given below. Submissions should be marked clearly 'Consultation on the revision of the use classes and associated permitted changes of use'.

87. Comments can be either sent electronically to PlanningPolicy.DOI@gov.im or by post to:

**Planning Policy Team
Department of Infrastructure
Strategy, Policy and Performance
Sea Terminal Building
Douglas
Isle of Man
IM1 2RF**

88. An electronic version of this consultation can be found at <http://www.gov.im/Consultations.gov>. The online questionnaire can be found at the following web address: <https://www.snapsurveys.com/wh/s.asp?k=141649284042>
89. It should be noted that all comments and information will be made available for public viewing.
90. Information provided in response will be dealt with in accordance with access to information regimes – ‘Guidance on the Code of Practice on Consultation’ and ‘Code of Practice on Access to Information’

This consultation begins on 28th November 2014, lasting for 6 weeks and will close on 9th January 2015 at 5pm.

If you require any further information please contact:

Mr Ian Brooks,
Planning Policy Officer
Department of Infrastructure
Sea Terminal Building
Douglas
Isle of Man
IM1 2RF
Email: Ian.brooks@gov.im
Tel. 01624 685901

Next Steps

91. Following completion of the consultation of this document, the Department will consider all the responses with the view to producing a new use classes order for the Island and change the existing permitted changes of use.

92. After the close of the consultation on this paper the Department will;

- Publish on the Government's website a summary of matters raised in the consultation with responses – we will aim to do this within 3 months of the closing date of the consultation;
- Arrange for a new use classes order and a new permitted development to implement the proposed changes of use along with amendments to the existing permitted changes of use to be considered by Tynwald;
- Arrange for the consequential amendment to the Town and Country Planning (Certificates of Lawful use or Development) Regulations 2005 be considered by Tynwald.

Thank you for taking the time to read this consultation document.

Annex A – List of Consultees

- All Tynwald Members
- Attorney General
- All Local Authorities
- All Chief Officers of Government Departments
- Isle of Man Chamber of Commerce
- Isle of Man Law Society
- Planning Committee Members
- Manx National Heritage
- Current Independent Planning Inspectors
- The Royal Town Planning Institute (RTPI)
- The Royal Institute of British Architects (RIBA)
- The Royal Institute of Chartered Surveyors (RICS)
- Manx Gas
- Manx Telecom
- Manx Utilities Authority
- Road Transport Licensing Committee
- Communications Commission
- Office of Fair Trade
- Arts Council
- Isle of Man Sport
- Isle of Man Post Office Authority
- Construction Forum
- Isle of Man Employers' Federation
- Architects and Agents based in the Isle of Man
- Estate Agents based in the Isle of Man

If you are aware of any other persons or organisations who should be consulted, please can you contact us at

Mr Ian Brooks,
Planning Policy Officer
Department of Infrastructure
Sea Terminal Building
Douglas
Isle of Man
IM1 2RF
Email: Ian.brooks@gov.im
Tel. 01624 685901