
Pub, bar or restaurant?

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Abstract

The aim and scope of the paper is to draw attention to the proposed changes to the Town and Country Planning Use Classes Order (UCO) and permitted development rights affecting Class A3 (pubs and restaurants), and to identify some of the practical difficulties in differentiating the new use classes. The paper also sets out to highlight some of the operational and property-related issues affecting land-use categories and their likely impact on property and rental values, and to those involved in the planning process and the valuation of licensed property.

Keywords:

food led, wet led, 'pub restaurant', consumer demand, target market, evolving markets, operational flexibility, sustainable profit, fragmented, fickle business, eating-out trends

When does a pub become a restaurant? The current review of the Town and Country Planning Use Classes Order and the proposed separation of restaurants from pubs and bars raises this interesting question.

Pubs, bars and restaurants currently fall within Class A3 of the Use Classes Order (UCO). Change from restaurant to pub and vice versa is permitted without the need to obtain planning permission. Restaurants and pubs are also permitted to change 'down' to Class A2 (financial and professional services) or Class A1 (shops). Planning consent may be required, however, for associated building works or advertisements. The government is reviewing the appropriateness of the use class categories, and this paper looks at the reasons for the review and the likely impact on the restaurant, pub and bar operators trading with full on licences. It does not focus on businesses that trade with just a restaurant licence, as quite clearly such premises are restaurants.

The purpose of the review is to give consideration to the modernisation of current land-use categories while maintaining user flexibility and protecting public amenity. A number of options were

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**Primary purpose —
sale of alcohol or
food**

considered under the review, and the outcome is that pubs and restaurants will fall into separate use classes, with pubs to fall in Use Class A4 and restaurants in Use Class A3. Takeaway restaurants are to fall into Use Class A5. The changes are timed to take effect this summer. The defining difference is to be whether the primary purpose of the use is for the sale of alcohol or for the sale of food. At the time of writing this paper the government had not issued any guidance notes regarding the meaning of ‘primary purpose’.

Market deregulation

The deregulation of the brewing and pub sector with the introduction of the Beer Orders in 1989 forced the brewers, which were the major pub owners, to sell off many thousands of pubs and thereby open up the pub market. A combination of increased competition from new operators, tougher drink-driving laws and pressure on pub retailers to achieve higher returns on investment resulted in operators having to become more focused and innovative as to how they attracted new business.

Food the catalyst

The outcome was new concepts and brands, with food acting as the catalyst to attract new custom. Pubs developed their menus and modernised their surroundings to target specific demographic profiles and pub categories emerged as operators competed for their share of target markets, ie family pub, gastro pub, quality inn, circuit bar, sports bar, etc. As concepts developed and became more sophisticated, interior designs changed but retained many of the traditional pub characteristics, such as ‘vertical drinking areas’, bar servery and cosy environment.

Just as brands and concepts developed around food, operations in the high street focused on music and entertainment, with a lesser food offering. Typically these operations fall under the broad definition of bars.

**Changing customer
profile**

The changing profile of the country’s population and increasing trends to eat out have meant a growing market for pub retailers, or more importantly, pub restaurateurs. Pub retailers’ success with food brought them into direct competition with local restaurants and catering businesses, and consequently pubs and restaurants adapted their offers to broaden their customer appeal, crossing the public’s perceived ‘boundaries’ of restaurants and pubs. Nearly half of the top 50 ‘eating out brands’ are essentially pub or bar operators,¹ and include Wetherspoon, Brewers Fayre and Chef & Brewer for example, but which use class should they fall into, pub or restaurant?

Reasons for review

The reasons for the review of the Town and Country Planning Use Classes Order are twofold. First, fast-food restaurateurs (Class A3) have been able to acquire pubs and convert to fast-food restaurants without planning permission, due to their being in the same use class. The result has been public outcry about not only the loss of the pub in each case, but its replacement with a ‘less desirable’ use, bringing increased traffic and litter and acting as a magnet for youngsters. Often the application for change of signage has been the first notification to the public of the proposed ‘change’.

**Food and drink
complementary**

The second reason is the public's concern about bar operators acquiring and converting restaurants to late-night drinking venues. In practice such changes require the approval of the licensing authorities, when appropriate opportunity is afforded to the public for consultation and objection, but now licensing is also due to change, with local councils taking over responsibility.

Food and drink in today's pub restaurants are complementary, and while their contributions to overall sales may differ widely, even across the same brand, both are vitally important. Food and drink offers are developed by retailers to maximise profits, appealing to as wide a market as possible and often to different markets depending on the time of day or week. Measurement of a business's primary purpose by reference to the proportion of drink (wet) or food (dry) sales is not straightforward. The inference within the review is that if a business generates more than 50 per cent of its sales from food, then the business is a restaurant.

Food sales across any particular pub restaurant brand can vary between 40 per cent to 70 per cent of total sales, despite consistency in menu, head office management, promotions, interior design and layout. The proposed separation of restaurants and bars, or food-led and wet-led businesses, will mean that some pub restaurant brands will have outlets falling within different planning uses.

**Influencing factors on
wet/dry split**

The food contribution to total sales can depend on many things, and while location, menu and number of covers are extremely influential, possibly more important are standards, management and service. Moreover changes in competition, fashion and customer needs can impact on the overall sales and cause fluctuations in the wet/dry split. The introduction of Sky Sports or a pool table can increase wet sales, just as the rearrangement of furniture and changing of the menu can increase food sales. Should these actions genuinely give rise to a change of use under the planning laws?

Standards are critical to the sale of food in any business, and the skills of an owner or manager can play an important role in determining the wet and dry sales split. Standards and the cleanliness of the toilets will influence a customer's decision as to whether to eat. Falling standards can easily lead to a shift to the less discerning wet-led trade, which inevitably leads to decreased sales in pub restaurants.

**Superpubs with high
food sales**

Over the past ten years a high-street pub circuit has been established in the majority of towns and cities across the country, together with the emergence of the superpub, comprising units of 10,000–15,000 sq ft (930–1,390m²), with overall sales in the better units ranging from £30,000 to £40,000 per week (net of VAT). Many of these businesses are equipped with extensive catering kitchens and offer comprehensive menus throughout the day. Food sales may only contribute 15–20 per cent of overall sales, but £4,500–£8,000 per week represents a substantial catering business and would be the envy of many high-street restaurateurs. Under the proposed use classes such businesses would fall outside the restaurant use.

The government's review of the use classes was conceived

Market reaction

approximately two years ago. The A3 market and general economy have since worsened, with many operators having issued profits warnings and some companies going into administration. The quick-service food sector has similarly experienced difficult trading due to the poor economy and the public's disaffection with meat following a variety of public health scares. The outcome has been a consolidation by those surviving pub and restaurant companies and a rethinking of acquisition programmes. Market forces have reacted to changing demands ahead of government interference, albeit for different reasons, and the need to review the use classes may now be superfluous.

Restaurateurs capitalising on demise of high street bar

Many high-street bars have experienced difficulties during the economic downturn, with sales failing to keep pace with inflation. Rents for many operators have become unviable and the situation is exacerbated by overheads increasing in the form of the minimum wage, the working time directive, government red tape and bureaucracy. The need for businesses to reinvest is often unjustifiable due to falling profits, and consequently many failing high-street businesses have been marketed for sale. The likely buyers are often restaurateurs or food-led businesses, which is the opposite to the public's fear of late-night bars on every street corner. Demand by restaurateurs for units in excess of 3,000 sq ft (280m²) gross internal area (GIA) has increased and operators have been able to take advantage of the poor pub and bar market to purchase fully fitted high-street units for a fraction of their original development and fitting-out costs.

Reduced flexibility

The leisure industry is fickle and customer tastes quickly change, such that the latest £1m fit-out can soon seem old-fashioned. Flexibility currently exists to change the design and the furniture layout without the need to involve the planning authorities, regardless of the change in wet/dry sales split. Future changes may be delayed as planning authorities seek to establish the existing use, adding cost and uncertainty to licensed retailers.

The ability for operators to respond quickly to market change is paramount for the survival of any business. With overheads increasing and sales in many businesses falling, flexibility to change food and drink offers is essential for operators to adapt to customer needs and increase or retain market share. Operational concern about percentages of food sales to comply with planning law is an unnecessary control when licensing laws exist to regulate the use of licensed premises.

Reduced operational flexibility impacts on asset value. Operators will be prepared to pay extra for the more versatile public house use, permitting change to restaurant, financial services and retail. Businesses with high food sales and coming under the new restaurant use class face uncertainty as to a possible return to a wet-led business. This uncertainty could knock tens of thousands of pounds off the value of assets. Companies such as Mitchells and Butlers have many high-street and suburban brands and will be

Fragmentation of rental evidence

automatically prevented from changing from strong food businesses such as Vintage Inn, Browns, All Bar One, Harvester and Toby to drinks-led businesses such as Arena, Goose or Edwards. Perhaps operators will be tempted to 'show' higher wet sales in their accounts to retain the pub use class that will maintain a greater level of operational flexibility.

Landlords of leased pubs and restaurants will no doubt seek to keep user clauses as wide as possible with pub and/or restaurant use, to maximise rental value, but restaurateurs may benefit from specific user clauses to eliminate pub rents as comparable evidence for future rent reviews.

Pubs, pub restaurants, bars and restaurants often sit alongside each other in the high street in virtually identical buildings. New lettings provide rental evidence for all A3 uses. Future evidence will split into the two planning uses, pub and restaurant. This will inevitably reduce the amount of evidence available for future rent reviews and consequently rent negotiations could become more protracted and rental valuations more subjective. Perhaps this will mean a return to a revised form of the profits method of rental valuation, particularly with the lack of new evidence from lettings due to the current economic climate. Ability to pay will be important again, not just to tenants!

Other controls in place

In essence businesses offering food and drink, and more particularly dining and vertical drinking areas, should fall within the same use class category: 'pub, bar, restaurant'. While the review may have addressed changes of use to 'less desirable uses', operators of pubs, bar and restaurants now have to worry about breaching planning when licensing laws already exist to control their use. The leisure industry currently faces five other major legislative changes — the Disability Discrimination Act, licensing reform, the Land Registration Act, Stamp Duty Land Tax and the threat of banning smoking in public places.

The food and drink industry has enough 'on its plate' without also having to worry about the percentage of its liquor sales endangering the breach of planning laws and the possible threat of enforcement action.

Fleurets has a dedicated restaurant department. When new instructions are received, the decision as to which department deals with the matter depends on the business's location, historical and potential trade and essentially whether food, in the unit or brand, is the major contributor to fair maintainable overall sales. Even with Fleurets's specialist experience in licensed property, many interesting debates take place as to the allocation of new instructions. One suspects many more debates will be had in the future with planning authorities.

References

1. Martin Information (2003) 'Guide to eating out brands 2003–2004'; available at <http://www.martin-info.com>.