

Guidance

# Addendum: Hot food takeaways use in the new Use Class Order

Updated 19 February 2021

## Introduction

This is an addendum to Public Health England's guidance on [Using the planning system to promote healthy weight environments](#) published in February 2020 and is focused on hot food takeaways as an example of retail uses that can be the subject of local planning controls.

This addendum provides updates on the implications for planning for a healthier food environment, specifically on the hot food takeaways retail uses, and sets out recommended actions in light of changes to the Use Class Order (UCO) in England from 1 September 2020.

## The new Use Class Order

The UCO categorises land use activities according to certain classes. Under the UCO, premises selling food and drink were classed under different classes. [New regulations came into force from 1 September 2020](#) which changed use classes including those relating to food premises. See Table 1.

### Table 1 Old versus the new UCO for food retail premises

This table indicates changes in the UCO before and after 1 September 2020 in relation to food retail premises only.

Use Class Order before 1 September 2020	Use Class Order from 1 September 2020
A3 Restaurants and cafés	Class E Commercial, business and service
A4 Drinking establishments	Sui generis
A5 Hot food takeaways	Sui generis

#### Table 1 definitions:

- A3 Restaurants and cafés – for the sale of food and drink for consumption on the premises
- A4 Drinking establishments – public houses, wine bars or other drinking establishments including drinking establishments with expanded food provision
- A5 Hot food takeaways – for the sale of hot food for consumption off the premises
- Class E Commercial, business and service – a range of other shops and non-food uses, including for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises
- Sui generis (drinking establishments) – public house, wine bar, drinking establishment, or drinking establishment with expanded food provision
- Sui generis (hot food takeaways) – hot food takeaway for the sale of hot food where consumption of that food is mostly undertaken off the premises

‘Sui generis’ is a term used for premises that do not fall within a defined use class. In general, any new sui generis use and change of use to sui generis will be subject to full local consideration, in other words require planning permission.

Permitted development regulations identify if planning permission is required when proposing a new use or change from one use class to another. For further guidance on the UCO, please refer to the [Planning Portal](#).

The [replacement of the A5 hot food takeaway use class with sui generis](#) allows local authorities to have greater control, through using

the planning application process, to prevent the proliferation of hot food takeaways.

Planning applications made before the 1 September 2020 will be decided under the previous UCO. The regulations set out transitional arrangements until 31 July 2021.

## **PHE statement and recommendations**

The National Planning Policy Framework requires planning policies and decisions to enable and support healthy lifestyles, especially where this would address identified local health and wellbeing needs to improve access to healthier food [\[footnote 1\]](#). The [Planning Practice Guidance \(PPG\)](#) supports actions to limit the proliferation of less healthy uses such as hot food takeaways. The UCO changes do not affect the wider evidence and justification underpinning this policy and guidance basis.

[PHE's guidance](#) sets out information about creating a healthier food environment to help people access healthier options where hot food takeaways are one example of retail uses that can be the subject of local planning controls. The UCO changes do not affect the wider evidence and guidance underpinning the PHE February 2020 guidance.

Many local planning authorities (LPAs) have adopted development plan documents and supplementary planning documents (SPDs) referring to hot food takeaways under the previous A5 classification. While no longer A5 use, the validity of these development plan documents and SPDs and their evidence base for decision-making on planning applications should remain unaffected.

Some LPAs will be in the process of adopting new development plan documents and SPDs referring to the A5 classification and may not be able to make the timely amendment as a result of the UCO changes. The validity of these development plan documents and SPDs and their evidence base for decision-making on planning applications should remain unaffected.

Many LPAs will have policy approaches referring to the wider food retail environment and town centre uses including restaurants, pubs and cafes, but not exclusively to hot food takeaways.

The UCO changes do not affect the wider evidence and justification underpinning these approaches if already adopted as part of the development plan document.

Recommended actions for local authority public health and planning teams are to:

- reference and adopt the [PHE February 2020 guidance](#) and this addendum, to clarify adopted local plans or decisions
- ensure future reviews of planning documents, including preparation of evidence, replace references to A5 hot food takeaways with sui generis hot food takeaway
- ensure any future planning policies and decisions taken on new hot food takeaways and the wider food retail environment continue to be based on material considerations including local physical and mental health and wellbeing evidence and needs
- ensure local authorities' data collection, monitoring systems and processes are still able to identify, distinguish and track the presence of hot food takeaway outlets and other food premises as part of the evidence base
- consult local authority legal departments where necessary to clarify any complex implications on existing policies before adopting final arrangements

For further information contact: [HealthyPlaces@phe.gov.uk](mailto:HealthyPlaces@phe.gov.uk)

1. [Ministry of Housing, Communities and Local Government \(MHCLG\), National Planning Policy Framework](#) Chapter 8, Paragraph 91 c), February 2019 ↩