



Supplementary Planning Guidance

**GUIDELINES FOR CLASS A3 USES  
IN LOCAL, DISTRICT &  
TOWN CENTRES**

City Wide Guidance



# Contents

1.0	Introduction	5
2.0	District and Local Centres	5
	Policy Proposed in the Deposit Replacement Local Plan	6
	Opening Hours: Mondays to Saturdays	6
	Sunday Opening Hours	7
	Numbers of A3 Uses in Shopping Centres	8
	Size of A3 Units and Clustering	9
	The Use of Upper Floors	10
3.0	Town Centres	11
	Appendix : Definition of A3 Uses	12



## 1.0 Introduction

- 1.1 In recent years there has been a considerable increase in the number of food and drink premises (A3 uses) in the city centre and in the district and local centres. While such uses meet a clearly identified need and can contribute to the vitality and viability of centres, there can be concerns about their impact on amenity.
- 1.2 Concerns have been raised that in some parts of the city there are now too many A3 uses. This supplementary planning guidance examines the issues and puts forward guidelines which are designed to balance the need to provide for A3 uses with considerations of amenity and maintaining the retail function of town, district and local centres.
- 1.3 Policies towards A3 uses were last reviewed in 1996 when new guidelines were adopted. The outcome of that review has been incorporated in the deposit replacement local plan (RLP) (see Appendix) whose A3 policies are broadly similar to those in the current City of Leicester Local Plan. In essence they seek to locate A3 uses in existing shopping centres subject to a number of different criteria.
- 1.4 The revised Planning Policy Guidance (PPG) Note 6: 'Town Centres and Retail Developments' was issued in 1996. In pursuit of a more sustainable form of development the guidance sets out the approach towards the location of new retail development and other key town centre uses which attract a lot of people. It links A3 uses to prospects for improving the vitality and viability of town and other centres by increasing diversity and supporting the evening economy.

## 2.0 District and Local centres

- 2.1 The current emphasis on sustainable development and the conservation of natural resources has given renewed focus to district and local centres. These centres serve an important function in providing goods, services and a focus for local communities through the location of shops, healthcare facilities, libraries, financial services and social venues including pubs, cafes and takeaways. Changing consumer demands and demographic trends are reinforcing this emphasis.
- 2.2 PPG6 advises local planning authorities to adopt planning policies to enable town, district and local centres to meet the needs of residents of their area; and to safeguard and strengthen existing local centres which offer a range of everyday community, shopping and employment opportunities. In addition a Government objective is to maximise the opportunity to use means of transport other than the car, such as walking and cycling.
- 2.3 The vitality and viability of town and district centres depend on retaining and developing a wide range of attractions and amenities, and a wider mix of uses that fits better with the surrounding community and changing retail patterns. The guidance suggests that diversification of uses may be the best way forward.
- 2.4 The guidance encourages a wide range of facilities in district and local centres, consistent with their scale and function, to meet peoples' day-to-day need. The guidance also encourages pubs and restaurants in district and local centres.
- 2.5 A higher proportion of A3 uses will be expected in district and local centres in order to satisfy changing demand and aspirations and assist in the revival of often ailing centres. A3 uses have a place in even the smallest local centres.
- 2.6 PPG6, Annex A, describes District Centres as groups of shops separate from the town and city centres,

usually containing at least one food supermarket or superstore, and non-retail services such as banks, building societies and restaurants. Local Centres are small groupings of shops usually comprising a newsagent, a general grocery store, a sub-post office and occasionally a pharmacy, a hairdresser and other small shops of a local nature.

### **Policy Proposed in the Deposit Replacement Local Plan**

- 2.7 Policy R07 sets out general policy towards new A3 uses (see Appendix) covering a range of issues. The policy presumes in favour of A3 uses in defined centres subject to the consideration of these issues.
- 2.8 There are four district centres identified in the draft deposit replacement local plan Evington Road; Narborough Road; Belgrave Road; Uppingham Road. They are traditional linear centres that have developed along roads radiating from the city centre. Two town centres - Beaumont Leys and Hamilton - are also identified.
- 2.9 The remaining local centres vary tremendously in size and location. They range from small shopping parades consisting of only a few shops tucked away in residential areas to larger centres, such as Queens Road, located on secondary radial routes, and London Road on a main radial route.
- 2.10 Paragraph 8.19 in the RLP contains guidance towards opening times. It states that in situations where residential properties are nearby, planning permission may be refused for an A3 use if conditions restricting opening hours cannot reasonably be imposed. Outside the hours of 0730 – 2300 on Mondays to Saturdays or at any time on a Sunday, opening may be unacceptable if significant detriment is likely to be caused to the amenity of local residents.
- 2.11 The paragraph acknowledges the vulnerability of houses surrounding small local centres but the general presumption remains in favour of A3 uses in all defined centres. A good many of the local centres are small, less than ten shops, and are interspersed with or are very close to houses.
- 2.12 The pattern of activity associated with, for instance, hot food takeaways, a typical A3 use found in local centres, is late night use at unsociable hours and the frequent use of cars to visit facilities. The disregard for traffic and parking restrictions when making typically short stay visits are also features.
- 2.13 It is recommended, in the interests of residential amenity, that in the smallest shopping parades of up to ten shop units the presumption in favour of granting planning permission for A3 uses in defined shopping centres should be suspended.

### **Opening hours: Mondays to Saturdays**

- 2.14 PPG24: 'Planning and Noise', para. 12, advises that the period 2300 to 0700 hours is when people are normally sleeping. After 23.00 hours the acoustic environment changes, traffic levels and thus background noise levels begin to fall appreciably. Activities, particularly noisy on-street activities, such as car doors and engine starts, which are often associated with the operation of A3 uses, will be far more intrusive, for example, causing sleep disturbance, than they would be at an earlier time.
- 2.15 Although overall background noise can be higher in district centres than in local centres, this advice is equally applicable to the district centres. Because of their linear form, dense residential areas are packed in closely behind the shopping streets and residential side streets are used by visitors and shoppers for parking. The consequences of A3 uses on residential amenity in district centres are, therefore, similar to A3 uses in local centres.

- 2.16 The district centres that have seen most pressure for the development of new A3 uses are Belgrave Road/Melton Road and Narborough Road. Virtually all planning permissions granted in recent years have, nevertheless, set 'standard' hours up to 2300 hours.
- 2.17 Some businesses, largely long established, have unrestricted hours. On Belgrave Road/Melton Road these are relatively few with rather more on Narborough Road. A number of businesses are operating without regard to conditions attached to planning permissions indicating an underlying pressure to extend hours but there is no overwhelming evidence that the 2300 hour threshold has been effectively lost in the district centres.
- 2.18 There is no compelling reason to depart from the advice in PPG24. It is recommended that in the local and district centres 2300 hours continues to be the standard time when A3 businesses close.
- 2.19 London Road and Braunstone Gate are two exceptions where longer hours may be acceptable. Braunstone Gate is distinctly different having a mixture of uses and there is very little residential close by. No houses back onto the north east side and very little onto the south west side. Extended hours have been approved for A3 uses up to 2400 hours and 0030 hours in a handful of cases on a limited period basis.
- 2.20 London Road is a main radial route from the centre. It is not a traditional local centre and its shops serve both the extensive office area particularly west of London Road, and the residential area of South Highfields. The service sector accounts for 48% of all units. There is a significant number of restaurants, public houses and takeaways that attract trade from a wide catchment. Many businesses are long established and have no restrictions on opening hours.

### Guidelines

- 1. In the smallest shopping parades of up to ten shop units the presumption in favour of granting planning permission for A3 uses in defined shopping centres will be suspended and each case treated on its merits.**
- 2. Opening hours in the local and district centres will normally be restricted to 0730 to 2300 hours on Mondays to Saturdays. Paragraph 8.19 of the replacement local plan will be the operative approach to opening outside these times.**
- 3. On Braunstone Gate in the Narborough Road District Centre and London Road in the London Road Local Centre opening hours 0730 – 2400 hours will normally be permitted on Mondays to Saturdays providing the amenity of nearby residents is not unduly harmed.**

### Sunday opening hours

- 2.21 Issues surrounding Sunday opening are driven by amenity considerations. Generally, background noise levels on Sundays are much lower than other days of the week, although this is often location specific.
- 2.22 Sunday opening probably enjoys greater public acceptance following changes in shop legislation and changing habits. This is reflected in the replacement local plan which permits Sunday opening. The circumstances and character of each centre differs and it is difficult to recommend an acceptable Sunday closing time across the board. Nevertheless consideration should still be given to refusing permission for Sunday opening in locations, which have little or no other activity on Sundays.
- 2.23 As far as the district centres are concerned there is no significant difference in circumstances between weekdays and weekends. Sunday opening up to 2300 hours is an acceptable guideline for the district centres.

## Guideline

- 4. In the local centres Sunday opening hours will normally be permitted but closing time is likely to be before 2300 hours in order to protect residential amenities. In the district centres a closing time of 2300 hours will normally be permitted.**

## Numbers of A3 Uses in Shopping Centres

- 2.24 PPG6 advises local authorities to encourage a wide range of facilities in district and local centres consistent with the scale and function of the centre, to meet people's day-to-day needs so reducing the need to travel.
- 2.25 A3 uses are local facilities that would be expected in centres. Significant numbers of A3 uses or non-shop uses generally and their distribution can undermine a centre's primary role in meeting the day-to-day needs of residents. The predominance of shops needs to be maintained.
- 2.26 It is difficult to define an acceptable balance between retail and non-retail uses. Local authorities around the country have set various levels for maintaining a clear predominance of A1 uses in the core shopping area with a greater flexibility in the secondary streets. Proportions vary but, for instance, where the London Authorities have exercised retail frontage policies the proportions have ranged from 20-35% non-retail uses (LPAC 1998) or 65-80% in A1 uses in the core areas and up to 50% non-retail uses in the secondary streets. Dudley has set a limit of 33.33% in non-retail uses in its main shopping centres and 49% in its district shopping centres.
- 2.27 The CLLP and the RLP do not identify core areas. This would not be easy for small local centres and not straightforward for the linear centres with ill-defined foci. A cautious approach is recommended and a low threshold should be applied similar to practice elsewhere, that is, the proportion of non-retail uses (Classes A2 and A3) in a shopping centre should not be more than 30%.
- 2.28 The easiest means of regulation is controlling the number of units but because some individual units can be large, perhaps the result of combining small shops to create larger units, considerably more than 30% of frontage (and units) can be taken up by non-retail uses. Therefore, the length of overall frontage of a shopping street should be the unit of measure. However for the smallest centres, for example ten shops or less or where there is not a clearly defined main shopping street, for example shops arranged round a road junction, then the threshold should apply to the number of units in the defined centre.
- 2.29 The application of a threshold needs to be flexible. Financial services, banks and building societies, are increasingly withdrawing from local centres which are undermined further if potential shoppers are diverted to other centres offering these facilities. The loss has serious social exclusion implications. In applying any threshold to a new bank or building society, these considerations should be borne in mind.
- 2.30 Similarly the character and circumstances of a particular centre need to be taken into account such as the number of long term vacancies and realistic assessments of the potential reuse of a building. However, as part of the local plan review the defined centres were critically examined and many of the smaller centres are no longer defined as such and the larger centres have been rationalised where thought necessary.

## Guideline

- 5. In the district and local centres not more than 30% of the total frontage length of any one side of a street in the defined shopping centre shall consist of non-retail uses (Classes A2 and A3).**



## Size of A3 Units and Clustering

- 2.31 Where clusters of A3 uses develop groups of shops are lost and the continuity of a retail frontage can be broken up disrupting footfall. Dead frontages can occur especially if A3 businesses, e.g. hot food takeaways catering for the evening trade, are closed during the daytime. ‘Hotspots’ of activity can also be created, where problems of noise, disturbance and anti-social behaviour generated by large numbers of patrons, especially dispersing late in the evening, are most intense.

### Guideline

- 6. To maintain a diverse and active shopping street not dominated by groups or individual non-retail uses, i.e. uses within Class A2 or A3, it is recommended that no more than two non-retail uses should be adjacent to each other; and, that between individual or groups of non-retail uses there shall be at least two intervening retail (Class A1) uses.**

- 2.32 PPG6 advises that facilities should be consistent with the scale and function of the centre. Large volume pubs especially can generate problems similar to clusters of A3 uses. Indeed the scope for other activities such as live music and dancing are increased and people are attracted from outside the immediate area.

- 2.33 Large pubs and restaurants could potentially dominate a centre and alienate shoppers and other visitors who may otherwise visit. They are likely to be at odds with the character of a shopping street consisting of small shop units. Thus A3 businesses can detract from, rather than contribute to, the vitality of a centre.

### Guideline

- 7. In order to reduce the dominating effect and potential intensity of use of a large A3 use it is recommended that the frontage and floorspace be consistent with the scale of existing shops found in a centre.**

- 2.34 It is difficult to be precise about an appropriate size in this context. The use of space - as a bar, dancing, or seated at tables - will determine occupancy and the use of the floor may change in the evenings, e.g. tables may be cleared away. At one extreme, in the context of a major city centre, amendments to Nottingham City Council’s draft development plan seeks to curb high occupancy (1000 people or greater which roughly equates to 500 m<sup>2</sup>) licensed premises. Westminster too limits large pubs to 500 m<sup>2</sup>.

- 2.35 At the other extreme the review of the Use Classes Order consultation paper recommends, as one option, a 100 m<sup>2</sup> gross lettable space limit below which planning permission would not be required for changes of use between A1, A2 or A3 of buildings used for purposes in these Classes. The object being to encourage a mix of uses in town and city centres by allowing cafes and coffee shops.

- 2.36 However, recent conversions in the Narborough Road district centre and Queens Road have been over 100 m<sup>2</sup>. For example, Entropy, Hinckley Road (140 m<sup>2</sup> gross floorspace, formerly two shops) Left Bank, Braunstone Gate (160 m<sup>2</sup>, three shops) and Loaf (205 m<sup>2</sup>). To illustrate potential capacity Loaf, which has a Public Entertainment Licence, has a capacity of 174: a mix of bar (110), seating (32) and a basement bar (32). These seem to be the right scale for the centre.

### Guideline

- 8. Any new A3 use shall normally be confined to the ground floor and be no larger than two shop units or 150 m<sup>2</sup> gross floorspace.**

- 2.37 Ground floor means the ground floor of the building and does not include any area outside the building that may be used for drinking, eating or sitting out by customers. The use of rear yards or gardens for drinking is mostly confined to the summer months and is not a year round problem. On those occasions nearby residents may experience noise and disturbance and loss of privacy.
- 2.38 Customers are likely to demand outside seating in the summer. A beer garden may be the only place where families with children can be together in a pub. Protection of amenity could be controlled by restricting the use of these areas to certain times or if this is not possible, for example, because of the close proximity of residential properties, the use of outside areas for drinking, eating or sitting out by customers could be prohibited. Each case will need to be treated on its merits.
- 2.39 Another problem associated particularly with modern pub/restaurants is a style of shop front using windows capable of being folded to create an open frontage to the street. The type of frontage could be acceptable in the city centre where street cafes are being promoted. In local and district centres they can lead to problems of noise escape and, therefore, disturbance to local residents. Shoppers may also find open frontages intimidating if customers inside are boisterous.

### Guidelines

- 9. The use of outside areas by customers for drinking, eating or sitting out will not be permitted where significant noise and disturbance or loss of privacy is likely to be caused to residents and occupiers of nearby properties and cannot reasonably be controlled by a planning condition restricting the hours during the day when such areas can be used.**
- 10. Planning permission for folding shop front windows capable of creating an open shopfront will not be granted where harm to the amenities of local residents is likely to occur or cannot reasonably be controlled by a planning condition requiring their closure at agreed time during the day in order to minimise noise disturbance to local residents and shoppers.**

### The Use of Upper Floors

- 2.40 A3 uses present particular problems with regard to use of upper floors. Acoustic insulation is not always fully effective in protecting the amenities of residents in adjoining buildings and this can inhibit the use of adjacent upper floors for residential purposes.
- 2.41 The Council considers that more effort should be made to retain existing housing stock where possible. Such hopes are written into policy H03 of the replacement local plan which seeks to prevent loss of housing; and, policy R05 attempts to ensure that the use of a building for retail purposes should not inhibit the use of the upper floors for residential purposes but does not exclude alternative uses.
- 2.42 The use of upper floors also increases the intensity of use particularly where several A3 uses may be present.

### Guideline

- 11. In the district and local centres the upper floors shall not normally be used for A3 purposes. Where ancillary residential accommodation is intended, a condition will be imposed restricting upper floors to ancillary residential accommodation only and not for any other purpose connected with the A3 use.**

## 3.0 Town centres

- 3.1 The purpose built centres of Hamilton and Beaumont Leys are detached from adjacent residential areas. The centres are probably not very attractive to service uses such as financial institutions, cafés or restaurants because they are not conveniently located within walking distance of the surrounding housing areas. Provision is relatively low; in Hamilton none at all (except for a café in the Tesco superstore). Although there is a current planning application for the change of use of two unit shops to a hot food takeaway.
- 3.2 Although scope for residential development in these centres appears to be limited, it would be desirable to increase the attractiveness of the centres and some caution needs to be exercised with regard to opening hours.

### Guideline

- 12. In the town centres of Beaumont Leys and Hamilton opening hours shall be limited to 0730 to 2300 hours consistent with the district centres.**

## APPENDIX

### Definition of A3 Uses

#### Town and Country Planning (Use Classes) Order 1987

The Use Class A3 'Food and Drink' is defined in the Schedule to the Order as:

*'Use for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises'.*

The broad definition would include public houses, bars, hot food takeaways, cafés, restaurants, coffee houses. Where the use of a building or other land for a purpose within the Class, is used for some other purpose of the same class it is not taken to involve development of the land, in other words planning permission is not required.

The Use Classes in themselves do not operate to affect locational decisions which is regulated by planning policy, although the content of the Use Class may influence that policy.

The class reflected the breaking down of the traditional boundaries between different types of premises. It was intended to enable the catering trade to adapt to changing trends and demands with greater speed and certainty where the potential environmental nuisances had already been accepted (Circular 13/87).

In practice the environmental consequences of different types of catering vary wildly. The DTLR has recently issues a consultation paper into a review of the Use Classes Order.

### Current Policy Towards Class A3 Uses

#### City of Leicester Local Plan (adopted in 1994)

Uses for purposes in Class A3 are covered by Policies S11, S12 and S13 which in essence permit A3 uses in shopping areas subject to criteria.

S11. Proposals for the use of premises within shopping areas for food and drink purposes (Use Class a3) will normally be permitted except where:

- (a) The development would be likely to prove detrimental to the amenities of the occupiers of nearby residential properties;
- (b) The traffic generated by the development would be likely to result in or aggravate congestion or be a road safety hazard;
- (c) Any required ventilation flue would be likely to prove detrimental to residential or visual amenity;
- (d) The scale and design of the proposal is unsympathetic to the surrounding area;
- (e) The addition of another A3 use within any particular shopping area or part of a shopping area would have a cumulative detrimental effect in terms of: traffic, amenity, character or function;
- (f) The shop front would not be retained.

S12. Outside the Central Shopping Core, conditions will normally be imposed on planning consents for A3 (Food and Drink) Uses to restrict hours of opening to 0900 – 2300 hours daily and not at all on Sundays. These hours may be extended provided that this causes no detriment to the amenity of local residents.

S13. Proposals for the use of class A1, A2 and A3 for local facilities outside the defined centres will be considered on their merits against the following criteria:

- (a) The need for additional facilities in the area;
- (b) The availability of suitable premises in nearby shopping centres;
- (c) The likelihood of disturbance being caused to nearby residential areas (the change of use of mid-terraced houses will not be acceptable);
- (d) The traffic and parking implications;
- (e) Accessibility by foot and by bus.

## **Planning Guidelines for Hot Food Shops, Restaurants and other Class A3 Uses (outside the Central Shopping Area). Review of Guidelines 1996.**

The 1996 review brought subtle changes in emphasis and recommended there be:

- (a) a presumption in favour of allowing further A3 uses in defined shopping areas except where
  - i) there would be an unreasonable impact on visual amenity, residential amenity or parking congestion that could not be controlled by way of a condition;
  - ii) a change of use from A1 would seriously affect the function of a local shopping area;
  - iii) a satisfactory ventilation flue could not be provided.

On opening hours:

- (a) normally permitted between 0900 and 2300 hours Monday to Saturdays;
- (b) some Sunday opening may be permitted in recognised shopping areas depending on the character of the centre. Permission may be on a limited period basis that could be renewed but not made permanent to keep the matter under review. Opening may be daytime only or subject to a closing time earlier than 2300 hours;
- (c) opening after 2300 hours will only be permitted in exceptional cases where the risk of unreasonable additional disturbance is low. This may be subject to a limited period consent that could be renewed but not made permanent to keep the matter under review.

## **Replacement Local Plan: Deposit Copy**

### **Retailing Policies**

The deposit replacement local plan (RLP) sets out a hierarchy of centres. Outside the Central Shopping Core town centres (Beaumont Leys, Hamilton) and district centres (Narborough Road, Evington Road, Uppingham Road, and

Belgrave Road) are identified. The remaining defined centres are smaller 'local' centres of varying sizes.

Policies R07 and R08 are similar to the existing S11 and S13 but taking into account the 1996 review.

**Policy R07 DEVELOPMENT FOR FOOD AND DRINK PURPOSES**

Proposals for the use of premises within shopping centres shown on the Proposals Map for food and drink purposes (Use Class A3) will be permitted except where:

- (a) The development would be likely to prove significantly detrimental to the amenities of the occupiers of nearby residential properties, to visual amenity, and to parking and traffic problems which could not reasonably be controlled by way of conditions; or
- (b) A further change of use from Class A1 would seriously affect the retail function of the shopping centre; or
- (c) The applicant has failed to demonstrate that a satisfactory ventilation flue could be provided, in that it is effective for its purpose, it would not cause problems of noise and fumes for the occupiers of nearby properties, and it would not be detrimental to visual amenity; or
- (d) A shop front is not be retained.

**Policy R08. LOCAL SHOPPING DEVELOPMENT OUTSIDE THE SHOPPING CENTRES**

Planning permission will not be granted for new local shops and facilities falling within Use Classes A1, A2 and A3 outside the centres identified on the Proposals Map unless:

- (a) There is a need for additional facilities in the area;
- (b) Suitable sites and premises are not available in nearby shopping centres;
- (c) The proposed development is easily accessible by foot, cycle and by public transport;
- (d) Significant disturbance is unlikely to be caused to nearby residential areas (the change of use of mid-terrace houses will not be acceptable); and
- (e) The traffic generated by the development will not have a significantly detrimental impact on parking and traffic problems and pedestrian and highway safety.

Guidance on opening hours is contained in paragraph 8.19.:

*'In any location where residential properties are nearby, such uses will only be acceptable if planning conditions restricting the hours of use of opening can reasonably be imposed and when they cannot planning permission may not be granted at all. Opening outside the hours of 0730 – 2300 on Mondays to Saturdays or at any time on a Sunday, may be unacceptable if significant detriment is likely to be caused to the amenity of local residents by the operation of an A3 business.'*

### **Housing Policies**

#### H03. LOSS OF HOUSING

Planning applications involving the loss of housing will be refused unless:

- (a) the existing residential accommodation is unfit, or does not offer an appropriate mix of house types to meet local need; or
- (b) the proposal forms part of a planned comprehensive redevelopment scheme which will provide a better quality of residential accommodation and environment; or
- (c) the loss of the dwelling(s) can be justified by the provision of other community benefits.

### **Other Policies**

#### Policy BE23. NOISE

Noise generating development will not be permitted if it is likely to unacceptably affect the amenity of noise sensitive land uses.

Noise sensitive development will not be permitted if its users would be unacceptably affected by noise from existing or proposed noise-generating land uses.