

EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (AMENDMENT) (ENGLAND) ORDER 2006

2006 No 221

THE TOWN AND COUNTRY PLANNING (USE CLASSES) (AMENDMENT) (ENGLAND) ORDER 2006

2006 No. 220

- 1.** This memorandum contains information for the Select Committee on Statutory Instruments.
- 2. Description**
 - 2.1 These Instruments amend the Town and Country Planning (General Permitted Development) Order 1995 (GPDO), and the Use Classes Order 1987 (UCO). The GPDO grants general planning permission for certain changes of use of premises, including changes within one of the use classes specified in the UCO. The UCO is being amended to remove use as a casino from class D2 of the Order. As a consequence of this amendment, use as a casino will be outside of any of the classes of use specified in the UCO.
 - 2.2 The GPDO is being amended to reflect the changes to the UCO, and to grant general consent for the change of use of premises used as a casino to any other use within class D2 of the UCO.
- 3. Matters of special interest to the Select Committee on Statutory Instruments**
 - 3.1 None
- 4. Legislative Background**
 - 4.1 The Town and Country Planning (General Permitted Development) Order 1995 was made pursuant to section 59 of the Town and Country Planning Act 1990 (the 1990 Act).
 - 4.2 Section 59 of the 1990 Act permits the Secretary of State to make a development order that grants planning permission for specified development.
 - 4.3 Section 333(7) of the 1990 Act gives the Secretary of State power to vary or revoke a development order made pursuant to section 59.
 - 4.4 The Use Classes Order 1987 was made pursuant to section 55(2) (f) of the 1990 Act.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument amending the GPDO is subject to negative resolution procedure and the instrument amending the UCO is not subject to parliamentary procedure, neither amends primary legislation, therefore no statement is required.

7. Policy background

7.1 *The Town and Country Planning (Use Classes) Order 1987* (as amended) (the UCO) sets out classes of uses, e.g. shops, houses, residential institutions etc. The UCO provides that a move between activities within the same class is not development and therefore does not require planning permission.

7.2 *The Town and Country Planning (General Permitted Development) Order 1995* (as amended) (the GPDO) provides further flexibility by classifying certain moves between the Use Classes as permitted development, which similarly does not require express planning permission.

7.3 Within the current UCO, casinos are currently classified within use class D2: *Amenity and Leisure*. This means that casinos may be converted to other D2 uses (e.g. cinemas or concert halls) and *vice-versa*, without planning permission.

7.4 In the 2002 consultation paper looking at possible changes to the UCO, there were no suggestions for changes to the classification for casinos. However, since the proposals in the *Gambling Act 2005* were announced, concerns have arisen about the impacts the changes to the licensing arrangements would have on the casino industry. In particular, there were concerns that there might be a proliferation of casinos in undesirable locations, with operators making use of planning flexibility to convert leisure premises into casinos with little or no local planning authority involvement.

7.5 Following the second report of the Joint Scrutiny Committee, the ODPM agreed to undertake a review of the Use Classes Order as regards casinos. In a statement made on 1st November 2004, Tessa Jowell announced that the Government were minded to require change of use to a casino to be subject to planning control.

7.6 A review which looked into amending the planning regulations for casinos was completed in January 2005. Following this review, in July 2005, ODPM issued a consultation paper on possible changes to the planning regulations for casinos. The closing date for responses was 21st October 2005.

7.7 The Government has decided to remove casinos from the UCO (making them *sui generis*) but give all casinos permitted development rights under the GPDO to change to other D2 uses. This change will give local authorities more control over the development of new casinos (subject to licensing arrangements) in their area.

7.8 The provision of permitted development rights of casinos to change to D2 uses meets existing casino operators concerns about the value of their asset base in the event of their businesses becoming unsuccessful due to the change in the competitive environment. It would also go some way to ensuring that town centres remain vibrant in the event of closing casinos as the sites could be quickly turned to other leisure uses.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum

8.2 The impact on the public sector is not likely to be significant. Although this change gives more control to local planning authorities, which is an additional regulatory burden, the initial limit on new casino licenses (at least, until amended or revoked) means that casino development will not be widespread. Furthermore, it also means that local authorities will have an opportunity to use conditions or planning agreements to aid development or better control casino impacts.

9. Contact

9.1 Andrew Gough at the ODPM, Planning Directorate Tel: 0207 944 6530 or e-mail: [e-mail address] can answer any queries regarding the instrument.

FULL REGULATORY IMPACT ASSESSMENT (RIA)

Changes to the Use Classes Order for casinos

1. Title of proposal:

Changes to the *Use Classes Order* and *General Permitted Development Order* for Casinos

2. Purpose and intended effect of measure

Objectives

To control the potential proliferation of casinos, and other attendant consequences following the changes to licensing in the *Gambling Act 2005*.

Background

The *Town and Country Planning (Use Classes) Order 1987*, as amended, (the UCO) sets out classes of use, and provides that a move between uses within the same class is not development and therefore does not require planning permission. The *Town and Country Planning (General Permitted Development) Order 1995*, as amended, (the GPDO) provides further flexibility by classifying certain moves between the Use Classes as permitted development, which also does not require express planning permission.

The UCO classifications are based on uses which have similar implications for local amenity, when viewed in strict land use planning terms. Such criteria may include, for example, traffic and pedestrian movements, parking, noise, and the visual appearance of a building. The current UCO has four classifications, from A to D, which broadly cover high street, business, residential, and leisure uses.

Casinos are classified within the D2: *Assembly and Leisure* Use Class. This use class also covers cinemas, concert halls, bingo halls, dance halls, swimming pools, gymnasia and areas for certain other indoor sports or recreations.

Some land uses are outside of the Use Classes Order altogether. Such uses are called *sui generis* (of its own kind) and are treated as a separate entity. Unless specifically stated in the GPDO, *sui generis* uses require planning permission for a change to any other use.

The *Gambling Act 2005*, which received royal assent on 7th April 2005, gives effect to the Government's proposals for the reform of gambling in Great Britain. The Act contains a new regulatory system to govern the provision of all gambling, other than the National Lottery and spread betting.

The Act revises the law on gambling. For example, commercial bingo premises and casinos will no longer have to operate as clubs with a 24 hour membership rule; thus making them places to which the public will now have access.

The Act makes significant changes to the regime for casinos. It removes certain regulatory controls which existed under the *Gaming Act 1968* (for example, "permitted" areas and the demand test). Operators will require an operating license from the new Gambling Commission - the new regulator. They can then obtain a premises license from the relevant licensing authority. Decisions by both bodies will be need in accordance with licensing objectives, which are: preventing gambling from being a source of crime or disorder; ensuring that gambling is conducted in a fair and open way; and protecting children and the vulnerable from being harmed or exploited by gambling.

The Act also creates three new categories of casino (small, large, and regional), which are defined according to size. The size/category of a casino affects what forms of gambling can be provided there. The numbers of

gaming machines, for example, depends upon which category it falls into. There will be also be a minimum size limit for new casinos established under the Act Existing casinos (many of which are much smaller than the new 'minimum' size) will be able to continue broadly as now.

The Act imposes an initial limit of 1 regional casino, and 8 small and 8 large casinos, to be licensed under the Act. There are powers to amend these limits or remove them entirely, subject to appropriate Parliamentary approval. The locations of these casinos will be determined by an independent advisory panel, who will assess the impact of the new casino and any associated development benefits. Any area will be able to make its case for a new casino; the new Act revokes the law that allowed only 'permitted areas' to have casinos. The target for full implementation of the *Gambling Act* is 1 September 2007.

These new casinos will be significant leisure developments that will bring jobs and improved leisure facilities where they are wanted. However, in addition to the new powers allowing licensing authorities to issue premises licences for casinos, the Act gives licensing authorities new powers to resolve to not to issue any further casino premises licences in their area.

Rationale for Government Intervention

Casinos are currently classified within use class D2: *Assembly and Leisure*. Accordingly, casinos are permitted to change to other uses within the D2 class, and other D2 uses are permitted to change to casinos, without the requirement for planning consent. This means that the current operation of the UCO allows some degree of flexibility to casino operators in that they are able to avoid the full rigour of the planning system. Adopting option one (no change) would allow casino operator to continue this flexibility.

Following the second report of the Joint Scrutiny Committee, the ODPM agreed to undertake a review of the Use Classes Order for casinos. This was completed in January 2005 and demonstrated that, outside of licensing controls, this flexibility in change of use is seen as a potential loophole in the control of casinos.

There is a concern that, until the Act fully takes effect, casinos which are granted a licensed under the current regime (although this would require the demand test to be met), will be able to convert D2 premises to casinos without the requirement for planning consent. Once the new licensing regulations take effect, such established casinos will be granted permission to remain. Without any planning restriction in place, a number of new casinos could open in designated areas. This is why changes are being brought forward now before the restriction in numbers of new casino licenses fully takes effect.

In the previous regulatory system, there were few signs of negative land use impacts and the setting of casinos with the D2 use was appropriate. However, the impact of casinos under the new regulatory environment envisaged by the *Gambling Act 2005* is potentially very different, with the new casinos becoming a unique type of development.

The ODPM review into the likely nature of the new casinos highlighted a number of potential land use impacts: the likely scale of the new casinos; the possible proliferation of casinos; amenity concerns; and re-development or regeneration issues (The positive benefits of re-development or area regeneration could be undermined if casinos could simply convert from other D2 uses. Operators would have little incentive to enter into section 106 agreements¹ or promise regeneration benefits in such circumstances.). In addition, the conversion of casinos could have a detrimental 'knock-on' effect on the character of town centres throughout England, as established D2 uses such as cinemas, bowling centres, and bingo halls potentially disappear.

Making casinos *sui generis* would mean that planning permission would be required for any change to any to, or from, a casino. However, giving casinos one-way permitted development rights to D2 uses would allow casinos to convert to uses within the (amended) D2 use class without the requirement for planning consent.

¹ Section 106 Planning Agreements is a binding agreement between the Council and a developer on the occasion of a granting of planning permission regarding matters linked to the proposed development. They are made to render a planning application acceptable, and/or to mitigate the impact of new developments, where this could not be achieved through the imposition of planning conditions.

3. Options

In the consultation paper, issued on 4th April 2003, three options were identified:

Option 1:

Do nothing. Casinos remain within the D2 class.

Option 2:

Remove casinos from the D2 use class altogether, (ie. make them sui generis). No permitted development rights.

Option 3:

Remove casinos from the D2 use class altogether, (ie. make them *sui generis*) but award them permitted development rights for a move to uses within the D2 use class.

Sectors and Groups Affected

This will mainly affect casino operators and local planning authorities. However, there may be some impact for other D2 operators - as those who wish to sell or convert their premises to casinos would, under the changes proposed, require planning consent.

4. Benefits

• Economic

Option 1 - Do Nothing

Casino operators would continue to benefit from the flexibility of permitted development rights. D2 premises could be purchased for conversion to casinos without requiring planning consent for change of use. Existing casinos could be sold as D2 premises. Local planning authorities would benefit in that they would not be burdened with any increases in planning applications for changes of use to, or from casinos.

Option 2 - Casinos to become sui generis

Economic benefits could accrue as a result of negotiated Section 106 Agreements.

Option 3 - Casinos to become sui generis, but with PDRs to D2 uses

Casino operators would benefit as premises could be sold with potential for conversion to D2 premises. These one-way permitted development rights means that the value of existing premises would largely be protected. Local planning authorities would also derive some benefit as they would not have the burden of determining applications for conversions of casinos to other D2 premises. Economic benefits could accrue from negotiated Section 106 Agreements.

- **Social**

- **Option 1 - Do Nothing**

- The ODPM review stated that casinos often had a 'civilizing' effect on the local community, encouraging older age groups to visit town centres, although the good effects of this could be negated if a number of casinos were concentrated within a limited area.

- **Option 2 - Casinos to become sui generis**

- The growth of casinos would be controlled by local planning authorities, thus ensuring that issues such as problem-gambling do not arise or are kept to a minimum. In addition, local authority control of casino development enables local residents to have a level of input in the planning process.

- **Option 3 - Casinos to become sui generis, but with PDRs to D2 uses**

- As option 2, casino growth would be controlled by local planning authorities.

- **Environmental**

- **Option 1 - Do Nothing**

- The flexibility of D2 means that, licensing permitting, all D2 uses, including casinos, will be fully interchangeable in line with consumer demand. Casino operators will be able to market their premises as valid D2 uses, and at full market value. This should ensure that premises are not prematurely closed, become neglected or run down. Similarly, failing D2 operations, such as cinemas or bingo clubs, could re-open as casinos, injecting some vitality back to a possibly failing area.

The possible late night or 24 hour operation of casinos could have 'knock-on' benefits on services, such as improvements in late night bus services.

- **Option 2 - Casinos to become sui generis**

- The growth of casinos is controlled by local authorities. This should ensure that inappropriate development or proliferation does not occur and casino-related issues, such as noise and traffic, are controlled or off-set by Section 106 agreements.

- **Option 3 - Casinos to become sui generis, but with PDRs to D2 uses**

- As for option 1, the permitted development rights should help ensure that casino premises are not prematurely closed, become neglected or run down.

As option 2, the controlled growth of casinos by local authorities should ensure that the growth of casinos is kept under control.

5. Costs

- **Economic**

- **Option 1 - Do Nothing**

- **~ Costs to applicants:**

- We cannot identify any costs to applicants for this option.

- **~ Costs to Local Planning Authorities:**

- We cannot identify any costs to planning authorities for this option. Although, there is potential for increased police costs should new casino development result in, for example, anti-social behaviour, or alcohol-induced crime.

However, other than for new development, which would require planning permission, local planning authorities may not benefit from negotiated Section 106 Agreements.

- **Option 2 - Casinos to become sui generis**

- **~ Costs to applicants:**

Casino operators would require planning permission for both the conversion of their premises to any other use, and from other uses, to a casino. The costs for a change of use application is £265. However, operators with failing premises seeking a change of use could lose significant market value if their application is not granted. Casinos are especially vulnerable in this respect as, unlike D2 premises, there are no other uses to which they could convert without such consent. The costs of a new development application is based on square footage and is between £265 (for up to 75m²) to a maximum of £50,000. However, in addition to the costs of application, there is also the administration costs, delay whilst the planning authority comes to a decision, and any appeal procedure following refusal.

That said, as there are only 131 casinos operating in Great Britain at the end of 2003/04², the numbers of casinos seeking permission for a change of use is unlikely to be significant. Estimates of the numbers of new casinos likely to enter the market will depend on their ability to obtain appropriate licenses, but, at least until this initial stage of the Act is reviewed or revoked, the numbers of casinos seeking consent for conversion, is likely to be limited. New build casinos would, of course, require planning permission under any option.

Section 106 Agreements may be imposed for premises undergoing a change of use to, or from, a casino.

~ Costs to Local Planning Authorities:

Local planning authorities would face the burden of additional planning applications for both new and change of use casinos, although fees would be chargeable for this service.

However, the numbers of existing casino premises is relatively low (131³) and the numbers of applications for new casinos or premises undergoing casino conversion is not likely to be significant. (The *Gambling Act 2005* currently limits new casinos to 17. Thus, the additional numbers are relatively low. However, whether this restriction will change, or when this change occurs, is largely a matter of conjecture. The target for full implementation of the *Gambling Act 2005* is 1 September 2007.)

Option 3 - Casinos to become sui generis, but with PDRs to D2 uses

~ Costs to applicants:

Casino operators would require planning permission for the conversion (amounting to a material change of use) of any premises, including D2 premises, to a casino. The costs of such applications is as at option 2.

However, in addition to the costs of application, is also the administration costs, delay whilst the planning authority comes to a decision, and any appeal procedure following refusal. In addition, Section 106 Agreements may be imposed for premises undergoing a change of use to, or from, a casino.

~ Costs to Local Planning Authorities:

As per option 2.

• Social

Option 1 - Do Nothing

There are some concerns over the possible proliferation of casinos if the Government remove the restraints currently inherent within the *Gambling Act*⁴. The proliferation of casinos could lead to issues of problem gambling, and associated problems, such as anti-social behaviour etc.

Option 2 - Casinos to become sui generis

The deregulation of casinos could result in some casinos no longer being profitable. This is because under the *Gambling Act*, a casino's category affects what forms of gambling can be provided. Accordingly, existing casinos will have to operate alongside new casinos, most of which are likely to be larger - and, in some cases, considerably larger - with, for example, a far greater gaming machine entitlement. By making it harder for a failing casino to re-open as something else, the closure of casinos could have impacts on jobs, and 'knock-on' effects for the local economy. (eg. nearby restaurants may have less trade, 24 hour parking and local taxi service usage is reduced).

Option 3 - Casinos to become sui generis, but with PDRs to D2 uses

² Annual Report of Gaming Board for Great Britain

³ As at March 2004. Statistics from the 2003-2004 Annual Report for the Gaming Board of Great Britain.

⁴ The *Gambling Act* currently limits new casino development to one 'regional' casino, 8 'large' casinos, and 8 'small' casinos. Although 'small' casinos are still much larger than many existing casinos.

We cannot identify any social costs of this option.

Environmental

Option 1 - Do Nothing

The environmental costs of casinos, post-*Gambling Act*, are difficult to predict accurately. For example, casinos could be open for 24 hours, and although concentrated times of public entry and exit (as with cinemas or theatres) is less likely, these casinos might be prime candidates for 'follow-on' trade – that is, those leaving cinemas, nightclubs, or football matches might look to a casino as the next stop. Other environmental concerns could include increased noise, anti-social conduct, alcohol-induced behaviour, and increased car parking provision. There is also a concern over the possible proliferation of casinos, which could have a detrimental effect on town centres, as former D2 uses as cinemas and bingo halls are replaced with (more profitable) casinos.

Option 2 - Casinos to become sui generis

As described above, the deregulation of casinos could result in some casinos no longer being profitable. Where the necessary planning permission for a change of use is not forthcoming, such casinos may close down, resulting in blank frontages, and the premises possibly falling into disuse. The closure of casinos could have 'knock-on' effects for the local amenities (eg. nearby restaurants may have less trade, 24 hour parking and local taxi service usage is reduced).

Option 3 - Casinos to become sui generis, but with PDRs to D2 uses

The deregulation of casinos could result in the closure of some casinos, or their conversion to other D2 uses, such as cinemas or bingo halls.

As per option 2, the closure of casinos could have 'knock-on' impacts for local amenities.

However, the provision of permitted development rights for casinos is intended to assist operators to realise the full worth of their premises should it become necessary to sell them.

6. Equity and Fairness

The proposals all relate to changes to the planning regulations for casinos and relate to all casinos equally, whether they are termed large, small, or regional.

However, no regional casino currently exists in the UK. Therefore, issues of equity and fairness as they relate to regional casinos are largely based on speculation of the impacts of these proposals on these new-to-the-UK developments.

The proposed change is introduced largely as a result of changes to the licensing regime. However, the licensing regime has different legislative treatment for the different categories of casino, whereas these proposals treat all casinos the same, and neither mirror the differences, nor try to compensate for them.

Race, health and rural issues

The proposed change does not bring up any issues of race or health, and as most casinos are located in and around cities, they are unlikely to affect rural concerns.

7. Consultation with small business: the Small Firms' Impact Test

The bulk of UK casinos are operated by three UK casino operators, each of whom operates more than 30 casinos; the remaining companies operate between one and nine casinos. There are 12 companies which operate single casinos in Great Britain.

We have consulted the Small Business Service who are satisfied that, having consulted the appropriate bodies within the casino industry to determine the impact of policy of small businesses, the option the Government is taking forward (option 3) will not have a significant impact on small businesses.

8. Competition Assessment

Option 1

Option 1 – Do nothing – will allow owners of D2 premises to convert buildings to a casino, and *vice-versa*. However, although this may be considered as 'loophole' - allowing proliferation of casinos, unimpeded by planning control - it should be remembered that the cost of a conversion to a casino is likely to be significant,⁵ and such converted casinos would have to be licensed. However, although there are licensing restrictions currently in place, and those imposed by the Act will (initially, at least) limit the numbers of casinos, there is a view that casinos which were permitted under the former regime could reap the benefits of being granted a license under the latter. In addition, should the Act's initial limit to be lifted, D2 -classified casinos may allow other owners of buildings in that class to convert their buildings to casinos.

Option 2

Option 2 – Reclassify casinos as *sui generis* – will mean that existing buildings used as casinos can only be used as casinos. In 2004, there were 143 licensed casinos, with 131 trading. The number of buildings affected is likely to be small, but owners wishing to redevelop buildings currently in use as casinos for other uses would be required to engage in discussions with local planners. The desire for change of use may arise if demand for gambling falls (possibly because of increased competition from a new entrant or a redeveloped casino) at the casino in question.

Option 2 requires planning permission for the conversion of casinos to other uses, including D2 uses. This presents an additional burden on owners of buildings currently being used as casinos and, if consent was refused, could have a significant direct impact on the saleability, and financial worth, of casino premises. The restriction on change of use may well have a detrimental effect on the value of such property and may lead it to become derelict if planners object to proposed change of use. It may also lead owners of such property to challenge decisions on change of use.

Option 3

Option 3 – Reclassify casinos as *sui generis but with PDRs to D2 uses* – would allow owners of buildings used as casinos to sell their building for redevelopment for other D2 uses. Owners of buildings currently in use as casinos would not see any reduction in the value of their assets and would be less likely to challenge planners.

Although a change of use from a D2 use to a casino would, by virtue of these changes, require planning permission, we do not believe that these changes amount to a significant barrier to entry to the market. Aside from licensing issues, casinos are generally high input operations and it is likely that a change of use from a non-casino premises to a casino would require considerable development work which would, in its own right, require consent of the planning authority.

⁵ DCMS RIA: It is understood that the industry estimates that it costs approximately £1.4 million for a singleton operator to set up a provincial casino.

9. Enforcement and Sanctions

The recommended change to planning regulations will mean that changes of use from a casino to D2 uses will be permitted development, but planning permission will be required for a change of use to a casino.

Development that has gone ahead without the required permission can be considered by the local planning authority to be a breach of planning control and the local planning authority can take remedial enforcement action, for which procedures are already in place. Local authorities have a wide range of discretionary powers (considerably strengthened and improved in the *Planning and Compensation Act 1991*), such as an Enforcement Notice, Breach of Condition Notice, or Stop Notice, and will decide the most appropriate action in each case in the light of local circumstances.

It should be remembered that casino development is a highly expensive undertaking. Anyone who carries out such a development without planning permission is putting their investment and the development, at considerable risk. The sale of properties built or adapted without the necessary permission may also present considerable difficulties.

Furthermore, the restricted nature of the casino industry, their development hitherto being largely in the hands of reputable and responsible companies, the licensing requirements in place as a result of the *Gambling Act*, and the current numerical limit on such licenses, mean that enforcement action by the relevant authority is unlikely to be a common occurrence.

Implementation and Delivery Plan

In order to implement the recommended change, the planning regulations need to be changed. To do this, two Statutory Instruments, amending both the *Use Classes Order* and the *General Permitted Development Order* are required.

10. Monitoring and Post Implementation Review

The policy division will monitor the effectiveness of the new planning arrangements over a three year period.

11. Consultation

• Within government

As stated above, these planning regulations are being changed as a response to the licensing deregulation provided by the *Gambling Act 2005*. Accordingly, we have consulted throughout the review with DCMS, who take policy lead in the licensing issues.

Within ODPM, we worked with the Planning Policies branch responsible for policy on PPG6: *Planning for Town Centres*, retail and leisure development, and regeneration.

• Public Consultation

A 3 month consultation on the proposed changes to planning regulations began on 21st July 2005. There were 73 respondents, including international and UK casino operators (10% of respondents overall), casino trade bodies, planning consultants, Government Offices and action groups, but the majority of whom were local planning authorities (59% of respondents). Of the options, the most favoured was option 3 with a 55% preference. Option 2 gained 38% , and option 1 gained 7%.

Opinion within certain groups showed some variation: 24 (56%) of the 43 responding local planning authorities preferred option 2; 19 (44%) preferred option 3. Most groups, however, showed a clear preference. Trade associations (8 respondents, 11% of total) showed a 50% preference for option 3 (4 in favour), with options 1 and 2 receiving 1 and 3 responses (13% and 38%) respectively. Similarly, planning consultants (also 8 respondents), showed a clear preference for option 3, with 5 in favour, as compared to options 1 and 2, which received 2 and 1 responses in favour. Even more categorical, however, were responding casino operators with 6 of the 8 preferring option 3 (the remainder preferred option 1). Of these, all 4 international casino operators

preferred 3; UK casino operators, however, were equally divided between options 1 and 3. Government Offices and Action Groups (6 respondents altogether) both wholly supported option 3.

12. Summary and Recommendation

The main concern regarding the new, post-*Gambling Act* casinos is that they could have an adverse impact on the environment. This could happen in two ways: by the development itself – its scale, the proliferation issue, the need to capture regeneration, and manage adverse impacts – but also by the loss of other D2 uses.

The wish to change the Use Classes Order is based on the need to prevent the development of this new breed of casinos ‘through the back door’ ie, via conversions from other Class D2 uses. It is therefore our view that there is a case to change the use classes order in relation to casinos in order to:

- account for the distinctiveness and scale of casinos
- counter proliferation;
- capture of regeneration benefits;
- enable the management of adverse impacts;

We therefore support the adoption of option 3 - that the planning regulations should be amended, making casinos *sui generis*, but with permitted development rights to convert casinos to D2 uses, thus protecting the value of these premises and aiming to prevent the closure of premises, which could fall into disrepair or disuse.

Option	impact
Option 1 : No change	<input checked="" type="checkbox"/> Flexibility of D2 is retained. No admin burden on LAs and operators. <input checked="" type="checkbox"/> Value of casino premises is protected. <input checked="" type="checkbox"/> Potential for adverse impacts not subject to local authority control <input checked="" type="checkbox"/> Potential for casino proliferation beyond current licensing restrictions
Option 2: Casinos <i>sui generis</i>	<input checked="" type="checkbox"/> Casino development subject to LA control, therefore impacts managed <input checked="" type="checkbox"/> Flexibility of D2 is reduced. Increased admin burden on LAs & operators. <input checked="" type="checkbox"/> Potential for loss in value of premises as consent required for change of use
Option 3: Casinos <i>sui generis</i> with PDRs to D2	<input checked="" type="checkbox"/> Casino development subject to LA control, therefore impacts managed. <input checked="" type="checkbox"/> Value of casino premises is protected. <input checked="" type="checkbox"/> Flexibility of D2 largely retained. Slight increase in admin burden on LAs /operators.

13. Declaration and Publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed Kay Andrews.....Date 2nd February 2006

Baroness Kay Andrews

Parliamentary Under Secretary of State
Office of the Deputy Prime Minister