

**EASTLEIGH BOROUGH COUNCIL'S RESPONSE  
TO THE INSPECTOR'S LETTER OF 5<sup>TH</sup> AUGUST 2020 REGARDING  
THE IMPLICATIONS FOR THE EASTLEIGH BOROUGH LOCAL PLAN 2016-2036  
OF THE TOWN & COUNTRY PLANNING (USE CLASSES) (AMENDMENT)  
(ENGLAND) REGULATIONS 2020 (AS AMENDED)**

**October 2020**

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## **1. Introduction and Summary**

1.1 On the 5<sup>th</sup> August 2020 the Inspector wrote to the Council<sup>1</sup>, stating as follows:

*“On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 will come into force, amending the Town and Country Planning (Use Classes) Order 1987. These Regulations amend and seek to simplify the system of Use Classes and these changes are likely to affect some of the policies contained in the Plan and the proposed site allocations.*

*At this point of the examination, it would be helpful to understand the Council’s view on the potential soundness implications that the changes to the Use Classes will have on the Plan’s policies and allocations. Once this has been established, I will be able to come to a view on how best to address any soundness issues as part of the examination.”*

1.2 The Council’s response, as further explored below, is in summary as follows:

- a) The Regulations to which the Inspector refers (“the Amending Regulations”) make various changes to the Town and Country Planning (Use Classes) Order 1987 (“the Use Classes Order”).
- b) The implications of the Amending Regulations are inevitably uncertain at the moment as a result of the Regulations having been brought forward “at pace” by Government without a full Regulatory Impact Assessment, and pending an outstanding legal challenge to the Regulations. (In this Statement, the Council addresses the Amending Regulations in their current form, but will update its position as necessary in the light of the result of the legal challenge).
- c) The approach of the Local Plan remains fundamentally sound and legally compliant in the light of the Amending Regulations, and only limited modifications are currently required, as explained in paragraph 4.9 below.
- d) Although only limited modifications are currently required, the Council recognises that the strategy and policies required to meet needs in the future may change as a result of the Amending Regulations and other factors. It will assiduously monitor implementation of the Plan in this regard with a view to bringing any necessary changes forward as part of the envisaged early review of the Plan, at which point there will be an updated evidence base on which to draw.

## **2. The Effect of the Amending Regulations**

2.1 The Amending Regulations came into force on the 1<sup>st</sup> September 2020. Immediately before they came into force, they were themselves amended by the Town and Country Planning (Use Classes)

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<sup>1</sup> ED76 <https://www.eastleigh.gov.uk/media/8051/ed76-eastleigh-use-classes-letter-5820.pdf>

(Amendment) (England) (No. 2) Regulations 2020 and the Town and Country Planning (Use Classes) (Amendment) (England) (No. 3) Regulations 2020. References to the Amending Regulations in this Statement are to those Regulations as amended.

2.2 In summary, (see Table below) the Amending Regulations:

- a) Introduced a new “commercial, business and service” Class E which:
  - i. Subsumed the former Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) and Class B1 (business), including all 3 sub-classes B1a, B1b and B1c; and
  - ii. Contains other uses that were formerly within Class D1 and Class D2, including: indoor sport, recreation and fitness uses (parts of D2(e)); the provision of medical or health services (D1(a)); and use as a crèche, nursery or day centre (D1(b)) – in each case where these are principally for visiting members of the public;
- b) Revoked Class D (D1 non-residential institutions and D2 assembly and leisure);
- c) Introduced a new Class F1 which includes any use not including residential use for: the provision of education; the display of works of art (otherwise than for sale or hire); as a museum; as a public library or reading room; as a public hall or exhibition hall; for or in connection with public worship or religious instruction; or as a law court (i.e. the former D1(c)-(i) uses).
- d) Introduced a new Class F2, which:
  - i. Includes new local community uses, namely: as a shop mostly selling essential goods, including food, to visiting members of the public (provided the premises are not more than 280sqm and there is no other such facility within a 1,000 metre radius); and as a hall or meeting place for the principal use of the local community; and
  - ii. Also includes: an area or place for outdoor sport or recreation; and an indoor or outdoor swimming pool or skating rink (i.e. parts of the former Class D2(e)).
- e) Made the former Class A4 (drinking establishments), Class A5 (hot food takeaways), cinemas, concert halls, bingo halls and dance halls (which fell within the former Class D2) and venues for live music performances into “sui generis” uses.
- f) Kept Class B2 and B8 employment uses (general industry and distribution & warehousing) unchanged.

## HOW THE USE CLASSES IN ENGLAND ARE CHANGING

Use	Use class up to 31 August 2020	Use class from 1 September 2020
Shop under 280sqm mostly selling essential goods, including food, and at least 1km from another similar shop	A1	F2
Shop	A1	E
Financial and professional services (not medical)	A2	E
Café or restaurant	A3	E
Pub or drinking establishment	A4	Sui generis
Hot food takeaway	A5	Sui generis
Office other than within class A2	B1a	E
Research and development of products or processes	B1b	E
Light industry (any industrial process that can be carried out in a residential area without causing detriment to the area 's amenity)	B1c	E
Clinics, health centres, creches, day nurseries, day centre	D1	E
Schools, non-residential education and training centres, museums, public libraries, public halls, exhibition halls, places of worship, law courts	D1	F1
Cinemas, concert halls, bingo halls and dance halls	D2	Sui generis
Gymnasiums and indoor recreations not involving motorised vehicles or firearms	D2	E
Indoor or outdoor swimming baths and skating rinks, and outdoor sports or recreation, not involving motorised vehicles or firearms	D2	F2
Hall or meeting place for the principal use of the local community	D2	F2

Source: based on guides by Lichfields and hgh Consulting

2.3 The new Use Class E is broken down into 11 sub-classes as summarised below:

- **E(a)** Display or retail sale of goods, other than hot food;
- **E(b)** Sale of food and drink for consumption (mostly) on the premises;
- **E(c)** Provision of:
  - **E(c)(i)** Financial services;
  - **E(c)(ii)** Professional services (other than health or medical services); or
  - **E(c)(iii)** Other appropriate services in a commercial, business or service locality;
- **E(d)** Indoor sport, recreation or fitness (not involving motorised vehicles or firearms);
- **E(e)** Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner);
- **E(f)** Creche, day nursery or day centre (not including a residential use);
- **E(g)** Uses which can be carried out in a residential area without detriment to its amenity:
  - **E(g)(i)** Offices to carry out any operational or administrative functions;
  - **E(g)(ii)** Research and development of products or processes; or
  - **E(g)(iii)** Industrial processes.

2.4 The new Use Class F1 is broken down into 7 sub-classes as summarised below:

- F1(a) Provision of education;
- F1(b) Display of works of art (otherwise than for sale or hire);
- F1(c) Museums;
- F1(d) Public libraries or public reading rooms;
- F1(e) Public halls or exhibition halls;
- F1(f) Public worship or religious instruction (or in connection with such use); and

- F1(g) Law courts.

2.5 The new Use Class F2 is broken down into 4 sub-classes as summarised below:

- F2(a) Shops (mostly) selling essential goods, including food, where the shop's premises do not exceed 280 square metres and there is no other such facility within 1000 metres;
- F2(b) Halls or meeting places for the principal use of the local community;
- F2(c) Areas or places for outdoor sport or recreation (not involving motorised vehicles or firearms); and
- F2(d) Indoor or outdoor swimming pools or skating rinks.

2.6 There is a transitional period (covering 1<sup>st</sup> September 2020 to 31<sup>st</sup> July 2021) provided for within the Amending Regulations in relation to Permitted Development rights and Article 4 directions; and transitional arrangements, also, related to applications submitted prior to 1<sup>st</sup> September 2020. To these extents, therefore, and over this period, the old Use Classes will remain directly relevant.

### **3. National Planning Practice Guidance – When is permission required?**

3.1 On the 18<sup>th</sup> September 2020 Government issued revisions to the National Planning Practice Guidance on “When is permission required?”

3.2 The above Guidance specifically addresses the impact of the new Use Classes Order on development plan policies, as follows:

***“Should development plan policies be amended to reflect recent amendments to the Use Classes Order?”***

*Some development plan policies may need to be revised to reflect the amendments to the Use Classes Order introduced in September 2020. It will be for the plan making body to decide on the timing of a review of the relevant plan policies, having regard to the National Planning Policy Framework and national guidance on plan preparation.*

*Paragraph: 009c Reference ID: 13-009c-20200918*

*Date 18 09 2020”*

### **4. Potential Implications of the Amending Regulations for the Local Plan**

#### **Introduction**

4.1 As set out in section 2 above, the Amending Regulations make a range of changes to the Use Classes Order. The Explanatory Memorandum that accompanies them explains that the reforms are “primarily aimed at creating vibrant, mixed use town centres by allowing businesses greater freedom to change to a broader range of compatible uses which communities expect to find on modern high streets, as well as more generally in town and city centres”. However, the changes are of general effect, and not limited to town centres.

- 4.2 The implications of the Amending Regulations are, inevitably, uncertain at the moment. As the Explanatory Memorandum explains, the Regulations have been brought forward “at pace” and are not accompanied by a full Regulatory Impact Assessment (merely an interim assessment of impacts). Moreover, the legislation has not been accompanied by significant updates to the NPPG or a new version of the NPPF.
- 4.3 There is also additional uncertainty since the Amending Regulations are being challenged in the High Court. A climate change action campaign group (Rights: Community: Action) has secured a High Court hearing to challenge the Government's permitted development and Use Classes Order changes. The challenge is being brought on the grounds that the new measures have been brought in without proper consultation and without parliamentary debate; that the Government acted unlawfully by failing to carry out an environmental assessment of the proposed changes; and that they were introduced without an appropriate equality impact assessment. The Council understands that the case was heard as a “rolled up hearing” on 14<sup>th</sup> and 15<sup>th</sup> October by a Divisional Court and that judgment is awaited.
- 4.4 In these circumstances, a degree of circumspection is needed. The Council will update its position as necessary in the light of the outcome of the High Court proceedings. For now, it proceeds on the basis of the Amending Regulations in their current form.

#### Implications of the Amending Regulations

- 4.5 As required by the NPPF, the Local Plan is based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, and sets out policies to guide and manage employment, retail and other development, based on a comprehensive and up-to-date evidence base. In doing so, it also reflects the requirement, in section 19 of the Planning and Compulsory Purchase Act 2004, to have regard to national policies and advice contained in guidance issued by the Secretary of State; and the requirement, in section 20(5)(b) of the same Act, for the Plan to be “sound”.
- 4.6 The changes to the Use Classes Order brought about by the Amending Regulations do not affect the essential soundness and legal compliance of the Council's approach. The policies remain sound and evidence based. In consequence, the policies will remain effective in the development management context notwithstanding the changes under the Amending Regulations.
- 4.7 Whilst the Council's future ability to manage some changes of use may be impacted by the Amending Regulations (as planning permission is generally not needed for changes of use within Use Classes), applications for new development will continue to be considered against the relevant policies in the Plan, through consideration of the policy wording and supporting text, with appropriate reference to the evidence base.
- 4.8 Moreover, it is well established that, in appropriate cases, conditions can be attached to the grant of planning permissions to prevent changes of use within Use Classes where this is necessary: see ***Rugby Football Union v Secretary of State for Local Government, Transport and the Regions***

[2001] EWHC 927. Conditions could also manage future potential impacts, such as amenity or “town centre first” considerations. The policies can, therefore, still be applied in a development management context alongside the amended Use Classes Order.

4.9 Limited modifications to the Local Plan are, however, required in light of the amendments to the Use Classes Order:

- a) First, it is considered necessary to remove all references to the superseded Use Classes throughout the Plan and to replace them with references to the new Use Classes.
- b) Second, limited changes to the supporting text at paragraphs 5.105 and 5.119 are required in the light of the fact that the Town and Country Planning (General Permitted Development) (England) Order 2015 has not yet been amended to reflect the amendments to the Use Classes Order. The proposed modifications to these paragraphs slim down the supporting text to provide a pointer to the 2015 Order, whilst avoiding references to use classes themselves.
- c) Third, changes are required to Policy E3 to reconcile it with the approach of the amended Use Classes Order, consistent with the flexibility under the new Class E towards shopping and a range of other uses. (Allowing a greater range of town centre uses would also provide an effective response to the Covid-19 pandemic since it would help to reduce the risk of long-term vacant units.) Beyond these changes to Policy E3, the Council considers that the approach to shopping frontages under the Local Plan remains sound and appropriate for controlling the core retail function in Eastleigh town centre, district centres, local centres and neighbourhood parades, reflecting the Council’s long history of identifying core, primary and secondary shopping frontages within these centres and parades for the purpose of controlling town centre uses.
- d) Fourth, it is necessary to delete the final sentence of paragraph 6.4.25. The sentence is not necessary, and, in the light of the greater flexibility now afforded by Class E, the Council will need to consider whether it is practical to continue to publish an annual retail occupancy survey setting out the proportion of non-retail uses.
- e) Fifth, it is necessary to include additional policy and supporting text for policies E6(2)(c), E7 and E(9)(2) to make clear that planning permissions on these strategic employment sites will be conditioned to restrict development to the specified uses in order to ensure the sites can continue to perform their strategically important economic role. (In this limited respect, the Council considers that there are cogent reasons for using planning conditions to restrict the flexibility that would otherwise be afforded by the breadth of the new Class E, and that this should be specified in policy and supporting text.)

4.10 For those reasons, the Council considers that the Local Plan remains fundamentally sound and legally compliant in the light of the Amending Regulations, and only limited modifications are currently required.

4.11 The Council recognises, however, that the strategy, and the policies required to meet needs in the future, may change as a result of the Amending Regulations and other factors. It will therefore assiduously monitor implementation of the Plan and any necessary changes will be addressed as part of the envisaged early review of the Plan, at which point there will be an updated evidence base on which to draw.

## 5. **Proposed Modifications**

5.1 In response to the changes to the Use Classes Order brought about by the Amending Regulations, the Council proposes the following modifications to the Local Plan, in addition to the modifications which the Council has already proposed to refer to the new use classes in the Monitoring Framework (and the modifications already proposed to the Plan for other reasons). The Council will include these modifications in its lists of main and additional modifications. For convenience, the policies including the below amendments are also provided in the Appendix to this Statement:

- a) Strategic Policy S2 – Approach to new development.
  - Criterion b (as proposed to be modified): replace “B1a/b office” with “E(g)(i)/(ii)”.
- b) Strategic Policy S4 – Employment Provision.
  - Criterion 1: replace “for uses in the B Use Classes (B1, B2 and B8)” with “for uses in the B2, B8 and E(g) use classes”.
  - Footnote to criterion 1: delete everything other than “The Town and Country Planning (Use Classes) Order 1987 as amended divides land uses into a number of categories”
  - New employment trajectory table proposed to be inserted after the policy:
    - Table header: delete “B1a/b Offices” and replace with “E(g)(i)/(ii)”;
    - Notes to table: replace “B1b” with “E(g)(ii)”;
    - Notes to table: replace “B1a” with “E(g)(i)”
- c) Paragraph 5.96.
  - Replace “B1, B2 and B8” with “B2, B8 and E(g)”.
  - Replace “A1-A5” with “E(a), E(b) and E(c)”.
  - Add a new bullet after the second bullet “Certain sui generis uses such as pubs and hot food takeaways”.
- d) DM15 – Safeguarding existing employment sites.
  - Criterion 1: replace “classes B1, B2 and B8” with “classes B2, B8 and E(g)”.
  - Criterion 1.a (as proposed to be modified): replace “Use Class B1(b), B1(c), B2 and B8” with “use class B2, B8 and E(g)(ii)/(iii)”.

- Criterion 1.b (as proposed to be modified): replace “*use classes B1(b), B1(c), B2 and B8*” with “*use classes B2, B8 and E(g)(ii)/iii*”.
  - Criterion 2 (as proposed to be modified): replace “*employment uses other than those in use classes B1(b), B1(c), B2 or B8 which may include sui generis uses but not town centre uses (e.g. uses in use classes A1 – A5)*” with “*employment uses other than those in use classes B2, B8 or E(g)(ii)/(iii) (but not E(a)/(b)/(c) uses or pubs, drinking establishments or hot food takeaways)*”.
  - Criterion 3 replace “*class B1(b), B1(c), B2 or B8*” with “*class B2, B8 or E(g)(ii)/(iii)*”
- e) Policy DM19 – Change of use of buildings in the countryside.
- Criterion 1(b) (as proposed to be modified): replace “*classes A2, A3, B1(a), C1 and D2*” with “*classes E(b), E(c), E(d), E(g)(i), C1, F.2(c)/(d), or in use as a cinema, concert hall, bingo hall or dance hall*”.
  - Criterion 1(b) (as proposed to be modified): replace “*A1 uses will not be supported*” with “*E(a) uses will not be supported*”.
- f) Paragraph 5.105.
- Replace “*to ‘flexible’ uses including dwelling houses and use Classes A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes), B1 (business), B8 (storage or distribution), C1 (hotels) or D2 (assembly and leisure) provided they are not restricted in Class R. In respect of such uses the policy therefore applies to proposals that exceed this floor area which are considered to be relatively large in scale*” with “*to a range of ‘flexible’ uses. The policy therefore applies to proposals outside the scope of permitted development rights*”.
- g) Policy DM22, Changes of use in retail frontages in Eastleigh town centre, district centres, local centres and neighbourhood parades.
- Criterion 1 (as proposed to be modified): replace “*a change of use or redevelopment involving the loss of Class A1 retail floor space will only be permitted for uses within classes A2 financial and professional services, A3 restaurants and cafes, A4 drinking establishments, and A5 hot food takeaways, leisure/ cultural uses and community uses, and provided that:*” with “*a change of use or redevelopment involving the loss of Class E(a) (display or retail) floorspace will only be permitted for uses within: classes E(b) (food and drink); E(c)(i) (financial services); E(c)(ii) (professional services); E(c)(iii) (other appropriate services); community or leisure/cultural uses under Classes E and F; or sui generis uses including pubs, drinking establishments and hot food takeaways; and provided that:*”.
  - Criterion 2.a. (criterion numbering as proposed to be modified): replace “*A1 use*” with “*E(a) use*”.
  - Criterion 3 (criterion numbering as proposed to be modified): replace “*Class B1 office*” with “*Class E(g)(i) office*”.
- h) Paragraph 5.119.
- Delete “*(classes A1 and A2)*”.

- i) HH1 – Land west of Horton Heath.
  - Criterion 1c (as proposed to be modified) replace “*B1b, B1c, B2 and/or B8,*” with “*B2, B8 and/or E(g)(ii)/(iii),*”
  - Later in criterion 1c (as proposed to be modified) add “*(use class E(g)(i))*” after “*office*”
  
- j) Policy CF1, Central Precinct, Chandler’s Ford.
  - Criterion 1 (as proposed to be modified): replace “*and A1 shops, A2 financial or professional services, A3 restaurants and cafes, A4 drinking establishments, A5 hot food takeaways, leisure / cultural and community uses*” with “*and: E(a) (display or retail); E(b) (food and drink); E(c)(i) (financial services); E(c)(ii) (professional services); E(c)(iii) (other appropriate services); community, leisure and cultural facilities (Class E/F and sui generis); and drinking establishments and hot food takeaways;*”.
  
- k) CF2 – Land at Steele Close, Chandlers Ford.
  - Criterion 1 (as proposed to be modified): replace “*B1b, B1c, B2, B8*” with “*B2, B8, E(g)(ii)/(iii)*”.
  - Criterion 1f (as proposed to be modified) add “*(use class E(g)(i))*” after “*office*”
  
- l) E1 – Land at the Civic Offices, Leigh Road, Eastleigh.
  - Criterion 1 (as proposed to be modified): replace “*(B1a)*” with “*E(g)(i)*”.
  
- m) Policy E3, Eastleigh town centre.
  - Criterion 1(b): replace “*subject to the following criteria:*” with “*.*”.
  - Delete the sections on “*Swan Centre*”, “*Primary shopping zone*” and “*Secondary shopping zone*”
  
- n) Paragraph 6.4.25.
  - Delete “*The Council publishes a retail occupancy survey annually that sets out the proportion of non A1 uses for each shopping area.*”
  
- o) E6 – Eastleigh Riverside.
  - Criterion 1.a.ii (as proposed to be modified): replace “*(use class B1a business uses)*” with “*(use class E(g)(i) business uses)*”
  - Criterion 1.a.iii (as proposed to be modified): replace “*B1, B2 or B8*” with “*B2, B8 or E(g)*”.
  - Criterion 2.a (as proposed to be modified): replace “*including use classes B1(b) (business - research and development of products or processes), B1(c) (business - light industry), B2 (general industrial) and B8 (storage and distribution)*” with “*including B2 (general industrial), B8 (storage and distribution) and E(g)(ii)/(iii) (research and development/industrial process) uses*”.
  - Criterion 2.c (as proposed to be modified): replace “*in use classes B1b, B1c, B2 and B8*” with “*in use classes B2, B8 and E(g)(ii)/(iii)*”.

- Add to the end of Criterion 2.c *“Planning permissions will be restricted to the uses specified in the policy by condition in order to restrict other Class E uses on this key strategic employment site.”*
- p) Add a new paragraph of supporting text after paragraph 6.4.35 *“The new greenfield site allocated for employment development under Policy E6(2)(c) is one of a handful of strategic employment sites of sub-regional importance at Eastleigh River Side which form a key element of the Borough’s and sub-region’s future employment supply. As such it is considered important to retain this site (and those allocated under Policy E7 and E9(2)) for the employment uses specified in the policy. For this reason, planning permissions on these sites will be conditioned to restrict development to these specified uses in order to ensure these sites can continue to perform this strategically important economic role.”*
- q) E7 – Development opportunities adjoining Eastleigh Riverside.
- Criterion 1 (as proposed to be modified): replace *“(in use classes B1(b), B1(c), B2, B8)”* with *“(in use classes B2, B8 or E(g)(ii)/(iii))”*.
  - Add new criterion 1g *“Planning permissions will be restricted to the uses specified in the policy by condition in order to restrict other Class E uses on this key strategic employment site.”*
- r) Add a new paragraph of supporting text after paragraph 6.4.40 *“The new greenfield site allocated for employment development under Policy E7 is one of a handful of strategic employment sites of sub-regional importance at Eastleigh River Side which form a key element of the Borough’s and sub-region’s future employment supply. As such it is considered important to retain this site (and those allocated under Policy E6(2)c and E9(2)) for the employment uses specified in the policy. For this reason, planning permissions on these sites will be conditioned to restrict development to these specified uses in order to ensure these sites can continue to perform this strategically important economic role.”*
- s) E9 – Land at Southampton Airport.
- Criterion 2 (as proposed to be modified): replace *“in use classes B1a, B1b, B1c, B2 or B8”* with *“in use classes B2, B8 or E(g)”*.
  - Add new criterion 2d *“Planning permissions will be restricted to the uses specified in the policy by condition in order to restrict other Class E uses on this key strategic employment site.”*
- t) Add a new paragraph of supporting text after paragraph 6.4.54 *“The new greenfield site allocated for employment development under Policy E9(2) is one of a handful of strategic employment sites of sub-regional importance at Eastleigh River Side which form a key element of the Borough’s and sub-region’s future employment supply. As such it is considered important to retain this site (and those allocated under Policy E6(2)c and E7) for the employment uses specified in the policy. For this reason, planning permissions on these sites will be conditioned to restrict development to these specified uses in order to ensure these sites can continue to perform this strategically important economic role.”*

- u) HE4 – Land off Peewit Hill Close and Dodwell Lane.
  - Criterion 1 (as proposed to be modified): replace “*in use classes B1b, B1c and B8*” with “*in use classes B8 and E(g)(ii)/(iii)*”.
  - Criterion a (as proposed to be modified) add “(use class *E(g)(i)*)” after “*office*”
  
- v) HE5 – Land at Netley Firs, Kanes Hill, Hedge End.
  - Criterion 1.a (as proposed to be modified): replace “*in use classes B1b, B1c or B2*” with “*in use classes B2 or E(g)(ii)/(iii)*”.
  
- w) HEX – Land adjoining the Botleigh Grange Business Park west of Woodhouse Lane, Hedge End.
  - Criterion 1.a (as proposed to be modified): replace “*in use classes B1a, B1b or B1c*” with “*in use class E(g)*”.
  
- x) WE1 – Land at Chalcroft Business Park, Burnetts Lane, West End.
  - Criterion 1 (as proposed to be modified): replace “*class B1b, B1c, B2 and B8*” with “*class B2, B8 and E(g)(ii)/(iii)*”.
  - Criterion a (as proposed to be modified) add “(use class *E(g)(i)*)” after “*office*”.
  
- y) WE2 – Land adjoining the Chalcroft Business Park.
  - Criterion 1 (as proposed to be modified): replace “*in use classes B1b, B1c and B8*” with “*in use classes B8 and E(g)(ii)/(iii)*”.
  - Criterion 2 (as proposed to be modified) add “(use class *E(g)(i)*)” after “*office*”.
  
- z) WE3 – Land west of Tollbar Way and south of Berrywood Business Park, Hedge End.
  - Criterion 1a (as proposed to be modified): replace “*in use classes B1b, B1c and B2*” with “*in use classes B2 and E(g)(ii)/(iii)*”.
  - Criterion 2 (as proposed to be modified) add “(use class *E(g)(i)*)” after “*office*”

**APPENDIX: POLICIES AND SUPPORTING TEXT INCLUDING MODIFICATIONS  
PROPOSED IN SECTION 5 AND OTHER MODIFICATIONS ALREADY PROPOSED**

**Strategic policy S2, Approach to new development, Criterion b**

b. 103,500 sq.m (net) of new employment development (of which 56,800 sq.m to be E(g)(i)/(ii) development);

**Strategic Policy S4, Employment provision, Criterion 1**

1. To contribute towards sustainable economic growth, provision will be made for additional floor space for uses in the B2, B8 and E(g) use classes and other employment-generating uses through:

**Footnote to Criterion 1 of Strategic Policy S4**

The Town and Country Planning (Use Classes) Order 1987 as amended divides land uses into a number of categories

**Employment Trajectory Table to be Inserted after Strategic Policy S4**

	Total (sq.m)	E(g)(i)/(ii) (sq.m)
<b>Residual Target 2016-2036</b>	<b>103,511</b>	<b>56,817</b>
Supply:		
<i>Net completions 2016 to 2019</i>	3,962	1,239
<i>Losses to other uses 2016 to 2019 #</i>	7,553	1,122
<i>Net commitment (permitted) at 2019</i>	41,385	10,989
<i>Local Plan Policy Allocations</i>	38,800	7,600 *
<b>Total Supply 2016-2036</b>	<b>76,594</b>	<b>18,706</b>
<i>Shortfall</i>	<b>26,917</b>	<b>38,111</b>
Anticipated future policy losses 2019 to 2036 #	35,772	3,242
<b>Net Shortfall at 2019</b>	<b>62,639</b>	<b>41,353</b>
Net Commitment (allocated) at SAEG (Policies E6iii, E6iv, E7 & E9)	131,900	<b>41,353 @</b>
<b>Total</b>	<b>69,261</b>	<b>0</b>

# Losses are added back on to the requirement figure

\* All of the Local Plan Policy Allocations permit E(g)(ii) use but only HE6 with a capacity of 7,600sq.m permits E(g)(i). Accordingly, 7,600sq.m. likely to be a minimum level of provision.

@ Nominal allowance for office development at Southampton Airport / SAEG

**Paragraph 5.96**

Economic development includes:

- Industrial and commercial development in use classes B2, B8 and E(g)
- Retail and other town centre development in use classes E(a), E(b) and E(c)
- Certain sui generis uses such as pubs and hot food takeaways
- Other forms of development that provide jobs, e.g. leisure, cultural activities, tourism and public services such as education and health.

While all employment opportunities contribute to prosperity, some forms of employment also contribute particularly to increasing GVA, which is a main objective of the PfSH Economic Development Strategy.

**Policy DM15, Safeguarding existing employment sites**

1. The major existing employment sites as identified on the policies map shall be retained predominantly in employment use classes B2, B8 and E(g). Within these sites the Borough Council will permit:
  - a. the redevelopment and intensification of use of sites for use class B2, B8 and E(g)(ii)/(iii) employment uses;
  - b. changes of use between use classes B2, B8 and E(g)(ii)/(iii); and
  - c. workforce training opportunities as defined in policy DM16 below;

subject to the general development criteria and transport policies of this Local Plan including the impact on residential areas.

2. Exceptionally, employment uses other than those in use classes B2, B8 or E(g)(ii)/(iii) uses (but not E(a)/(b)/(c) uses or pubs, drinking establishments or hot food takeaways) may be permitted on these sites provided that:
  - a. they would not have a significant impact on the continued primary use of the site
  - b. the existing site is causing, or could cause, significant harm to highway safety or to the amenities of the area or to local residents
3. The redevelopment or change of use of other existing employment sites not identified on the Policies Map currently in class B2, B8 or E(g)(ii)/(iii) uses to non-employment uses, where this is not permitted development, will be permitted provided that it can be demonstrated that the site is no longer in demand for employment use and that criteria a. and b. above are satisfied.

**Policy DM19, Change of use of buildings in the countryside, Criterion 1.b**

b. any proposals for developments over 500 sq.m or that would lead to, or consolidate more than, a 30% increase in the floor space of an established use (measured against floor space at April 2011), in use classes E(b), E(c), E(d), E(g)(i), C1, F.2(c)/(d), or in use as a cinema, concert hall, bingo hall or dance hall are subject to a sequential test to demonstrate that they cannot be accommodated in more sustainable locations in the town, district or local centres or failing this in edge of centre or out of centre locations within the urban edge. E(a) uses will not be supported;

### **Paragraph 5.105**

Existing buildings in the countryside that are of good quality are a re-usable resource. Enabling a change of use of such buildings can help to limit the need for new buildings in the countryside. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO) enables the change of use of agricultural buildings to a range of 'flexible' uses. The policy therefore applies to proposals outside the scope of permitted development rights. Please note that policy DM19 would also apply to proposals for retail development.

### **Policy DM22, Changes of use in retail frontages in Eastleigh town centre, district centres, local centres and neighbourhood parades, Criterion 1**

1. Within the ground floor of the core shopping zone, primary and secondary shopping frontages of Eastleigh town centre and the district centres and frontages of the local centres and neighbourhood parades, as defined on the policies map, a change of use or redevelopment involving the loss of Class E(a) (display or retail) floorspace will only be permitted for uses within: classes E(b) (food and drink); E(c)(i) (financial services); E(c)(ii) (professional services); E(c)(iii) (other appropriate services); community or leisure/cultural uses under Classes E and F; or sui generis uses including pubs, drinking establishments and hot food takeaways; and provided that:

### **Policy DM22, Changes of use in retail frontages in Eastleigh town centre, district centres, local centres and neighbourhood parades, Criterion 2.a**

a. proof that there is no demand for the E(a) use, including evidence that the site has been marketed effectively for such a use; or

### **Policy DM22, Changes of use in retail frontages in Eastleigh town centre, district centres, local centres and neighbourhood parades, Criterion 3**

3. Changes of use or redevelopment to residential or Class E(g)(i) office uses will not be permitted within the defined shopping frontages/ centres other than in upper floors.

### **Paragraph 5.119**

Permitted development rights contained in the GPDO 2015 allow more flexibility for units to change between uses including shopping and food and drink uses. Permitted development rights also currently allow small shops and professional service uses to change to housing subject to restrictions. Developers must demonstrate that they will not harm retail services (unless there is no reasonable prospect of the unit staying in retail use) or threaten the sustainability of a key shopping area. The marketing period the Council requires for ensuring no negative impact upon the provision of services or on the sustainability of a key shopping area will be between 6 and 12 months. The length of the marketing period will be dependent on a number of factors such as the size of the unit and the quality of the marketing evidence submitted with development proposals. Ground floor residential uses will not be acceptable except where there are permitted development rights and developers can meet these criteria.

**Policy HH1, Land west of Horton Heath, Criterion 1.c**

c. the provision of approximately 6ha (24,000 sq.m) of employment land, to accommodate employment in use classes B2, B8 and/or E(g)(ii)/(iii), having regard also to the possibility of a shared access with the Chalcroft Business Park. In accordance with the sequential approach, major office (use class E(g)(i)) development (greater than 1,000 sq.m gross) will only be supported if there are no suitable, available or viable alternative sites available in either Eastleigh town centre, the wider Eastleigh urban renaissance quarter, at Eastleigh River Side, (Southampton Airport) or in district and local centres, and it will not lead to the borough-wide office target (Strategic Policy S4) being exceeded;

**Policy CF1, Central Precinct, Chandler's Ford, Criterion 1**

1. An area of approximately 1.2 hectares of land at Central Precinct, Chandler's Ford, as defined on the policies map is allocated for redevelopment to accommodate approximately 85 dwellings and: E(a) (display or retail); E(b) (food and drink); E(c)(i) (financial services); E(c)(ii) (professional services); E(c)(iii) (other appropriate services); community, leisure and cultural facilities (Class E/F and sui generis); and drinking establishments and hot food takeaways; subject to the following conditions:

**Policy CF2, Land at Steele Close, Chandler's Ford, Criterion 1**

1. An area of approximately 1.0 hectare of land at Steele Close, Chandler's Ford, as defined on the policies map is allocated for approximately 4,000 sq.m of B2, B8, E(g)(ii)/(iii), car showroom or other similar sui generis uses subject to the following conditions:

**Policy CF2, Land at Steele Close, Chandler's Ford, Criterion 1f**

f. In accordance with the sequential approach, major office (use class E(g)(i)) development (greater than 1,000 sq.m gross) will only be supported if there are no suitable, available or viable alternative sites available in either Eastleigh town centre, the wider Eastleigh urban renaissance quarter, at Eastleigh River Side, (Southampton Airport) or in district and local centres, and it will not lead to the borough-wide office target (Strategic Policy S4) being exceeded.

**Policy E1, Land at the Civic Offices, Leigh Road, Eastleigh, Criterion 1**

1. An area of approximately 0.8 hectares east of Villeneuve St Georges Way and north of Kornwestheim Way as defined on the policies map is allocated for re-development. It is suitable for a range of uses including office (E(g)(i)) (approximately 6,000 sq.m) development or other uses providing employment, education/ training and/or meeting facilities, emergency or community uses and some residential development.

**Policy E3, Eastleigh town centre**

1. The Borough Council will support the regeneration of Eastleigh town centre as defined on the policies map. This will include:
  - a. strengthening the retail circuit through seeking:
    - i. development that strengthens the function of the town centre retail anchor to the north of Leigh Road; and
    - ii. the redevelopment of the block east of Upper Market Street, where a range of town centre uses will be acceptable including retail, financial and professional services, public sector services, cafes/restaurants, public houses, hotels, leisure uses, non-residential institutions such as galleries and exhibition halls on the ground and lower floors, with residential uses, including student accommodation, acceptable on upper floors.
  - b. promoting well designed, high density mixed-use development that delivers schemes suitable for modern retailing and other town centre uses.
  - c. within the core, leisure, primary and secondary shopping zones as defined on the policies map, a proposal for a change of use or redevelopment entailing the loss of retail will also need to meet policy DM22.

#### **Paragraph 6.4.25**

The policies map identifies a number of zones which have different characteristics and development management policies associated with them. This approach is taken to protect the key functions of the town centre whilst also promoting vitality, viability and variety. An example of this is prioritising the protection of retailing in the core and primary shopping zones whilst allowing a greater range of non-shopping uses particularly in the secondary zone, to allow the restaurant and café sector and other town centre related uses to develop further.

#### **Policy E6, Eastleigh River Side, Criterion 1.a.ii**

ii. uses complementary to Eastleigh town centre such as offices (use class E(g)(i) business uses); bulky goods retail; hotel/ conference centre, restaurants and other leisure uses; some residential development and related community uses possibly including student accommodation; and car parking to serve Eastleigh Station and the town centre;

#### **Policy E6, Eastleigh River Side, Criterion 1.a.iii**

iii. other employment uses in use classes B2, B8 or E(g); and

#### **Policy E6, Eastleigh River Side, Criterion 2.a**

a. Tower Lane area, as defined on the policies map, should be redeveloped for business and industrial uses including B2 (general industrial), B8 (storage and distribution) and E(g)(ii)/(iii) (research and development/industrial process) uses.

#### **Policy E6, Eastleigh River Side, Criterion 2.c**

c. An area of approximately 19.0 ha at the railway works, as defined on the policies map, should be developed or redeveloped for business and/or industrial uses in use classes B2, B8 and E(g)(ii)/(iii) (approximately 19,900 sq.m net additional floorspace), provided that it can be demonstrated to the satisfaction of the Borough Council that the land is not required, either now or in the longer term, for rail-related uses. Access to the site could be provided from Southampton Road via an improved Campbell Road bridge and a road link into the site. Improvements to the Campbell Road bridge should include pedestrian facilities. Planning permissions will be restricted to the uses specified in the policy by condition in order to restrict other Class E uses on this key strategic employment site.

#### **New paragraph after paragraph 6.4.35**

The new greenfield site allocated for employment development under Policy E6(2)(c) is one of a handful of strategic employment sites of sub-regional importance at Eastleigh River Side which form a key element of the Borough's and sub-region's future employment supply. As such it is considered important to retain this site (and those allocated under Policy E7 and E9(2)) for the employment uses specified in the policy. For this reason, planning permissions on these sites will be conditioned to restrict development to these specified uses in order to ensure these sites can continue to perform this strategically important economic role.

#### **Policy E7, Development opportunities adjoining Eastleigh River Side, Criterion 1**

1. The development of approximately 8.5 hectares of land to the east of the railway works as defined on the policies map will be permitted for approximately 34,000 sq.m of employment uses (in use classes B2, B8 or E(g)(ii)/(iii)) subject to the following criteria:

#### **Policy E7, Development opportunities adjoining Eastleigh River Side, New Criterion 1g**

Planning permissions will be restricted to the uses specified in the policy by condition in order to restrict other Class E uses on this key strategic employment site.

#### **New paragraph after paragraph 6.4.40**

The new greenfield site allocated for employment development under Policy E7 is one of a handful of strategic employment sites of sub-regional importance at Eastleigh River Side which form a key element of the Borough's and sub-region's future employment supply. As such it is considered important to retain this site (and those allocated under Policy E6(2)c and E9(2)) for the employment uses specified in the policy. For this reason, planning permissions on these sites will be conditioned to restrict development to these specified uses in order to ensure these sites can continue to perform this strategically important economic role.

#### **Policy E9, Southampton Airport, Criterion 2**

2. Approximately 19.5 hectares of land identified to the northeast of the runway as defined on the policies map may be developed for airport-related activities and/or approximately 78,000 sq.m of employment uses in use classes B2, B8 or E(g), subject to the following criteria:

#### **Policy E9, Southampton Airport, new Criterion 2d**

Planning permissions will be restricted to the uses specified in the policy by condition in order to restrict other Class E uses on this key strategic employment site.

#### **New paragraph after paragraph 6.4.54**

The new greenfield site allocated for employment development under Policy E9(2) is one of a handful of strategic employment sites of sub-regional importance at Eastleigh River Side which form a key element of the Borough's and sub-region's future employment supply. As such it is considered important to retain this site (and those allocated under Policy E6(2)c and E7) for the employment uses specified in the policy. For this reason, planning permissions on these sites will be conditioned to restrict development to these specified uses in order to ensure these sites can continue to perform this strategically important economic role.

#### **Policy HE4, Land off Peewit Hill Close and Dodwell Lane, Criterion 1**

1. Approximately 2.3 hectares of land off Peewit Hill Close and Dodwell Lane, as defined on the policies map, is allocated for approximately 9,200 sq.m of employment uses in use classes B8 and E(g)(ii)/(iii) subject to the following requirements:

#### **Policy HE5, Land at Netley Firs, Kanes Hill, Hedge End, Criterion 1.a**

a. the site is developed for employment in use classes B2 or E(g)(ii)/(iii) compatible with the existing employment uses on the site, with nearby dwellings and the proposed adjoining travelling showpeople's site;

#### **Policy HEX, Land adjoining the Botleigh Grange business park west of Woodhouse Lane, Hedge End, Criterion 1.a**

a. a. the site is developed for employment in use class E(g) that is compatible with the adjoining office campus;

#### **Policy WE1, Chalcroft Business Park, Burnetts Lane, West End, Criterion 1**

1. Proposals for the alteration, extension, change of use or redevelopment of existing land and buildings within the Chalcroft Business Park (as defined on the policies map) for class B2, B8 and E(g)(ii)/(iii) uses will be permitted if all of the following criteria are met:

#### **Policy WE1, Chalcroft Business Park, Burnetts Lane, West End, Criterion 1.a**

In accordance with the sequential approach, major office (use class E(g)(i)) development (greater than 1,000 sq.m gross) will only be supported if there are no suitable, available or viable alternative sites available in either Eastleigh town centre, the wider Eastleigh urban renaissance quarter, at Eastleigh

River Side, (Southampton Airport) or in district and local centres, and it will not lead to the borough-wide office target (Strategic Policy S4) being exceeded;

**Policy WE2, Land adjoining the Chalcroft Business Park, Criterion 1**

1. A site of approximately 1.6 hectares between the Chalcroft Business Park and Burnetts Lane is allocated for approximately 6,400 sq.m of employment development in use classes B8 and E(g)(ii)/(iii) provided that:

**Policy WE2, Land adjoining the Chalcroft Business Park, Criterion 2**

2. In accordance with the sequential approach, major office (use class E(g)(i)) development (greater than 1,000 sq.m gross) will only be supported if there are no suitable, available or viable alternative sites available in either Eastleigh town centre, the wider Eastleigh urban renaissance quarter, at Eastleigh River Side, (Southampton Airport) or in district and local centres, and it will not lead to the borough-wide office target (Strategic Policy S4) being exceeded;

**Policy WE3, Land west of Tollbar Way and south of Berrywood Business Park, Hedge End, Criterion 1.a**

a. the site is developed for employment in use classes B2 and E(g)(ii)/(iii) compatible with the existing employment uses on the adjoining Berrywood Business Park;

**Policy WE3, Land west of Tollbar Way and south of Berrywood Business Park, Hedge End, Criterion 2**

In accordance with the sequential approach, major office (use class E(g)(i)) development (greater than 1,000 sq.m gross) will only be supported if there are no suitable, available or viable alternative sites available in either Eastleigh town centre, the wider Eastleigh urban renaissance quarter, at Eastleigh River Side, (Southampton Airport) or in district and local centres, and it will not lead to the borough-wide office target (Strategic Policy S4) being exceeded.