

Cabinet – 9 November 2011

Black Country Enterprise Zone

Portfolio: Councillor Adrian Andrew, Deputy Leader and Regeneration

Service: Regeneration

Wards: Bentley and Darlaston North; Pleck.

Key decision: Yes

Forward plan: Yes

1. Summary

- 1.1 The Department for Communities & Local Government (CLG) has announced the creation of the Black Country Enterprise Zone, which includes several sites in Darlaston. A requirement of Enterprise Zone status is that a simplified planning regime is established as part of a suite of incentives to support growth, attract new businesses and create jobs.
- 1.2 This report seeks Cabinet support for the inclusion of 15 sites in Darlaston within the Black Country Enterprise Zone. It also sets out the options for a simplified planning regime covering both these 15 sites and a wider area and seeks approval to proceed with the preparation of a Local Development Order.
- 1.3 It is proposed that the LDO will offer freedom from planning control for employment uses falling within use classes B1(b)&(c) (research & development and light industry), B2 (general industrial) and B8 (storage and distribution) and possibly other selected employment uses. **However it will not permit any ground reclamation works that may precede a planning application for built development.**

2. Recommendations

- 2.1 That Cabinet endorses the establishment of the Black Country Enterprise Zone which comprises the 15 sites shown on Appendix A as the Darlaston component.
- 2.2 That Cabinet supports the establishment of a simplified planning regime by way of Local Development Order covering the Black Country Enterprise Zone sites in Darlaston together with surrounding areas.
- 2.3 That the Executive Director (Regeneration) be authorised to undertake the following action in relation to the development of the proposed Local Development Order:
 - (a) Appointment of consultants to progress the preparation of the Local Development Order, including public consultation.

(b) Reporting the draft Local Development Order to the Planning Committee to seek their views.

(c) To make any minor changes to the draft Local Development Order in consultation with the Portfolio Holder for Regeneration.

- 2.3 That Cabinet notes that the draft Local Development Order will be submitted to the Secretary of State for approval and if approved it would be reported to a Council meeting for adoption.

3. Report detail

The Black Country Enterprise Zone

- 3.1 Budget 2011 announced that the Government would establish new Enterprise Zones in local enterprise partnership (LEP) areas in England, and named the first 11 LEPs that would benefit from Zone status. The Black Country LEP formed part of this group and following the Budget announcement the LEP began discussions with the Government about the extent of the Zone. This led to the LEP making a formal submission to the Department for Communities & Local Government (CLG) in August 2011.
- 3.2 CLG has now formally approved the location of the Black Country Enterprise Zone. The Zone comprises a portfolio of development sites situated in Darlaston and Wolverhampton North and totals over 120 hectares. The Darlaston part of the Zone comprises a cluster of 15 sites (as shown on Appendix A), including Phoenix 10, either side of the M6 at Junction 10 providing some 45 hectares of land; the Wolverhampton North part of the Zone is made up of the regionally significant i54 site which has recently been announced as the site to accommodate the new JLR engine plant and a number of development opportunities in the immediate surrounding area.
- 3.3 The purpose of the Black Country Enterprise Zone is to create sustainable, private sector led, economic growth. Development within the Zone will be expected to be in line with the Black Country Core Strategy and Unitary Development Plan (UDP) employment policies and proposals. It will also be expected to help address the local employment issues identified in the Walsall Local Economic Assessment (2011) and the Walsall Employment Land Review (2010).
- 3.4 The Zone forms part of a wider package of measures designed to regenerate the Darlaston area. The £26m Darlaston Access Project is currently in a national competition for funding with a decision expected by December 2011. This is a major infrastructure project identified in the Core Strategy and the Local Transport Plan which will improve existing roads, junctions and bridges boosting the ongoing viability of existing businesses and making the Darlaston area attractive to new inward investment.

Simplified Planning Regime – The Options

- 3.5 The Black Country Enterprise Zone will offer business rate discounts, the possibility of enhanced capital allowances, access to superfast broadband and a genuinely simplified approach to planning. Discussions with CLG have confirmed that the LEP should aim for these benefits to be available from 1 April 2012. There is an urgent need, therefore, to agree the most appropriate approach to be adopted in Darlaston building on the Business Friendly Planning Charter led by Walsall on behalf of the LEP and which was approved by Cabinet at its meeting on 14 September. There are two options for a simplified planning approach which are set out as follows:

Option 1 - Local Development Order

The CLG Enterprise Zone Information Pack states that in the majority of areas it is expected that the simplified planning regime will comprise a Local Development Order (LDO).

LDOs were introduced through the Planning & Compulsory Purchase Act 2004 and effectively grant a blanket planning permission across a defined area to allow the specified types of development to be undertaken without the need to apply for planning permission for each separate site. LDOs can apply to a specific type of development or permit any development in a designated area, and may grant planning permission outright or with conditions.

The preparation of an LDO has a number of stages:

- *Drafting the LDO* – there is a need to provide a clear explanation of the purpose of the LDO, the development to be included within the LDO and the area to which it applies. An Environmental Impact Assessment (EIA) scoping opinion will also be required. At the end of the process a statement of reasons is produced justifying why the LDO should be made.
- *Formal consultation* – there is a minimum 6 week consultation period. There is a need to consult anybody who would have been a statutory consultee on a planning application for development covered by the proposed LDO. Within the Enterprise Zone this would include the Environment Agency, Sport England, British Waterways, Natural England and the Highways Agency. There will also be a need to engage with the Planning Committee in this process.
- *Consultation with the Secretary of State* – before adopting the LDO a copy of the draft LDO and statement of reasons must be sent to the Secretary of State (SoS). The LDO cannot be adopted until the SoS has confirmed that he does not require the LDO to be submitted for approval. If the SoS requests that the LDO is submitted for approval then he can approve, reject or request modifications but the authority is not obliged to adopt the LDO.
- *Adopt the LDO* – a report must be presented to a full Council meeting seeking approval for the LDO.

Option 2 - Planning Performance Agreement

Planning Performance Agreements (PPAs) were formally introduced into the planning system in April 2008. They bring together the local planning authority, developer and key stakeholders to work together in partnership throughout the planning process. They are essentially a collaborative project management process and tool that provide greater certainty and transparency to the development of scheme proposals, the planning application assessment and decision making.

A site specific PPA would include the following core components:

- A record of the overall project vision and development objectives.
- An organisational structure.
- A list of project issues and tasks.
- A project programme.

These components are ordinarily formalised into a written document which is signed off by the key stakeholders at the outset, but remain live to respond to progress and changes in circumstances as appropriate.

Simplified Planning Regime – Preferred Option

- 3.6 Of the two options outlined above it is recommended that an LDO, which removes the need to apply for planning permission for specified types of development, is the most appropriate method of simplifying planning for business and achieving the Government's objective of reducing cost, uncertainty and time in the planning process and thereby stimulating investment. Developers will be clear that provided their scheme complies with the LDO then it can proceed. This is unlike a PPA which can only offer a partnership and performance contract to the determination of a planning application but not the guarantee of planning permission.
- 3.7 A comprehensive LDO can offer significant freedom from planning control for employment uses. Within the context provided by the Core Strategy and the UDP and the analysis in the Local Economic Assessment and the Employment Land Review, it is anticipated that these would be uses within classes B1(b) & (c) (research & development and light industry), B2 (general industrial) and B8 (storage and distribution) and – subject to further consideration – other clearly defined employment uses which can benefit the local economy and create jobs. Appendix B provides more detail on the Use Classes Order. The LDO will not permit any ground reclamation works that may precede a planning application for built development.
- 3.8 An LDO can offer a truly simplified planning regime and a real roll-out of the business-friendly planning service which Cabinet has previously endorsed. Only 4 of the 15 sites in Darlaston have an existing planning consent. As such an LDO will act as a strong facilitator for development on the majority of sites. It is suggested that an LDO is prepared that relates both to the 15 nominated development sites which constitute the Enterprise Zone and to a wider area. This would enable many existing businesses to gain at least some of the benefit that Enterprise Zone sites receive and could act as a stimulus for additional

investment. A plan illustrating both the 15 development sites and a notional boundary for the additional area subject to an LDO is attached as Appendix A.

- 3.9 The form of the LDO will need to be considered in more detail but the intention is for it to provide developers with the planning permissions they need without each having to apply to the Council. However, it is acknowledged that certain areas will be more sensitive to the impact of a simplified planning regime. As such it is intended that any LDO would be carefully designed to reflect particular circumstances within the area. An initial assessment suggests that the most appropriate response would be some form of zonal approach whereby there is a series of zones with a more narrowly defined LDO and a zone consisting of at least the Enterprise Zone sites where the impact of development is likely to be less and a more relaxed approach can be adopted.
- 3.10 A key issue that will need to be addressed is the relationship between employment uses and existing housing. The potential impacts of the LDO on the waste management cluster formed by existing important waste management sites identified in the Core Strategy will also need to be considered. The LDO will require that development is compliant with existing planning policy and on this basis it will help to deliver the Black Country Core Strategy and UDP employment policies.
- 3.11 A requirement to provide monitoring information will be incorporated into any LDO in order that the Council receives relevant information on new developments coming forward which will enable this to be reported in the Council's Annual Monitoring Report.
- 3.12 The formal consultation stage will mean that the local community and key stakeholders have the opportunity to comment, ensuring transparency and engendering a collective commitment to delivery.
- 3.13 If an LDO is prepared then the intention would be for it to be submitted to the Secretary of State by 1 April 2012. In order to meet this deadline the 6 week consultation period would begin with presentation of the draft LDO to Planning Committee on 2 February 2012.
- 3.14 Given the short timescale available and the complexities involved it is intended that the Council will appoint consultants to undertake the task of preparing the LDO.
- 3.15 To enable the Council to progress the work on preparing the LDO as quickly as possible, it is also recommended that the Executive Director (Regeneration) be authorised to carry out the necessary tasks including the appointment of consultants and reporting the draft LDO to Planning Committee before the final draft is submitted to the Secretary of State.
- 3.16 In preparing the LDO there will be a need to consider for how long it operates. Although an LDO can be revoked by the Council at any time the lifespan will be indicated at the outset to provide greater certainty.

4. Council priorities

- 4.1 The Council has committed to focus on three priorities in the Corporate Plan and one of these is the economy. Establishing a simplified planning regime will support the delivery of the Black Country Enterprise Zone which will lead to economic growth and job creation.
- 4.2 Communities & Neighbourhoods are also a corporate priority. Amenity issues that could impact on local residents will be considered when preparing the LDO.

5. Risk management

- 5.1 There is a very short timescale available for preparing the draft LDO. There is a risk that the draft will not be completed in time for submission to the Secretary of State by 1 April 2012. However, this risk will be managed by appointing consultants to undertake the task who operate to an agreed project programme.
- 5.2 There is a risk that the Secretary of State could reject the LDO. However, it is expected that this risk will be minimised by the production of a suitably robust LDO which has been the subject of a thorough consultation process

6. Financial implications

- 6.1 It is expected that the consultant fee for preparation of the LDO will be met from existing revenue budgets.
- 6.2 The Council will experience a net income reduction as planning applications will no longer be required for proposals within the LDO area. In the last 5 years the Council has received approximately £165,000 in planning application fees within the boundary indicated in Appendix A.

7. Legal implications

- 7.1 CLG has confirmed that the Black Country Enterprise Zone will not be created by an Enterprise Zone Order made by Central Government, as was the case for Enterprise Zones established in the 1980s. Rather it will be a simplified planning regime covering 15 sites in Darlaston (and others in Wolverhampton North) along with a suite of other incentives to support growth attract new businesses and create jobs.

Local Development Orders

- 7.2 A Local Development Order (LDO) must be prepared in accordance with Schedule 4A of the Town and Country Planning Act 1990 (as amended) and Section 34 of the Town and Country Planning (Development Management Procedure) (England) Order 2010. A local planning authority may make a LDO covering any part of its area, whether or not it includes an Enterprise Zone. The proposed LDO for Darlaston will include the Enterprise Zone sites, but will also cover land outside the Enterprise Zone (see Appendix A).
- 7.3 Once a LDO is made, it grants planning permission for “development specified in the order” or for “development of any class so specified,” within the sites or areas

defined. It may grant permission outright, or subject to certain conditions or restrictions. The Secretary of State also has the power to intervene in the making or revision of a LDO, and may revoke it or direct the local planning authority to make modifications. The Council must also monitor the extent to which the LDO “is achieving its purposes” and report on this in its Annual Monitoring Report (AMR).

Other Relevant Legislation

- 7.4 Regulation 29 of the Town & Country Planning (Environmental Assessment) Regulations 2011 (SI 2011 No. 1824) says that a local planning authority may not make a LDO which would grant planning permission for development that would require an EIA unless an environmental statement has been prepared in relation to that development, and the authority has taken the environmental information into consideration, and have stated in their decision that they have done so. To include EIA development in an LDO would require the authority to have adopted a screening opinion and for this to have been considered by the Secretary of State.
- 7.5 The Habitats and Species Regulations 2010 (SI 2010 No. 490) also apply to LDOs. Regulation 78 stipulates that a LDO may not grant permission for development which is likely to have a significant effect on a “European Site,” either alone or in combination with other plans and projects.
- 7.6 Other environmental legislation and policy (for example, relating to air quality, contaminated land and noise) could also potentially restrict the types of development that may be permitted by an LDO.
- 7.7 The Council will need to consider these potential issues carefully when preparing the LDO, to ensure that it does not grant permission for any development or use that may be in conflict with other legal requirements.

8. Property implications

- 8.1 There are no property implications associated with this matter, although part of the Phoenix10 site is owned by the council.

9. Staffing implications

- 9.1 The Council will need to commit staff resources to the process of appointing consultants and managing the commission. Council staff across a range of disciplines will have an important role in drafting the final LDO.
- 9.2 There will be a need to commit staff resources to the process of reviewing the Council's existing Local Development Documents.

10. Equality implications

- 10.1 An Equalities Impact Assessment has been undertaken for this report. The Council is seeking to achieve the highest possible level in the Equality Standard for Local Government. As part of this we are seeking to ensure that wherever

possible our activities ensure a positive impact is made on people / communities using the 6 equality themes / strands:

- Gender
- Ethnicity
- Age (i.e. young and old)
- Sexuality / sexual orientation
- Religion and or belief
- Disability

11. Consultation

11.1 Initial discussions have take place between the Council, Wolverhampton City Council, the Black Country Consortium (representing the LEP) and CLG regarding the form of simplified planning regime in the Black Country Enterprise Zone.

11.2 The draft LDO will be subject to a formal consultation period which will allow all interested parties to comment.

Background papers

None

Author

Joel Maybury
Principal Regeneration Officer
☎ 653221
✉ mayburyj@walsall.gov.uk



Tim Johnson
Executive Director

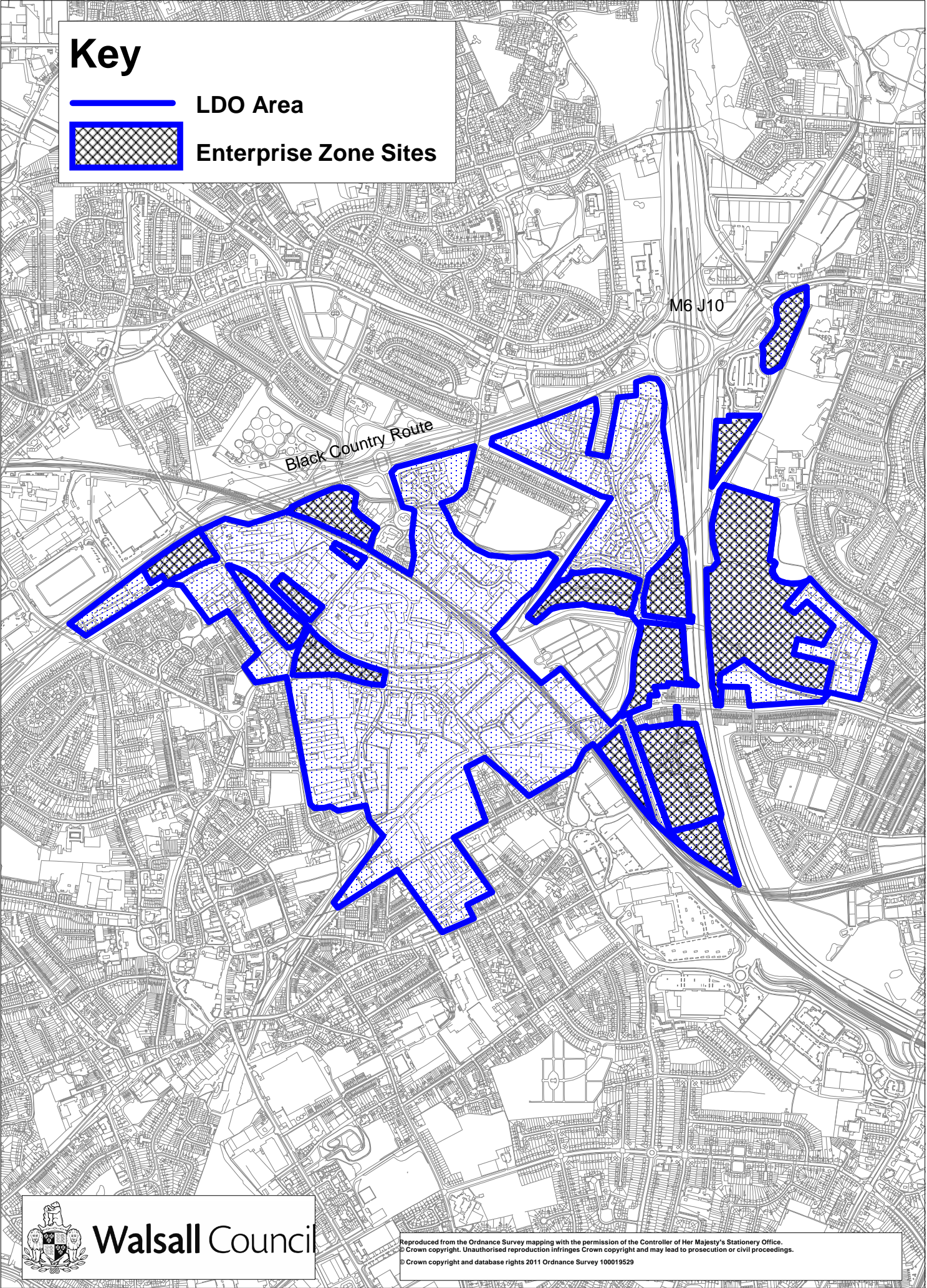
2 November 2011



Councillor Adrian Andrew
Portfolio holder

2 November 2011

Appendix A - Proposed Local Development Order boundary



Walsall Council

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Appendix B – Town & Country Planning (Use Classes) Order 1987 (as amended)

TCPA (Use Classes) Order 1987 (as amended)	Use / Description of Development
A1 Shops	Retail sale of goods to the public - shops, post offices, travel agencies and ticket agencies, hairdressers, funeral directors and undertakers, domestic hire shops, dry cleaners, sandwich bars (sandwiches or other cold food purchased and consumed off the premises), internet cafés.
A2 Financial & Professional Services	Financial services: banks, building societies and bureaux de change. Professional services: estate agents and employment agencies. Other services: betting shops
A3 Restaurants & Cafes	Restaurants and cafes for the sale of food for consumption on the premises.
A4 Drinking Establishments	Use as a public house, wine bar or other drinking establishment.
A5 Hot Food Take-away	Use for the sale of hot food for consumption off the premises.
B1 Business	(a) Offices other than in a use within Class A2 (b) Research and Development (c) Light industry
B2 General Industrial	General Industry (other than classified as Class B1).
B8 Storage & Distribution	Use for storage and distribution centre.
C1 Hotels	Hotels, boarding houses and guest houses.
C2 Residential Institutions	Hospitals, nursing homes, residential education and training centres.
C2a Secure Residential Institutions	Secure residential accommodation.
C3 Dwelling Houses	Use as a dwelling house.
C4 Houses in Multiple Occupation	Small shared dwelling houses occupied by between three and six unrelated individuals who share basic amenities.
D1 Non-Residential Institutions	Medical and health services - clinics and health centres, crèches, day nurseries, day centres and consulting rooms (not attached to the consultant's or doctor's house), museums, public libraries, art galleries, exhibition halls, non-residential education and training centres, places of worship, religious instruction and church halls.
D2 Assembly & Leisure	Cinemas, dance and concert halls, sports halls, swimming baths, skating rinks, gymnasiums, bingo halls, other indoor and outdoor sports and leisure uses.
Sui Generis	A use on its own which does not fall within any of the four use classes.