

REPORT TO: PLANNING & TRANSPORTATION COMMITTEE - 12 JUNE 2006

REPORT ON: CASINOS AND THE USE CLASSES ORDER - CONSULTATION PAPER FROM THE SCOTTISH EXECUTIVE

REPORT BY: DIRECTOR OF PLANNING & TRANSPORTATION

REPORT NO: 339-2005

1 PURPOSE OF REPORT

- 1.1 This report summarises the content of the consultation paper "Casinos and the Use Classes Order" issued by the Scottish Executive in April 2006 and inviting comments from the Council by the deadline of 24 July 2006. The report also makes recommendations relative to the options suggested by the Scottish Executive.

2 RECOMMENDATION

- 2.1 It is recommended that the Committee supports Option 2 for the reasons specified in the report and remits the Director of Planning & Transportation to convey this view to the Scottish Executive.

3 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications for the Council arising directly from this report.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 There are no Local Agenda 21 implications directly arising from this report.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 There are no equal opportunities implications directly arising from this report.

6 BACKGROUND

- 6.1 The Town and Country Planning (Use Classes) (Scotland) Order 1997 (the UCO) groups together certain uses of land or buildings into classes and changes within these classes do not require planning permission due to the similarity in their impact on local amenity, for example: traffic generation, noise and visual appearance.
- 6.2 Casinos are currently classified as a Class 11 (assembly and leisure use) under the UCO. This means another Class 11 use, such as a cinema or bingo hall, could convert to casino use without the need for planning permission. Given the proposed changes to casino licensing and the new types and sizes of casinos that will be allowed under the Gambling Act 2005, Scottish Ministers are considering whether such a classification remains the most appropriate.
- 6.3 This consultation seeks views on the classification of casinos within the UCO and particularly on Scottish Ministers' preferred option of removing casinos from the classes in the UCO, ie making casinos *sui generis* (of their own kind), with permitted development rights to revert to Class 11 use. This would mean changes of use to a casino would require planning permission, but changes from a casino to another Class 11 use would be granted permission by permitted development rights.

- 6.4 The consultation paper notes that this issue has already been consulted on in England in the context of the Gambling Act 2005. This Act allows three new types of casino to operate in the UK and imposes an initial limit of one regional casino, eight large casinos and 8 small casinos. The UK Government has appointed an independent Casino Advisory Panel to advise it on the casinos' locations. This Panel will complete its work by the end of 2006 and will consult widely including the Scottish Executive. On the basis of the Panel's evidence and Scottish Ministers views, the Department for Culture, Media and Sport will make proposals to the UK Parliament in 2007 on the areas for the new casinos.
- 6.5 It should be noted, however, that while the above process will determine the local areas within which casinos will be allowed, the actual location will still be subject to planning control.
- 6.6 Work by the former Office of the Deputy Prime Minister found that a case could be made for reviewing the classification of casinos within the equivalent English Use Classes Order based on its concern to prevent the development of a new breed of casino "through the back door", ie via conversions from other assembly and leisure uses without the need for planning permission.
- 6.7 The Scottish Executive considers that these concerns apply also in Scotland and that there is a case for change:
- To control proliferation (in the longer term);
 - To reflect the uniqueness of casinos as a planning land use following the Gambling Act;
 - To manage uncertainty;
 - To derive effective controls to mitigate against adverse planning impacts; and
 - To allow for the capture of development benefits for the wider community (by removing permitted development rights).
- 6.8 The Scottish Executive offers three options for consideration:
- Option 1:** No change - casinos should remain to be classified as a Class 11 assembly and leisure use within the UCO.
- Option 2:** All casinos are treated as *sui generis* with no permitted development rights.
- Option 3:** All casinos are treated as *sui generis* but permitted development rights retained to allow a casino to switch to any Class 11 use without the need for express planning permission.
- 6.9 Scottish Ministers believe that change of the classification of casinos within the UCO would create a degree of certainty and clarity for both the planning system and operators. No change is an option but it fails to address the concerns highlighted in the ODPM review.
- 6.10 Scottish Ministers' preferred option is Option 3. Option 3 would alter the UCO so that casinos would be *sui generis* but there would be a limited permitted development right - the one way right under the GDPO to convert to any Class 11 use. It is the Scottish Ministers' belief that this option would best meet concerns about the value of

an operator's asset base in the event that a new or enlarged casino did not succeed. It would also go some way to ensuring that town centres remain vibrant should the new casinos fail as the sites could be quickly turned to other leisure uses.

- 6.11 The three options have been reviewed and it is recommended that the Council agrees with Scottish Ministers that Option 1 is no longer viable given that the new casinos envisaged by the Gambling Act are likely to become unique types of development giving rise to a number of additional land use impacts by virtue of their scale. Much larger mixed use leisure destinations are a distinct possibility giving rise to developments which may potentially include uses such as restaurants, entertainment venues and hotels all as part of an individual proposal.
- 6.12 Whilst Scottish Ministers are of the view that Option 3 offers flexibility and a degree of commercial certainty as explained in paragraph 6.10 above, it is considered that to permit a change of use of a casino to another Class 11 use without the need for planning permission could give rise to planning impacts arising from these uses by virtue of their increased scale viz noise, car parking etc. It is therefore recommended that Scottish Ministers preferred option is not supported.
- 6.13 It is recommended alternatively that Option 2 is supported by the Council. By classing casinos as *sui generis* without qualification, the Council would retain maximum planning control over the land use planning implications of any proposed change of use whether within the leisure and assembly land use category or otherwise.

7 CONSULTATIONS

- 7.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance) and Assistant Chief Executive (Community Planning) have been consulted and are in agreement with the contents of this report.

8 BACKGROUND PAPERS

- 8.1 "Casinos and the Use Classes Order" - Consultation Paper, Scottish Executive April 2006.
- 8.2 The Town & Country Planning (Use Classes) (Scotland) Order 1997

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16 May 2006

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