

REPORT TO: SCRUTINY COMMITTEE

DATE: 20 OCTOBER 2015

TITLE: PAY DAY LOANS

LEAD OFFICER: GRAEME BLOOMER, HEAD OF PLACE
(01279) 446270

CONTRIBUTING OFFICER: DIANNE COOPER, PLANNING AND
BUILDING CONTROL MANAGER (01279)
446595

RECOMMENDED that the Committee:

- A** Recommends to Cabinet the construction of an appropriate development management policy aimed at controlling, in so far as planning powers will allow, pay day loan shops in Harlow.
- B** Receives a report in February 2016 on the appropriateness of controlling pay day loan shops and betting offices in neighbourhood centres through the Council's land ownership powers.

BACKGROUND

1. In July 2014, the Committee requested that research be undertaken into the scope and potential for planning powers to control pay day loan businesses through the development management process.
2. At the time of the request, pay day loan businesses sat within the same 'use class' as retail shops (Use Class A1) and therefore, for planning purposes, there was no difference between the uses. Accordingly, no planning permission was required for a change from one use to the other (i.e. retail to loan shop or vice versa). Since then, planning legislation has changed to the effect that pay day loan shops are removed from the use classes order, the net effect being that such uses now require planning permission.

ISSUES/PROPOSALS

3. Pay day loans shops and betting offices are no longer in retail use class A1 and are now not specifically categorised. Such non categorised uses are termed "sui generis". This means that planning permission is required for the change of use of a retail unit to a pay day loan shop or betting office. However if the premises is already a pay day loan or betting office then planning legislation does not enable that use to be rescinded or prevent any change of business provider.

4. Whilst planning permission is now required for changes to pay day loan uses as detailed above, the decision to refuse permission must be based on sound planning grounds and not on moral or ethical grounds.
5. Planning considerations are set out in the Local Plan, National Planning Policy Framework and other planning legislation. Currently, Local Plan Policy RTCS10 applies to the Town Centre which sets down the criteria by which changes from Use Class A1 (retail) to Use Classes A2 and A3 are assessed.

Policy RTCS10

Within the town centre primary shopping frontages changes of use from Class A1(shop) to classes A2 and A3 may be permitted subject to:

1. *Not more than 15% of the primary frontage may be occupied by non-retail uses;*
 2. *The maximum number of adjoining uses is A3 uses is 2 and no more than 2 units out of any 5 to be in non-retail uses;*
 3. *The proposals being for uses appropriate to the town centre;*
 4. *The prominence of proposals within the frontage or street scene should not affect their predominately retail function and character;*
 5. *The proposals not being detrimental to the vitality and viability of the town centre;*
 6. *There being no loss of key facilities that contribute to the range of offer in the town centre or that act as anchors or catalysts which assist in retaining existing or attracting new operators.*
6. If these criteria are applied to pay day loan shops and betting offices and planning permission is refused, then it is considered that there is a reasonable chance that it would be supported by an inspector at appeal, providing there is evidence that there is a predominance of such uses likely to affect the retail function, vitality and viability of the retail centre or results in loss of key facilities. If planning permission is refused with no policy justification, the Council would be likely to lose on appeal and could be subjected to costs.
 7. In order to provide further weight in dealing with applications for pay day loan shops, it is proposed that the future Local Plan includes policy with more explicit reference to pay day loan shops and betting offices. However, being able to include such policy is dependent upon evidence to show that the numbers of pay day loan and betting offices are having (or a likely to have) a sufficient negative impact on the retail viability on the town centre and neighbourhoods.
 8. Policy RTCS 10 relates only to the Town Centre. For the neighbourhood centres and hatches there is separate policy, RTCS15. This policy relates to percentage of frontage length or for smaller centres the number of units being

retained in Class A1 uses. Therefore when a planning application is submitted in neighbourhood centre or hatch it is judged on this basis. Where the retail use is above 40% of frontage length, planning permission cannot be refused for non-A1 uses. However, as most units in the neighbourhood centres and hatches are in Council ownership, betting offices and pay day loan shops can also be controlled through the Council's ownership. This is because there is no right of appeal which has the uncertainty of a planning inspector taking a different view to that of the Council and granting planning permission. It is proposed that the Committee received a further report on the options available to the Council to control pay day loan uses through its land ownership powers.

IMPLICATIONS

Place (includes Sustainability)

Contained within the report

Author: **Graeme Bloomer, Head of Place**

Finance (Includes ICT)

The Council manages a wide and diverse portfolio of assets which generate income to support its non housing activities. If decisions to make vacant properties within the portfolio more difficult to let there could be a longer term implication for the Councils income budgets when existing leases are due for renewal or new applications are received for properties it owns.

Author: **Simon Freeman, Head of Finance**

Housing

None specific

Author: **Andrew Murray, Head of Housing**

Community Wellbeing (includes Equalities and Social Inclusion)

None specific

Author: **Jane Greer, Head of Community Wellbeing**

Governance (includes HR)

The use classes changed on the 15 April 2015 that now require prospective business owners of betting and pay day loan shops to apply for planning permission. The Council can refuse if there is a clear policy ground to do so as stated in the report, to base any decision not on policy grounds will leave the Council open to challenge. Any policy adopted must not be seen to be unfairly weighted against such development so that it would appear the Council had pre-determined the planning permission prior to going through the proper process. Failure to adopt a fair policy would again leave the Council open to challenge.

Author: **Brian Keane, Head of Governance**

Background Papers

Adopted Replacement Harlow Local Plan July 2006

Glossary of terms/abbreviations used

RTCS – Regenerating the Town Centre and Shopping