



SUPPLEMENTARY PLANNING GUIDANCE

HOT FOOD TAKEAWAY SHOPS

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PLANNING GUIDELINES FOR HOT FOOD TAKEAWAY SHOPS

INTRODUCTION

Proposals to change the use of premises to hot food takeaway outlets tend very often to give rise to high levels of public concern, particularly where the premises are close to residential property.

Most concern relates to smell, noise, general disturbance - either frequent comings or goings or the attraction of rowdy groups of people - litter, parked vehicles and traffic problems.

However, local opposition to a proposal, whatever its strength, is not in itself a ground for refusing an application unless it is founded upon valid planning grounds.

Balanced against public concerns are the need to acknowledge the requirements of other members of the public living in the wider area who look to such premises as a convenience for fast food.

It is not the purpose of the planning system to dictate against such preferences as a matter of taste nor to hinder competition between premises but more to balance the understood demands against environmental considerations.

Supplementary Planning Guidance

These guidelines are supplementary planning guidance for the benefit of applicants to advise on those matters most likely to be of concern to the Council, and the detailed design criteria which will be taken into account in determining applications.

There are no specific policies in the development plan (current or emerging) which are directly relevant to this category of development although considerations in respect of primary shopping areas will be of importance. As supplementary planning guidelines these carry only limited weight and must not be relied upon as policy or be the determining issues in deciding individual applications.

Nevertheless the Council would expect applicants to show that they have addressed the matters set out in these guidelines when submitting their proposals. Each application will need to be considered on its individual merits having regard to material considerations, site specific issues and any responses to publicity.

Legislative Background

Hot food takeaway shops fall within Class A3 of the Town and Country Planning (Use Classes Order), which is defined as 'the sale of food or drink for consumption on the premises or of hot-food off the premises'. This class also includes restaurants, wine bars, cafes and indeed public houses; the type or character of food or drinks sold cannot be controlled in any way.

The legislation permits the change from one such sub-category within class A3 to another and vice-versa without the further need for planning permission, unless an appropriate condition is imposed upon the original grant of planning permission. Such a condition can only be imposed if there is a sound and relevant planning reason. For example, in a traffic context, a takeaway food shop may not be appropriate on a busy main road where it would generate a lot of calling traffic, whereas a restaurant which possesses separate on-site parking facilities might be acceptable. However, notwithstanding that the Use Classes Order fails to distinguish between the sub-categories, there have been many instances where, on appeal, inspectors are prepared to distinguish between them particularly in respect of the need for car parking and the duration of stay of customers.

As a consequence, these guidelines, whilst directed towards hot food takeaways do have some implications in respect of other categories within class A3, particularly restaurants.

It should also be borne in mind that unless it is prohibited by specific condition, the change of use from Class A3 to Class A2 (financial and professional services) is also permitted without the need for formal consent.

Government Planning Policy

There is now no specific Government policy guidance available for this type of use. The previous source of advice was contained in Development Control Policy Note 11 "Service Uses in Shopping Areas" which was cancelled by PPG6 "Town Centres and Retail Developments" in July 1993. That particular PPG deals with the issue of primary and secondary shopping areas and advises that in the latter case there should be a greater diversity of uses permitted outside the normal retail use - Class A1.

PLANNING ISSUES AND CONSIDERATIONS

1. Location

In principle, properties for consideration for hot food takeaway premises will normally be within shopping parades. However, where those shopping parades are

- a) within a primary shopping centre as defined in the Unitary Development Plan; or,
- b) in an area which is dominated by its residential character; or,
- c) within or adjacent to a Conservation Area,

it is unlikely that the Council would favourably consider planning applications for these changes of use.

In the case of a shopping parade within a residential area the parade concerned should not be one where at critical times for the operation of the business there is little significant commercial activity and the area would normally be quiet and residential in character.

2. Noise and Disturbance

These concerns and complaints generally arise from the activity of customers and their vehicles, the general comings and goings, the congregation of persons outside the premises, car engines starting and revving up, car doors opening and slamming and cars parking in residential streets near to the premises.

Whilst there can be no definite arbitrary distance drawn between the premises and the nearest houses or indeed the flats above, those considerations will be of importance in considering whether or not the premises are suitable for the use. Additionally, consideration will have to be given as to the presence within the immediate vicinity of other 'late-opening' premises such as public houses or off licences or indeed other hot food takeaways. The Council will want to know specifically what hours are proposed by the applicants for the opening of their shop.

Where the use is likely to generate additional noise and disturbance beyond that which may already exist, this may be sufficient to justify refusal of the application. Considerations will depend very much on the general character of the surrounding area.

3. **Smell**

Whilst it may be considered that smell can normally be controlled under public health legislation and that ventilation and filtration equipment can be installed to prevent unacceptable living conditions, that is not always the position. Many examples exist where such equipment has been fitted but the general aura of smell on the area is quite noticeable and can be a serious concern to local residents.

The position and design of such equipment in terms of extraction systems are critical in terms of their proximity to nearby residential units as well as visual amenities.

Whilst the issue of smell alone may not be a ground for refusing an application it may be included with other grounds if there is overwhelming evidence that smell cannot be controlled adequately or that the residential properties are so close that inevitably they will be subjected to a smell nuisance.

Normally, the Council will require that the basic details in terms of siting and design of ventilation extraction equipment is submitted with the application so its impact can be assessed both in terms of smell eradication and visual intrusion.

4. Visual Impact

The installation of shop fronts and signage in association with hot food takeaways is quite normal and such proposals would normally be dealt with as separate applications for planning permission or advertisement consent. These issues are ones which would not normally influence the decision on an application for a change of use of premises. Clearly, as mentioned above the position and detailed appearance of any ventilation and extraction equipment must be carefully considered. Once the change of use has been established it is usually inevitable that such equipment is going to be installed in some part of the building but its general location needs to be identified at an early stage to be able to judge what impact it might have.

The Council will wish to judge the proposals in terms of the visual appearance of the premises particularly if situated in an attractive group of buildings, or where the character of the area as a whole is particularly sensitive.

5. Litter

Litter commonly arises from the way a minority of customers tend to deal with the packaging of their takeaway food. Whilst this is normally a matter dealt with under separate legislation, litter can have an observable effect on the character of a neighbourhood. Potential problems associated with litter are most unlikely in themselves to be a sufficient reason to refuse planning permission although with matters such as noise, disturbance, visual impact and traffic, it can add weight to other reasons for refusal.

If an applicant proposes to provide litter containers as part of his proposal that will be clearly advantageous as would an agreement to carry out a litter patrol within a wide area around the premises.

It must be recognised however that no such measures or any legislation can guarantee the behaviour of a particular individual or group of individuals.

6. Highways and Traffic Issues

Car parking for customers and staff should normally be readily available without causing undue congestion or harm to traffic safety, or nuisance and inconvenience to nearby residents by encouraging on-street parking in residential streets.

Whether or not an area is already congested with parking, especially in the evenings, is of particular significance in this context. If a proposed takeaway food shop is located on a busy main road, a change of use may be unacceptable, particularly if parking restrictions are enforced. This is because customers invariably tend to try and park as close as practically possible to the premises which may cause a hazard to traffic safety and inconvenience to other road users. In such locations a takeaway hot food shop is unlikely to be acceptable, although a restaurant may be acceptable if there are adequate separate or on-site car parking facilities readily available at times when the restaurant is going to be in use. It is this sort of situation when the imposition of a suitable condition restricting the use of the premises to either a hot food takeaway or a restaurant may overcome a particular planning concern.

7. Viability and Vitality of Shopping Parades

Ideally, the most suitable location for hot food takeaway shops is in an area which is remote from residential properties and within an existing shopping or employment area, and within town or local centres.

However in existing shopping centres or parades the issue of the dilution of the retail character is an important consideration. Accordingly where relevant any such proposal must also be considered against policies of the UDP which seeks to ensure that retailing remains the predominant activity in primary shopping areas in Shirley, Solihull and Chelmsley Wood.

8. Cumulative Effects

The existence of other hot food takeaways in the immediate vicinity or within an existing parade may create a busy environment within which one more such use may fit without much harm. However, on the other hand, there may be cases where the cumulative effect of several of these uses together is so great proportionately within the shopping parade that the limit of what is acceptable and its consequences may have already been reached. This might arise for any or all of the combination of the problems discussed above, for example noise and disturbance, parking, congestion, highway safety, shopping centre vitality, smell, litter or visual effects.

9. Competition

Many of the representations received in objecting to hot food takeaway applications argue that an area is already adequately supplied with this type of premises. However, these concerns of the demand or lack of demand for hot-food takeaways are not normally planning considerations and should not influence the determination of a planning application.

Planning Conditions

If planning permission is granted for a hot food takeaway the Council may attach conditions if the circumstances justify them. Conditions normally imposed include the following matters:-

Opening Hours

Extract Ventilation

Car Parking Provision

Restrictions as to changes within Class A3 or from Class A3 to A2 may also be considered.