

Bolton Metropolitan Borough Council

Environment Department

Planning Control Policy Notes



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**9 Location of Restaurants, Cafés, Public
Houses, Bars and Hot Food Takeaways
in Urban Areas**

January 2005

Bolton Metropolitan Borough Council

Environment Department

Planning Control Policy Notes

In December 1995 Bolton Council adopted its Unitary Development Plan (UDP) as the sole statutory land use plan for the whole Borough. This plan has since been reviewed. The latest plan is the Second Deposit Version Unitary Development Plan (SDVUDP) which was published in January 2001 and subject to Public Inquiry between November 2001 and December 2002. Proposed Modifications were published in September 2004 and on adoption in Spring 2005 the SDVUDP will replace the 1995 UDP as the statutory plan for the Borough.

The Council has a number of Planning Control Policy Notes, of which this is one, providing detailed policy advice to supplement UDP and SDVUDP policies and help those who wish to understand the Council's detailed planning requirements and advice. These notes will have been subject to public consultation before being finalised.

The interpretation of this advice will relate to the circumstances and particulars of a planning application which will be determined on its own merits.

In the context of changing local, regional and national planning policies it may be necessary for the Council to revise its Planning Control Policy Notes to take these changes into account.

Prospective applicants requiring clarification of the Note's contents should contact the Council's Planning Control Section.

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Location of Restaurants, Cafés, Public Houses, Bars and Hot Food Takeaways (Class A3 of the Town and Country Planning Use Classes Order 1987) in Urban Areas

Introduction

1. This policy note deals with the planning issues that arise from the use of premises for the sale of food and drink for consumption on the premises, or for the sale of hot food for consumption off the premises. These uses include restaurants, cafes, public houses, bars and hot food takeaways.
2. The development of such facilities generally requires planning permission, particularly where there is the creation of new buildings or the change of use of existing premises. This note gives details of the issues and factors that are important in the consideration of such planning applications.
6. Applicants are also advised to refer to SDVUDP Policies TC3 and TC4 dealing with Bolton Town Centre.
7. Detailed advice contained within this Note is outlined in bold type.

Policy

3. UDP Policy S7/3 states:

S7/3 The Council will normally permit proposals for hot food takeaway shops and restaurants, except where they adversely affect the amenity of nearby residents or businesses, by reason of noise, smells, litter, opening hours or traffic attraction.

4. SDVUDP Policy S7 (as amended) states:

S7 The Council will permit development proposals for hot food takeaways and restaurants that do not adversely affect the living conditions of nearby residents or the operation of neighbouring uses. Proposals will be assessed against the following considerations:

- (i) highway safety, including parking;
- (ii) noise and disturbance; and
- (iii) cooking odours.

Matters to be Considered by Applicants

8. There are three factors which are particularly significant in the determination of planning applications:

(a) Residential amenity

The Council considers that there is the potential for impacts to the amenity (living conditions) of nearby residential properties from A3 uses. These impacts can be in the form of noise and general disturbance, cooking odours and the creation of litter. All of these impacts can be compounded by the fact that many such uses operate outside of normal retail hours;

(b) Highway considerations

The Council considers that a lack of parking for a particular use can have damaging impacts to both highway safety and also to existing parking arrangements. The Council will ensure that consideration is paid to whether or not a use will rely on passing trade from vehicles and whether or not premises are to be located on heavily congested roads;

(c) The scale of activity

The Council considers that a concentration or proliferation of the same use within a particular area or locality can have damaging impacts on the visual appearance and character of a particular area. This essentially results in a multiplication of these impacts to the obvious detriment of residential occupiers and also to the occupiers of nearby existing businesses.

9. In addition to the above factors, it is also important to note the location of the proposed development or use to be changed, as there may be other factors to take into account. Examples of this include a location within the Green Belt or a designated Conservation Area or the change of use of part of a Listed Building. Applicants are therefore advised to review the Council's Unitary Development Plan prior to submitting an application. For more information, applicants should contact the Planning Control Section of the Environment Department on (01204) 336000.

Residential Amenity.

10. Applications for restaurants, cafes, public houses, bars and hot food takeaways will normally be approved within the Borough's designated shopping centres provided that they do not result in detriment to the living conditions of residential occupiers.
11. Shopping centres are considered to be appropriate locations for these types of uses, since they contain only a limited amount of residential accommodation. However, in some of the local town centres, there are residential properties immediately adjoining the shopping areas.
12. **Within groups of shops applications for restaurants, cafes, public houses, bars and hot food takeaways will normally be approved, subject to the following restrictions:**
- (a) These uses will not be acceptable where there is a residential property adjacent* to the site concerned; and**
- (b) Where there is residential accommodation within 50 metres of any part of the application site, applications will be subject to a condition limiting their opening hours to between 9.00 a.m. and 11.30 p.m. Sunday to Thursday and between 9.00 a.m. and 12.00 midnight Friday to Saturday.**
13. The Council recognises that these uses serve a local demand and so need to operate in locations that are within an accessible distance of residential properties. However, by applying the above restrictions; the noise, disturbance, odours and parking conflicts that may be produced

* The Council defines 'adjacent' to mean both that which is next to or adjoining and also that which has an obvious close relationship to. This therefore includes residential uses that are immediately above the premises, next door to the premises, or above premises next door. The definition also includes residential properties that are separated from the site in question, but considered to relate closely to it. This definition is not intended to preclude the change of use of high street shops where there are residential properties behind. This situation would instead be governed by the scale of activity guidance.

will not adversely affect the living conditions of the occupiers of residential properties.

14. In predominately residential areas applications for restaurants, cafes, bars, public houses and hot food takeaways will not normally be permitted.

15. Occupiers of properties in residential areas can reasonably expect not to be subject to the noise, disturbance and odours that these uses create, especially at times outside of normal retail hours.

16. The Council recognises that certain A3 uses may generate levels of litter that are over and above those in existence prior to an application being approved. The Council will consider litter levels when making a planning determination. However, it is recognised that litter is a widespread issue of national interest and therefore will not seek to blame A3 uses for all local litter problems. As a minimum, the Council will ensure that a litter bin is placed in the vicinity of the site and the applicant will be informed of any central government guidance on this issue.

Highway Considerations.

17. **Planning applications for restaurants, cafes, hot food takeaways, bars and public houses will be expected to provide car parking facilities within the curtilage of the site to the standards set out in the Council's Planning Control Policy Note on Car Parking Standards (No.1).**

18. This requirement may be relaxed where the site is within a town centre, the site is in close proximity to a public car park or is sited on a public transport corridor. This is because town centres are more accessible by public transport, much of the trade done by these businesses takes place outside normal office hours (when car parks will be less busy), and good public transport services can be an attractive alternative to the use of the private car.

19. Entertainment facilities differ in their abilities to attract car-borne customers. The standards applied therefore, are based on the provision of a car parking space for a given number of patrons occupying a given floorspace area (plus a requirement for the turning, loading and unloading of service/delivery vehicles) depending on the nature of the use.

20. These standards are necessarily based on average needs. Some entertainment uses may attract a much higher number of cars and as such they will be considered on their merits.

21. This policy is necessary in order that customers' cars may be left clear of the public highway in order to maintain the free flow of vehicles, reduce the danger to other highway users, and minimise the intrusion of parked cars.

22. **Applications for hot food takeaways will not normally be required to provide parking within the site, except:**

(a) where parking restrictions exist in the vicinity of the application site applications will be refused if they will lead to the parking of vehicles on adjacent residential roads to the detriment of the occupiers of these properties; and

(b) where the site is near to a busy junction, a traffic light controlled junction or a place of limited visibility applications will normally be refused (unless designated car parking for the premises is provided).

23. The Council acknowledges that the majority of hot food takeaway customers visit the premises by car, and only stay for a few minutes. Subject to highway restrictions therefore, it may be appropriate to allow short-stay parking upon the public highway.

24. **Where an application site lies upon a classified road special attention will need to be paid to the impact of additional traffic that may be created by new restaurants, cafes, public**

houses, bars and hot food takeaway proposals. Where it is considered that a proposal will lead to the intensification of parking on a classified road to the detriment of highway safety such an application will be refused.

25. Approved Council policy seeks to avoid the worsening of parking and associated highway problems upon the heavily congested routes within the Borough.

Scale of Activity

26. Where local residential and business occupiers are facing disturbance due to the number of similar types of use within a particular area or locality, a planning application for an additional restaurant, cafe, public house, bar or hot food takeaway may be refused when it is considered that an additional facility would increase the level of noise and disturbance to an unacceptable level, and so would adversely affect the character and visual appearance of the area.

27. The Council does not, however, consider that the proliferation of a particular use has an impact on other similar uses as these themselves contribute to the overall impact. For example, a large number of hot food takeaways in a particular shopping street might be considered to have an impact on the operating conditions of nearby retail shops. However, it would not be considered that there would be any such impact to existing cafes, takeaways and restaurants.

28. The Council does not consider there to be sufficient evidence or support to allow it to produce a blanket definition of what is and what isn't a proliferation of uses. However, there may be cases when the impact of an additional facility would worsen the local situation to such a degree that any increase in this type of activity would be unacceptable.

29. In these cases, the Council will carefully assess the current and proposed situation, taking account of the likely impacts to visual appearance and character as well as

the wider interests of the area, its profile and any record of problems.

30. The Council considers that with the exception of Bolton Town Centre:-

An unacceptable proliferation of A3 uses shall be considered to occur where, as a result of a new proposal, there would be more than four existing or approved A3 uses within a 25 metre radius of the application site.

31. Situations in excess of this could cause a division in the street to the detriment of the vitality of the shopping centre and may result in less usage of that centre.

32. The Council will not take the issue of competition between facilities into account when assessing applications for restaurants, cafes, public houses, bars and hot food takeaways.

Bolton Town Centre

33. Bolton town centre is a hub of activity in which large numbers of commercial enterprises are located and few residential properties are found. Of particular note to applicants proposing A3 uses in town centre locations Unitary Development Plan Policies TC3 and TC4.

34. **TC3 The Council will permit proposals to introduce a greater mix of restaurants, bars, leisure facilities, entertainment venues, public art and festivals within the Evening Economy area, defined for such purposes on the Town Centre Inset Map.**

35. **TC4 The Council will reserve the defined Core Shopping Area within Bolton Town Centre at pedestrian access level, as shown on the Town Centre Inset Map, primarily for shopping uses under Class A1 of the Town and Country Planning (Use Classes Order) 1987. The Council will permit the change of use from retailing to non-shop uses at pedestrian access level on defined primary shopping frontages within the Core Shopping Area and at upper floor**

levels only where the resulting non-retailing uses would not exceed 25% of that frontage. Where this figure would be exceeded, the Council will not permit the change of use unless it is satisfied that the proposal would not adversely affect the vitality and viability of Bolton Town Centre.

36. Residential Amenity

It is unlikely that there will be impacts to the living conditions of residential occupiers in the town centre since residential properties are not normally found in such locations. However, in view of the current attraction of town centre living and the policy support for this, there may be situations where there are conflicts between town centre A3 uses and residential properties. In these cases, the advice contained in paragraphs 10 to 16 of this note will still apply, though the Council will take into account the fact that town centres are acceptable locations for A3 uses.

37. Highway Considerations

It is recognised that within Bolton town centre the majority of restaurant, café, public house, bar and hot food takeaway customers are likely to be pedestrians. This combined with the fact that there is likely to be an abundance of car parking during operational hours, and because Bolton town centre is a public transport hub means that there is likely to be less importance attached to highway issues in Bolton town centre than in other local centres. However, the Council will still seek to ensure that the free flow of vehicles is maintained and that there is no danger to highway safety from new A3 uses.

38. Scale of Activity

The Council does not consider that it is possible for there to be an over-concentration or proliferation of similar uses in Bolton town centre. Therefore, proliferations of similar uses are considered acceptable in helping to maintain the vitality and viability of the town centre. However, it should be noted that policy TC4 (see paragraph 35) applies a restriction to non-retail uses in Bolton's town centre.

39. The Council will consult the Police on new pub or bar applications and they will be afforded the opportunity to comment under the terms of crime and disorder legislation.

Alfresco Eating/Café Culture

40. Applicants are advised that proposals to provide an outdoor seating area for a café, restaurant or other such establishment where the seating area is to be located on public highway (such as pavement or a pedestrianised surface) will be assessed principally on the impact to highway safety. It is essential that there is adequate space available for pedestrian movement and that this is free of obstructions. In addition to highway safety, the Council will assess such proposals against the requirements of the disabled and also the impact to the character and visual appearance of an area.

41. Such applications will also require a Highways Licence on which information can be sought from the Highway Planning and Regulation Section on (01204) 336624.

Standard Conditions

42. The following are examples of conditions that could be imposed on successful applications for pubs, restaurants, cafes, bars and hot food takeaways.

43. Time Restriction Conditions

Condition A is relevant where there is residential property within 50 metres of any part of the application site. The 'operational hours' condition is relevant to all applications and the 'delivery hours' condition is for use in situations where late night/early morning deliveries might be detrimental to the living conditions of residential occupiers.

Condition A

The premises shall not be open to the public except between the hours of 09:00 and 23:30 Sunday to Thursday and between 09:00 and Midnight Friday and Saturday.

Condition B

No operations shall be carried out at the premises except between the hours of (a) [time] and (b) [time] Monday to Friday and between the hours of (c) [time] and (d) [time] on Saturday. No activities shall take place on the premises on Sundays and Bank Holidays.

Condition C

No deliveries shall be taken at or dispatched from the premises except between the hours of (a) [time] and (b) [time] Mondays to Fridays, (c) [time] and (d) [time] Saturdays and no deliveries Sundays or Bank Holidays.

44. Refuse/Litter Conditions

Relevant to all applications where excessive litter and waste is created. However it may not always be practical to have a bin installed outside a property:

Condition D

Before the development hereby permitted is first brought into use a litter bin of a design and in a position to be agreed in writing by the Local Planning Authority shall be provided in a convenient position outside the premises. Such a litter bin shall be maintained thereafter in a tidy and usable condition.

Condition E

The development hereby approved/permitted shall not be brought into use unless and until details of facilities for the storage of refuse and waste materials have been submitted to and approved by the Local Planning Authority and completed entirely in accordance with the approved scheme. The approved facility shall be retained thereafter.

45. Odour Protection Condition

Relevant where cooking odours and smells are likely to be created and where these can impact upon residential properties. Applicants should consult both Appendix 1

of this note and the equipment suppliers themselves for information on appropriate filtration schemes. The Council would prefer this information to be submitted together with the application as this aids the assessment of the proposal's impacts.

Condition F

Before any commencement of the use hereby permitted, a scheme showing details of the means of extraction and filtration of cooking odours and methods to be employed to prevent noise disturbance shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in full before the use permitted is first commenced and retained thereafter at all times.

46. Activity Restriction Conditions

Designed to restrict the services offered by one form of A3 use as these services might not be appropriate in the proposed location. The example given is for a café use and relates to a location where a hot food takeaway or public house/bar would be unacceptable.

Condition G

The premises shall not be used at any time for the sale of alcohol, nor as a shop for the sale of hot food takeaways.

47. Use Restriction Conditions

Designed to restrict the use to that originally applied for. This condition is most useful in situations where a site does not provide parking within its curtilage and therefore would present traffic/parking problems if the use were changed to one that attracts large numbers of car borne customers. This condition might also be imposed where for example a restaurant was proposed in an area characterised by a proliferation of takeaways or public houses.

Condition H

The site and premises to which this approval relates shall be used as a hot food takeaway only and not for any other use, including those within Class

**A3 of the Town and Country Planning
(Use Classes) Order 1987.**

**48. Conditions regarding the use of a flat
above the property**

This condition will be imposed where there is residential accommodation such as a flat(s) above (or in some other way connected to) the property. This ensures that the residential accommodation is not occupied separately and therefore the impacts of the use (odour/noise/disturbance) will not affect the living conditions of someone unconnected to the use.

Condition I

The flat/s above [address] shall be occupied by either the owner of the business and his family or by members of staff working in the restaurant/takeaway. This flat/s shall not be occupied as separate residential accommodation at any time.

49. In addition, applications proposing an outdoor seating area (see paragraph 40 above) may be approved subject to conditions regarding control of lighting, method of boundary treatment, prohibition of amplified music or tannoy systems and specific time restrictions on the use of the outdoor area.

Appendix 1 - Pollution Control Unit Guidelines on Odour Abatement

These guidelines provide general information on the installation of odour abatement. Advice should be sought from the installer as to the specification appropriate for the type of cooking to ensure noise nuisance is not caused to surrounding properties.

1. Noise

Noise generated by odour extraction systems comprises of 3 basic components:

- a) noise from the fan itself
- b) noise from air movement along the ducting
- c) noise from the air leaving the top of the duct

If it appears that the use of the system is likely to cause noise problems the applicant shall be advised to ensure that the fan, ducting and flue are sited so as to minimise vibration and noise transmission to adjacent premises. This may require the use of anti-vibration mountings, flexible couplings and silencers.

2. Duct Design

The following measures shall be employed to encourage dispersion and dilution of odours:

- a) the flue shall terminate at least 1 metre above the eaves height of the building to which it is attached.
- b) the efflux velocity at which air is discharged from the ducting shall be at least 8m/s
- c) the final discharge shall be vertically upwards
- d) the discharge shall not be impeded by flue terminals. However fixtures such as vertical accelerator cones, swept cowls, and chimney pot flue ventilators may be acceptable, china mans hats are not acceptable
- e) the number of bends in the ducting shall be minimised
- f) the ducting shall have a smooth internal surface
- g) circular duct cross sections shall be used whenever possible
- h) the ducting shall be well insulated to minimise heat loss and maximise thermal buoyancy of the discharge

3. Odour Control

The table overleaf provides guidance as to the types of odour control required in different types and styles of food preparation.

Please note that where the end user is unknown, the highest specification of odour control equipment is required (i.e. sufficient for the cooking involved in fish and chips shops, fried chicken type outlets, fast food and burger chains, premises with a high turnover of deep fried foods).

The extraction system should be maintained, as a minimum, to the requirements detailed in the manufacturer's instructions.

Table 1: Odour Control Guidelines for different types and styles of food preparation

Food Category	Grease Filter	Pre Filter (a)	Electrostatic precipitator	Charcoal Filter	Odour Neutraliser	Wet Scrubber	High Dilution / High Velocity
Low/moderate grease and odour content e.g. Tea shops, pizza restaurants, kebab houses	✓✓	✓✓	✓	✓	✓	✗	✓
Moderate odour / high grease content e.g. Chinese, Cantonese, Japanese (b)	✓✓		✓✓	✓✓	✓	✗	✓✓
High odour / high grease content e.g. Indian, Thai, Vietnamese	✓✓	✓✓	✓✓	✓✓	✓	✗	✗
Very high odour / grease content e.g. Fish and chips, fried chicken type outlets, fast food and burger chains, premises with a high turnover of deep fried foods	✓✓	✓✓	✓✓	✓✓	✓	✓	✗

✓✓ Recommended for use

✓ Use Possible

✗ Not recommended

a) Depending on the application electrostatic precipitation may be more appropriate

b) The recommendation is either high dilution / high velocity OR electrostatic precipitation and charcoal filter.