

# Hot Food Establishments

Supplementary Planning Guidance

August 2004



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## Supplementary Planning Guidance

June 2004

### About this guidance

Government guidance in Planning Policy Guidance Notes 1 and 12 advises that Supplementary Planning Guidance can be taken into account as a material consideration which can be given substantial weight in determining planning applications.

### Introduction

Hot food establishments comprise restaurants, cafes and hot food takeaways. They are controlled by a range of different regulations and a number of statutory requirements must be satisfied before trading can begin. This guidance has been prepared to deal principally with the land use issues.

The Annex gives advice to applicants and agents on how to make a planning application.

### Objectives

The council recognise that hot food establishments are an important component of the economy of town centres. And that they can contribute to the vitality and viability of centres, both in the daytime and during the evening. Hot food establishments are also able to satisfy the considerable demand made by the community for their services. The council's objectives in exercising planning control over hot food establishments are to balance these benefits against the need to:

- 1 Ensure that the shopping centres in the borough retain their primary purpose of providing a range of shopping and other functions and are not dominated by hot food establishments, unless they are already serving a specialist function.
- 2 Protect the amenity of residents living near to hot food establishments from excessive odour, noise, vibration, disturbance and traffic, particularly late in the evening, by restricting the introduction of hot food establishments into residential areas, and controlling them where residents properties are nearby.
- 3 Deal with anti-social issues associated with these establishments by collecting financial contributions to fund appropriate prevention measures.
- 4 Ensure that hot food establishments do not harm highway safety.

### Planning Policy

This planning guidance is supplementary to policies **S1, S1A, S1B, S1D, S1E, G1A** and **G1B** in the emerging Replacement Wigan Unitary Development Plan, as summarised below:

**Policy S1** identifies 34 town and local centres as the principal locations in the borough for shopping, offices, entertainment, leisure, cultural and community facilities. The 34 centres are:

Main town centres (2): Wigan, Leigh

Town centres (7):	Ashton-in-Makerfield, Atherton, Golborne, Hindley, Pemberton, Standish, Tyldesley
Local centres (25):	Aspull, Astley (Blackmoor), Beech Hill, Borsdane, Bryn, Hawkley, Higher Folds, Higher Ince, Lower Ince, Lowton, Marsh Green, Newtown, Norley Hall, Orrell, Orrell Post, Platt Bridge, Scholes, Shevington, Springfield (Park Road), Swinley (Mesnes Road), Swinley (Wigan Lane), Tyldesley (Sale Lane), Winstanley, Worsley Hall, Worsley Mesnes.

**Policy S1A** applies to the central areas of the 9 town centres that are designated as Principal Shopping Areas. Food and drink outlets will be permitted in these areas provided that there will be no adverse impact on the vitality and viability of the Principal Shopping Area and, where appropriate, a shop front will be incorporated or maintained.

**Policy S1B** applies to the 9 town centres outside of the Principal Shopping Areas. Food and drink outlets will normally be appropriate subject to considerations of size, function and character, road safety and amenity.

**Policy S1D** applies to the 25 local centres. Food and drink outlets will normally be appropriate subject to considerations of size, function and character, road safety and amenity. A hot food establishment will not be permitted if it would result in an over-concentration of such uses to the detriment of amenity or the shopping function of the centre.

**Policy S1E** applies to locations outside of the 34 centres identified, including smaller groups of shops and single shops. Hot food establishments of less than 150 square metres will be permitted subject to considerations of access and road safety and amenity. Such a use would not be appropriate if it would result in an over-concentration of such uses to the detriment of amenity or the shopping function of the area.

**Policy G1A** is an overarching policy concerned with the impact of development on amenity. Development should not be detrimental to the amenity of nearby land uses by virtue of excessive noise, smell, fumes, light spillage, traffic or on on-street parking problems, visual intrusion or other nuisance.

**Policy G1B** covers planning obligations and other commitments to secure improvements related to a planning application, including measures to improve the provision of facilities for waste management and other public facilities and services appropriate to the scale, nature and location of the development.

### **Determining planning applications**

When determining planning applications for hot food establishments and extensions to them, the council will consider:

- 1 Noise and disturbance including:
  - the extent of the amenity problem
  - developer contributions

- 2 Concentration of hot food establishments.
- 3 Parking, servicing and highway safety.
- 4 Smells and discharge of fumes.
- 5 Storage of waste products.
- 6 Extensions, alterations and signs.
- 7 Sandwich shops.
- 8 Issues not taken into consideration when determining planning applications.

Annex – How to make a planning application for a hot food establishment.

The weight given to each will depend upon the particular circumstances of the case and the outcome will be based upon an assessment of the overall effect of these factors.

## **1 Noise and disturbance**

Protection of the living conditions of nearby residents will be a significant issue when considering applications for hot food establishments. Planning Policy Guidance Note 24: Planning and Noise recognises that hot food takeaways can cause particular difficulties because activities are often at their peak in the evening and late at night when background noise levels are low. The guidance warns that the disturbance that can be caused by traffic and associated car parking should not be underestimated. It also advises local planning authorities to bear in mind the possible problems of noise made by customers in the vicinity.

Planning permission for hot food establishments is therefore unlikely to be granted where premises are:

- outside defined shopping centres or concentrations of shops; or
- where the living conditions of residents would be significantly affected.

Applications for restaurants, cafes and hot food takeaways will normally be subject to a condition limiting their opening hours to 9.00 am to 11.00 pm Sunday to Thursday and 9.00 am to 12.00 midnight Friday and Saturday. Applicants wishing to open beyond these hours will be required to demonstrate that their proposals would not be detrimental to the amenity of any nearby residents.

### **Shops with flats above**

Some areas have mostly commercial uses at ground floor level with residential accommodation above. Hot food establishments may be acceptable in such areas where there is residential accommodation over the property or above neighbouring shops, provided residents would not be unduly affected or disturbed.

However, outside centres or commercial areas, planning permission is likely to be refused where premises share a party wall with an adjoining house or a property in as flats.

### **The extent of the amenity problem**

As advised in PPG24 Planning and Noise we will look at the impact on amenity of

nearby residents caused by parking near to homes. This will include the number of hot food establishments in the area and the impact they are already having on residential amenity. When determining planning applications, the council will consider the general character of the area and likely impact of proposals throughout the day and night-time periods. This will include the levels of commercial and vehicular activity.

The council regularly receives complaints from local residents about nuisances caused by hot food establishments. These relate to late night noise and disturbance, smell and litter. Many complaints refer to businesses that have planning conditions in place designed to minimise such nuisance. This would suggest that these businesses are either not complying with these conditions, or they are now operating at levels much greater than originally anticipated. An added problem could be caused by the impact of similar uses close by. In recent years there has been an increase in the number of hot food establishments, many of which are close to residents' homes.

### **Developer contributions**

The council is aware that the nuisances caused by hot food establishments are damaging to both the areas where they are concentrated and the council's aims to regenerate the borough. Therefore, these problems need special consideration.

Given the difficulty of making sure planning conditions are followed and the added impact problems, a new approach is needed to help to protect residential amenity.

The council will look for a financial contribution from developers of all new proposals and from existing businesses that are seeking to expand.

**Policy G1B** of the Draft Replacement UDP allows the council to seek financial contributions through a planning obligation under Section 106 of the Town and Country Planning Act 1990 to secure improvements to proposed developments. This would include the provision of public facilities and services appropriate to the scale, nature and location of the development and the provision of facilities for waste management.

These could include:

- improved street cleaning regimes
- the extended use of CCTV
- contributions to provide:
  - greater local policing on the streets
  - a better response to the associated nuisances
- the enforcement of appropriate regulations and laws

This approach will be funded by hot food establishments and the financial contribution from each planning permission will depend on:

- The size (gross floor area) of the proposed new hot food business (or, where the proposal is an extension to an existing business, the size of the extension).

- The number and location of other hot food establishments in relation to the application site.

Each proposal will be assessed using these criteria.

The contribution will be greater the larger the floorspace and number of existing hot food establishments in the area. Larger establishments are more likely to cause nuisance in terms of residential amenity. The financial contributions are illustrated in Table 1 below.

**Table 1 How to calculate developer contributions for hot food establishment proposals**

<b>Relevant criteria</b>	<b>Justification for criteria</b>	<b>Assessment of financial contribution</b>
The size (gross floor area) of the proposed new business (or the size of the extended area in relation to existing establishments)	Larger businesses are likely to generate more custom and will therefore have the potential to create more nuisance. So, it is appropriate to ask for a financial contribution that is in proportion to the size of the business.	Floor area up to 50m <sup>2</sup> , <b>£1,300.</b> Over 50m <sup>2</sup> and below 70m <sup>2</sup> , <b>£1,800.</b> Over 70m <sup>2</sup> and below 90m <sup>2</sup> , <b>£2,300.</b> Over 90m <sup>2</sup> , <b>£2,800</b>
The number and location of other hot food establishments in relation to the application site.	A lot of these businesses in one area may attract greater numbers of people and cause more nuisance. So, it is appropriate to ask for a financial contribution that reflects this. This will increase when the number of similar businesses in the area increases.	1 similar business within 50m, <b>£200</b> 2 similar businesses within 50m, <b>£400</b> More than 2 similar businesses within 50m, <b>£600</b>

Any financial payment made under Section 106 of the Town and Country Planning Act will be used towards the funding of a scheme to address nuisances associated with hot food establishments. It will not excuse applicants from complying with the requirements of planning conditions. Applicants will be expected to remove or minimise any nuisances caused by their business. These new measures will help to identify such nuisances. Further action may be taken against applicants who act irresponsibly.

This approach follows the principles of Circular 1/97, in relation to the use of planning obligations. Such obligations can remedy genuine planning problems and enhance the quality of development. Obligations can also provide a means of reconciling the aims and interests of developers with the need to safeguard the local environment. The introduction of measures to safeguard residential amenity is relevant to planning. Because of the nature of nuisances created by hot food establishments, such measures are needed when granting planning permission. The criteria, thresholds and financial levels set will ensure such an approach is directly related to the development and that contributions sought are fairly and reasonably related in scale and kind to the development and reasonable in all other respects.

The financial levels in Table 1 will be subject to regular review to take into account inflation and their impact on the nuisances concerned.

Applicants will also need to make a contribution to the council's costs in progressing the appropriate legal agreement.

## **2 Concentration of hot food establishments**

A proposed hot food establishment will be considered to give rise to the over-concentration of such uses when, by reason of the number of such uses:

- there will be a detrimental impact on the amenity of the area; or
- its shopping function.

A number of factors will be taken into account in considering whether over-concentration will arise. But the importance of each will differ between locations according to local circumstances. These will include:

- the number of existing hot food establishments and how close together they are;
- the type and characteristics of other uses, such as housing, shops and public houses;
- the existence of vacant shop units;
- the importance of the location for local shopping, and the number, function and location of shops that would remain to serve the local community;
- the potential benefits of the proposal for the wider commercial and community interests of the area;
- any known amenity, road safety or community safety issues arising from the number and concentration of hot food establishments, despite efforts to resolve the issues.

In order to protect residential amenity and the primary shopping role of most centres, planning applications will normally be determined on the basis that in the 25 local centres and other small concentrations of shops in the borough, no more than 33% of commercial units shall be used as hot food establishments.

The only exceptions to this will be where:

- (i) additional hot food establishments would not give rise to, or exacerbate, amenity, traffic or car parking problems for local residents; and
- (ii) the proposal would not significantly change the character and function of the centre or group of shops, except where the proposal is in a centre which would benefit from developing a specialism.

Even so, where the occupiers of surrounding housing are subjected to disturbance due to the number of similar premises in the area, a planning application for a hot food establishment may be refused where a lower proportion of premises are already used for these purposes.

However, this is likely to be rare. Residential uses located close to a commercial area cannot expect the same level of residential amenity that exists within an entirely residential area. Permission is only likely to be denied in these circumstances when noise and activity is already high and an additional facility would be likely to increase the level of noise and disturbance to an unacceptable level which could not be controlled by planning condition.

### 3 Parking, servicing and highway safety considerations

#### i Parking and servicing

Off-street car parking provision will not be required for hot food establishments in:

- main town centres
- town centres
- local centres

as defined in Policy S1 of the emerging Replacement Unitary Development Plan.

However, the council will look at the impact that customer car parking in residential streets would have on the amenity of residents.

Outside existing shopping centres, hot food establishments will generally need to provide off-street car parking space to the following standard:

Type of Development	Maximum standard for car parking provision	Minimum standard for cycle parking provision	Minimum standard for motorcycle parking
<b>A3 - Food &amp; drink</b>			
Restaurants, cafes and takeaways	1 space per 7 square metres public floor area excluding toilets	1 space per 140 square metres for public floor area - minimum of 2 spaces	1 per 280 square metres public floor area - minimum of 2 spaces

In addition, car parking spaces for disabled people will be required as follows:

Total number of car parking spaces allowable under the maximum standard for car parking provision in the table above	Minimum standard for car parking provision for disabled people
Up to 4 spaces	1 space
5 - 12 spaces	2 spaces
12 - 50 spaces	3 spaces
over 50 spaces	6% of total capacity

These spaces shall be laid out to current design standards as set out in the latest edition of Part M of the Building Regulations.

Car parking space will need to be provided and accessed without causing problems for nearby residents. If off-street car parking space is not available, provision within existing public car parks will be considered, as long as it will be retained for the long term.

Where a proposed hot food establishment will replace an existing commercial or industrial use, the demand for car parking space for the existing use will be considered when assessing off-street parking requirements.

Safe and adequate servicing of premises is essential. Applicants will need to submit a scheme for servicing the premises which shows how goods can be delivered and waste can be collected. A servicing scheme should demonstrate how servicing can take place safely and it should be submitted with each planning application.

## ii Highway safety

**Policy A1R** of the Deposit Draft Replacement UDP requires that proposals for hot food establishments should:

- Provide safe and convenient access for all road vehicles.
- Ensure that the impact of traffic in residential areas is minimised to make them safer environments.

Particular problems may arise where the site is near to a busy junction, a traffic signal controlled junction or a location with limited visibility. Where proposals are likely to cause highway safety problems, it is unlikely that they will be approved unless measures can be taken to eliminate the hazards which the proposal would create.

The council will need to look at the effects of additional traffic created by new hot food establishments where the site is on a Strategic Route. These are shown on the Proposals Map of the Replacement Unitary Development Plan (generally an A road or a B road). Where a proposal will increase parking on the Strategic Route and affect highway safety, such an application is likely to be refused.

## 4 Smells and discharge of fumes

The impact of cooking smells is largely dependent on the location of the premises. The adverse effects will be less acceptable in mainly residential areas or in local shopping areas containing flats. Effective removal of fumes from premises is essential.

Consideration will also be given to the visual impact of flues and care should be taken to locate them where they will not appear prominent.

Applicants must submit details of the size, design, siting, finish, acoustic treatment and odour abatement techniques of the flue extraction system with all planning applications for hot food establishments.

Proposals affecting Listed Buildings or a building within a Conservation Area need to be designed to protect their character and appearance from inappropriate flue systems.

## **5 Storage of waste products**

Restaurant, cafes and hot food takeaways can generate a great deal of litter and waste.

Consideration should be given to providing bins of a suitable size, which are appropriately sited and screened. These should be accessible at all times without affecting adjacent residents. Full details of refuse storage arrangements should be included in all planning applications.

## **6 Extensions, alterations and signs**

All extensions to hot food establishments are likely to require planning permission.

When considering proposed extensions the council will take into account any increase in trading that will affect:

- servicing and car parking space available to the property;
- traffic movements; and
- neighbouring residential properties.

Extensions can provide an opportunity to modernise and improve premises, for example in appearance or function, or to provide access for disabled people. This may reduce the impact of the premises on the surrounding area. The council will consider this when determining applications.

Planning permission is also needed to make alterations that materially change the appearance of the building, such as the installation of a new shop front. Guidance on appropriate designs for new shop fronts can be obtained from the Environmental Services Department.

Shutters placed on shop fronts can have a major impact on the appearance of premises, especially when hot food establishments are only open during evening hours. Shutters should be of an appropriate design and further guidance is available from the Environmental Services Department.

### **Signs**

Consent will not be needed for a fascia sign that is not designed to be illuminated, unless the building is listed for its architectural or historic interest.

The following signs will require Express Consent:

- signs above fascia level, including projecting signs or banners
- illuminated signs of any kind

In each case a separate application is needed and you can get the forms from the Environmental Services Department. Or, you can download a copy from the

department's web site at [www.wigan.gov.uk](http://www.wigan.gov.uk).

## **7 Sandwich shops**

These are often used for the sale of both hot and cold food to be eaten mainly off the premises. Before starting work or making any financial decisions we would advise you to contact the Environmental Services Department to see if planning permission is required for the intended use.

## **8 Issues not taken into consideration when determining planning applications**

Type of hot food to be sold – this is not a consideration in determining a planning application.

The effects of competition between existing and proposed takeaways – this cannot be taken into account.

Anti-social behaviour – premises providing a service late at night sometimes attract anti-social behaviour. The Police, in association with the local authority, are responsible for the control of such activities. This Supplementary Planning Guidance aims to make sure that hot food establishments are located to reduce their impact on residents. The financial contributions mentioned earlier will be used to reduce the impact of these problems on local communities.

Control of pests and vermin – this is the responsibility of the Director of Environmental Health and Consumer Protection. Telephone 01942 513510.

Litter – dropping litter is an offence under the Environmental Protection Act 1990 and is not controlled under the Town and Country Planning Act. The Director of Engineering Services Cleansing Team is responsible for street cleaning. Telephone 01942 404364.

## **Guidance on other matters**

### **Police**

Discussions with Greater Manchester Police Architectural Liaison Unit is recommended before a planning application is submitted. The unit can advise on measures to reduce crime and anti-social behaviour through design. They can also help to ensure premises are located to avoid a significant impact on neighbours. The unit can be contacted on 0161 856 5912 and 0161 856 7320.

### **Environmental Health**

For further advice on food hygiene and health and safety, telephone 01942 828142.

For advice on noise and odour control, telephone 01942 827073.

### **Fire Regulations and Building Regulations**

The requirements of Fire Regulations and Building Regulations are complex, so you should contact a building inspector to discuss your proposal before any work is started. Hot food establishments can release hot grease and fat into drains, causing blockages and flooding of properties. The building regulations require that adequate grease traps are installed on all drains from commercial kitchens.

The general enquiry number for Building Control is 01942 404227.

Licensing Act 2003 – generally under this Act premises from which hot food or hot drinks are supplied between the hours of 11.00 pm and 5.00 am will require a ‘premises’ licence. This is a separate issue from planning control which will require consideration by applicants and the council. The enquiry contact for licensing is 01942 827118.

Further planning advice - pre-application discussions about the suitability of a particular property may avoid the submission of a planning application where the proposal would create an unacceptable impact on the environment. If you have any questions or queries please contact the Development Control staff. The area teams are shown below:

### **West**

Standish, Shevington and Western Wigan (including Wigan town centre)

**Telephone: 01942 404274**

Orrell, Ashton-in-Makerfield and Ince-in-Makerfield

**Telephone: 01942 404277**

### **East**

Hindley, Atherton, Tyldesley and Astley

**Telephone: 01942 404261**

Leigh, Golborne and Lowton

**Telephone: 01942 404264**

## **Annex – How to make a planning application - advice to applicants and agents**

### **Planning applications for hot food establishments or extensions to them will need to include:**

#### **1 Applications forms and plans**

Applications forms are available from the Environmental Services Department and can also be downloaded from the department's web site at [www.wigan.gov.uk](http://www.wigan.gov.uk).

##### **Plans**

###### **(i) Location plans**

Applicants must provide 4 copies of a plan clearly showing the application site and the surrounding area with the site outlined in red at a scale of 1:1250, including a north point. A set of location plans can be purchased from the Environmental Services Department.

Diagrammatic location plans not drawn to scale are unacceptable.

###### **(ii) Site layout plan (required for proposed new buildings and extensions)**

Provide 4 copies of a site layout plan at a scale of 1:200 or 1:500 scale to show more clearly the position of:

- the property and site;
- the proposed building extension or other proposed work;
- the site boundaries; and adjoining property, including any extensions; and
- the servicing area.

###### **(iii) Floor plans and elevations**

The detailed plans should be drawn accurately to a scale of 1:50 or 1:100 and must distinguish between existing and proposed buildings. They should show the existing and proposed internal layout of the building.

If the drawings are also to be used for a Building Regulations application, applicants will need to provide a number of structural and drainage details and cross sections. Contact the Building Control Section of the Environmental Services Department for further information.

#### **2 Details of the proposed opening hours each day of the week**

If these hours would exceed:

9.00 am - 11.00pm      Sunday to Thursday  
9.00 am - 12 midnight    Friday and Saturday

a statement must be submitted demonstrating how the amenity of any nearby residents will be protected.

**3 Accurate figures of the gross floorspace, in square metres, to be used by the hot food establishment, or the gross floorspace of the proposed extension, if applicable.**

Gross floorspace includes areas to be used for:

- customer waiting and seating areas
- food preparation and storage
- staff welfare facilities
- toilet facilities
- any other floorspace used by the business

**4 Accurate figures of the public floor area, excluding toilets, to allow calculation for parking requirements.**

**5 Details of the proposed fume extraction system, including:**

- Size including length, diameter, height above eave or ridge of building
- design and siting
- finish of exterior of flue equipment
- acoustic treatment
- odour abatement techniques
- the power rating of the equipment
- accurate, large scale plans of the proposed elevation and plan of the building showing the fume extraction equipment installed.

**6 Details of the proposed waste storage arrangements shown on a large scale plan.**

**7 Details of all alterations proposed to the shop front and other elevations, including shutters or other security devices, shown on a large-scale plan.**

**8 An explanation of how upper floors will be used**

Where there is residential accommodation above the proposed premises, applicants should explain in a letter with their application:

- how the upper floors will be occupied, for example by a member of staff; and
- how the applicant will control that occupation.

**9 “Details of how access for disabled people into the premises is to be provided and any other relevant facilities such as disabled persons toilets shown on a large scale plan.”**

**Very important**

Applicants are advised that the council aims to determine applications as quickly as possible, but applications which do not include all relevant further information are likely to be delayed until it is provided.

## Statement of consultation

This statement has been prepared in accordance with the requirements of PPG12. It summarises the key stages of consultation from the publication of the consultation draft to its final adoption by the council.

- 1 The Draft SPG was approved for consultation purposes by the council's cabinet on the 22 January 2004.
- 2 As part of this consultation exercise, copies were placed in all of Wigan's public libraries. Copies were also available from the offices of the Environmental Services Department at Civic Buildings and made available for downloading from the department's website.

The SPG contained a loose-leaf insert explaining the purpose of the document in six major languages, and provided a contact telephone number to request copies of the document translated in full.

- 3 The consultation exercise was also launched with a public notice, appearing in the Wigan Reporter, Leigh Reporter and Leigh Journal on the 11 March 2004 and the Wigan Observer on the 16 March 2004, ensuring complete coverage of Wigan Council's administrative area. The public notice summarised the purpose of the SPG, made it clear where copies could be inspected, provided an address where to send comments, and specified a deadline after which comments would not be accepted.
- 4 The SPG contained a lose leaf pro-forma for the making of comments, which also specified the address it should be returned to and the deadline for the receipt of comments.
- 5 Copies of the SPG were sent directly to all ward members, and to organisations with a direct interest in the subject material, including:
  - 210 regular planning agents.
  - 41 applicants and agents applying for hot food establishments during the last two years.
  - 37 companies and interested parties concerned with the hotel, restaurant and catering trade.
  - other appropriate council departments.
- 6 The consultation period ran from 10 March to 26 April 2004, which provided a six week period in which to make representations.
- 7 All representations received were considered by Wigan Council's Cabinet at its meeting on 8 July 2004, at which the SPG was formally adopted by the council for use in the development control process.
- 8 A schedule summarising all of the representations received and the council's response and final recommendation is available to inspect on request from the Environmental Services Department, Civic Buildings, New Market Street, Wigan WN1 1RP.