

**Development Control
Advice Note**

4



Restaurants, Cafés and Fast Food Outlets

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The purpose of Development Control Advice Note 4 is to give general guidance to intending developers, their professional advisors and agents in relation to proposals for restaurants, cafés and fast food outlets. It should be stressed that this Note is not a specific statement of Departmental policy but rather one of advice and guidance.

Each application or appeal is treated on its merits and the application of the guidance given to a particular case is always a matter calling for judgement.

Any legal views expressed in this Note have no statutory force and should not be relied upon as an authoritative interpretation of the law.

A list of other current Advice Notes in this series can be obtained from Planning Service Headquarters, Clarence Court, 10-18 Adelaide Street, Belfast, BT2 8GB.

<i>Contents</i>	<i>Page</i>
<i>1.0 Introduction</i>	<i>1</i>
Need for Guidance	
Scope of Guidance	
Purpose of Guidance	
<i>2.0 Policy Context</i>	<i>3</i>
Planning Policy Statement 1 – General Principles	
Planning Policy Statement 5 – Retailing and Town Centres	
Planning Policy Statement 9 – The Enforcement of Planning Control Development Plans	
<i>3.0 Need for planning permission and other consents</i>	<i>4</i>
Need for planning permission	
Other consents	
<i>4.0 Locational Considerations</i>	<i>6</i>
Town Centres	
Assessment of proposals in Town Centres	
District and Local Centres	
Assessment of proposals in District and Local Centres	
<i>5.0 Other Considerations</i>	<i>11</i>
Noise disturbance	
Smells and fumes	
Refuse and litter	
Traffic considerations and car parking	
Provision for people with disabilities	
<i>Appendix 1: Equality Impact Assessment - Executive Summary</i>	<i>17</i>
<i>Appendix 2: Planning Applications</i>	<i>19</i>
<i>Appendix 3: Other Relevant Legislation</i>	<i>21</i>
<i>Appendix 4: Glossary of Terms</i>	<i>23</i>
<i>Summary - English/Chinese</i>	<i>24</i>

1.0 Introduction

- 1.1 The availability of and demand for an ever-widening range of food in readily accessible and convenient locations is a reflection of change in society itself, making restaurants, cafés and fast food outlets indispensable features of modern life. They are closely identified with the choice, variety and attraction of the urban scene and can contribute to the vitality and viability of town and city centres.
- 1.2 In addition, restaurants, cafés and fast food outlets can provide important economic development and employment opportunities for significant numbers of people, and are an essential complementary use in any town centre, providing a service to shoppers, office workers and tourists alike.

Need for Guidance

- 1.3 Planning applications for restaurants, cafés and fast food outlets, particularly those in close proximity to residential property, often generate objections, and it is therefore important that potential purchasers of premises intended for such use have access to appropriate advice before making planning applications.
- 1.4 In recent years, the rapid increase in fast food catering has intensified the potential impact on the amenity of surrounding areas, and has reinforced the need for up to date supplementary planning guidance.

Scope of Guidance

- 1.5 Non-statutory planning guidance, including Development Control Advice Notes (DCANs), is intended to supplement, elucidate and exemplify the Department's policy documents and development plans, and will be taken into account as a material consideration in determining a planning application.
- 1.6 DCAN 4 explains the criteria and technical standards which the Department considers when dealing with proposals for restaurants, cafés and fast food outlets. It applies throughout Northern Ireland to development proposals (including new buildings and changes of use) for the sale of food for consumption on the premises or of hot food for consumption off the premises. The guidance does not apply to premises such as sandwich bars selling cold food for consumption off the premises as these are classified as shops.
- 1.7 Use for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises is excluded from any class specified in the Planning (Use Classes) Order (Northern Ireland) 1989, and

use for the retail sale of hot food is explicitly excluded from Class 1 (Shops) of the Schedule to the Order. In terms of their uses, restaurants, cafés and fast food outlets are therefore quite distinct from retail shops.

- 1.8 Under the provisions of the Planning (General Development) Order (Northern Ireland) 1993 Part 3 Class A, development consisting of a change of use of a building to a use falling within Class 1 (shops) or Class 2 (financial, professional and other services) of the Planning (Use Classes) Order (Northern Ireland) 1989 from a use for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises, is permitted development for which planning permission is granted by Article 3 of the Order. The converse is not the case, however, and the conversion of a shop to a restaurant, café or fast food outlet is a material change of use that requires express planning permission.
- 1.9 This guidance supersedes:
- Development Control Advice Note 4 'Hot Food Bars' (1983) and;
 - Development Control Advice Note 6 'Restaurants and Cafés' (1983).
- 1.10 Belfast Divisional Planning Office has produced a number of Development Guidance Notes which relate to the control of hot food bars. In the event of any conflict between these notes and DCAN 4, the DCAN will take precedence.
- 1.11 Although many of the planning considerations applicable to a fast food outlet apply equally to a café or restaurant, a change of use of part of either of these premises to incorporate a 'carry-out' facility also requires planning permission. However, if the 'carry-out' facility is only of a very minor nature and obviously ancillary to the main use of the premises, planning permission will not normally be required.
- 1.12 Any test for whether a use is ancillary to another is a matter of fact and degree, and each case has to be determined on its particular merits. However, in practice two principal criteria have emerged in terms of assessing if an activity is ancillary. Firstly, a severability test, i.e. can the ancillary use practically and viably operate on its own were the primary use of the premises to cease, if it could then the use is very unlikely to be ancillary as there is no clear linkage or dependency. Secondly, an environmental impact test can be used to examine the outward effects of the use, in terms of the appearance of the premises, the amenity of the surrounding area or neighbourhood traffic conditions. If it could be shown that there would be a significantly greater impact following from the introduction of the alleged ancillary activity, then it is unlikely it could be described as ancillary.

Purpose of Guidance

1.13 The purpose of this Development Control Advice Note is to provide supplementary planning guidance in accordance with Planning Policy Statement 5 'Retailing and Town Centres', and to support development plan policies relating to the location of restaurants, cafés and fast food outlets. Its specific objectives are:

- To clarify when planning permission is required for proposals involving the establishment, alteration or extension of buildings for the sale of food for consumption on the premises, or the sale of hot food for consumption off the premises.
- To set out clearly the planning criteria which will be taken into account in determining a planning application for such development.
- To assist those who intend to establish such uses in deciding if premises are suitable for the use, and in assessing the measures which may be required to make proposals acceptable in planning terms.
- To ensure consistency in the provision of planning advice and decisions.

2.0 Policy Context

2.1 The Department's guiding principle in determining planning applications is that development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In such cases, the Department has power to refuse planning permission. Grounds for refusal will be clear and precise and explain why the proposal is unacceptable to the Department.

Planning Policy Statement 1 – 'General Principles'

2.2 The promotion of sustainable development, mixed use and good design are at the heart of the Government's approach to the planning system. New development will be assessed in terms of its contribution to the achievement of these objectives. Further guidance is set out in Planning Policy Statement 1 'General Principles'.

Planning Policy Statement 5 – 'Retailing and Town Centres'

2.3 The Government's policy objectives for town centres and retail developments are set out in paragraph 5 of Planning Policy Statement 5, 'Retailing and Town Centres'. Guidance on, and criteria for the

acceptability or otherwise of retail and/or non-retail uses in town centres, district and local centres, local shops, village shops and rural shops are included in PPS 5.

Planning Policy Statement 9 – ‘The Enforcement of Planning Control’

2.4 This PPS sets out the general policy approach that the Department will follow in taking enforcement action against a breach of planning control, including failure to comply with any condition or limitation subject to which planning permission has been granted.

Development Plans

2.5 Development Plans provide an important basis for rational and consistent decisions on planning applications and also a measure of certainty about which types of development will and will not be permitted in a given location. Such plans cater for the development needs of retailing together with other forms of development.

2.6 Where development plans contain policies on the location of restaurants, cafés and fast food outlets, this Advice Note provides supplementary planning guidance in relation to these policies. However, not all development plans contain such policies, and in these cases Planning Policy Statement 5 – ‘Retailing and Town Centres’ will provide the context for assessing proposals for restaurants, cafés and fast food outlets.

3.0 Need for planning permission and other consents

Need for planning permission

3.1 The circumstances in which planning permission for the development of land are needed are set out in Articles 11 and 12 of the 1991 Planning Order. Planning permission for a restaurant, café or fast food outlet will generally be required in the following cases:

- the erection of a building for use as a restaurant, café or fast food outlet;
- a material change of use of premises used for any other purpose e.g. from an office to a restaurant;
- the extension of premises currently in use as a restaurant, café or fast food outlet;

- any alteration to a building which has a material effect on its external appearance e.g. a replacement shopfront or the installation of external shutters;
 - the variation or discharge of a condition or conditions attached to a previous grant of planning permission e.g. changes to an opening hours condition.
- 3.2 A person applying for planning permission in any of the circumstances referred to in para 3.1 should recognise that any future extension of the use or extension of the premises is likely to be subject to further planning applications which will be judged on their merits.
- 3.3 In addition to the categories above where planning permission is normally required, there are other circumstances in relation to proposals for restaurants, cafés and fast food outlets, where the need for planning permission is a matter of fact and degree. These are referred to below, and include mobile hot food vehicles and hot food sales from shops.

Mobile hot food vehicles

- 3.4 The casual or temporary parking of a mobile hot food vehicle, whether it be in a street or main road, or on any other land is not likely to be development i.e. a material change of use, and is therefore not likely to need planning permission. However, the regular parking of such a vehicle for long periods may create a material change in the land on which it is stationed. Permitted development rights granted by the Planning (General Development) Order 1993, Part 4 – Temporary Buildings and Uses, Class B, relates to ‘the use of any land for any purpose for not more than 28 days in total in any calendar year... and the provision on the land of any moveable structure for the purposes of the permitted use’. Therefore, if a mobile food vehicle is parked for more than 28 days it ceases to be regarded as temporary, and planning permission may be required.

Hot food sales from shops

- 3.5 Hot food sales from shops will require planning permission only if excluded by a planning condition or if beyond an ancillary level. Primary uses of land often embrace one or more ancillary activities i.e. uses which are closely linked and subservient to them. As discussed in paragraph 1.12, any test for whether a use is ancillary to another is a matter of fact and degree, and each case has to be determined on its particular merits.

Delivery services

- 3.6 Delivery services per se may not require planning permission unless at a level where they dominate the existing restaurant or café use.

'Alfresco' eating

- 3.7 Planning permission is not likely to be required where it is proposed to place tables and chairs on the forecourt or any open land within the curtilage of a restaurant, where that land forms part of a planning unit. It may, however, be necessary to obtain licences from other authorities.

Other consents

- 3.8 Other consents that may be required include:

- **Listed Building Consent.** This is required for the execution of any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest.
- **Conservation Area Consent.** This is required where it is proposed to demolish a building which lies within a designated conservation area.
- **Advertisement Consent.** This is required for new signs or alterations to existing signs.

- 3.9 Further details regarding the above consents can be obtained from local planning offices.

- 3.10 In addition to planning permission, and the types of consent listed in paragraph 3.8, other approvals may also be necessary, for example, Building Regulation approval and compliance with Environmental Health regulations (See Appendix 3). Applicants should contact their local council for further details.

4.0 Locational Considerations

- 4.1 In its broadest sense, retailing refers to the sale of goods individually, or in small quantities to consumers, and it would therefore include the sale of food for consumption on the premises, or hot food for consumption off the premises. In accordance with PPS 5 (paragraph 54), retailing will generally be directed to existing settlements of appropriate size and the development of inappropriate retail facilities in the open countryside will be resisted. Certain retail facilities that may be considered appropriate outside the development limits of settlements are listed, and these will normally be required to be located within existing buildings. Outside Green Belts and Countryside Policy Areas, new buildings or extensions may be acceptable if they are small in scale and can be satisfactorily integrated into the landscape and preferably into groups of buildings.

- 4.2 In PPS 5, the Department recognises the value and importance of established shopping areas in town, district and local centres, and is therefore committed to protecting their vitality and viability. In accordance with PPS 5, and subject to meeting the criteria set out in the detailed guidance below, preferable locations for restaurants, cafés and fast food outlets include:
- town centres; and
 - district centres and local centres.
- 4.3 In conservation areas, any proposed development should preserve or enhance the character and appearance of the area. Policy BH 12 of Planning Policy Statement 6, 'Planning, Archaeology and the Built Environment' states that the Department will normally only permit development proposals for new buildings, alterations, extensions and changes of use in, or which impact on the setting of, a conservation area where a number of criteria are met.
- 4.4 Any planning application received for a restaurant, café or fast food outlet, which is not in any of the above locations, will be determined on its particular merits, in accordance with broader rural policy, relevant development plans and other material considerations. The latter are dealt with in the next section, and include impact on amenity in relation to noise disturbance, smells and fumes, refuse and litter etc.

Town centres

- 4.5 Restaurants, cafés and fast food outlets complement the primary shopping function of town centres by contributing to the range and choice of facilities available to residents and visitors, and they also support tourism.
- 4.6 The Department's policy for town centres and retail developments is set out at paragraph 5 of Planning Policy Statement 5 (PPS 5) 'Retailing and Town Centres'. Within primary retail cores, the Department will control non-retail uses at ground floor level. Applications for change of use from shop to local services, such as building society offices, banks and estate agents, restaurants or hot-food take-away premises may be acceptable except where:
- there would be a significant loss of retail floorspace at ground level;
 - a clustering of non-retail uses is created; or
 - the area overall is tending to be dominated by non-retail uses.
- 4.7 Within town centres, but outside the primary retail core, proposals for local services, offices and food uses will be determined on their merits.

Assessment of proposals in Town Centres

4.8 Taking into account the locational guidance set out above, the assessment of proposals for new restaurants, cafés or fast food outlets, or for the change of use of the ground floor of established shops to such uses, in primary retail core areas, will involve consideration of a number of factors including:

- The impact of the proposal (including any extension to an existing use), by itself or cumulatively, with other non-retail uses, on the role, character, vitality¹ and viability² of the town centre. While, restaurants, cafés and fast food outlets contribute to the variety and attraction of town centres, the intrusion, proliferation and/or clustering of new or additional uses of this nature can also be seriously detrimental to the character and vitality of the primary retail core. Where a primary retail frontage has been identified within the town centre, restaurants, cafés, or fast food outlets are unlikely to be permitted where it is considered that the integrity and continuity of the existing retail frontage would be eroded. Proposals for such uses in frontages where there are concentrations of existing and/or approved similar uses are unlikely to be acceptable.
- The impact in terms of the size of the premises and whether they can be absorbed without dominating the prime retail frontages in visual terms.
- The quality and attractiveness of the proposed development, as the design and appearance of town centre shop fronts and signage are matters to which the Department attaches considerable importance. Proposals should avoid giving the appearance of a 'dead' frontage and should therefore pay particular attention to:
 - the scale of the proposal;
 - the materials, colours and lettering to be used;
 - the design and appearance of security shutters and grilles;
 - the design and appearance of signage and means of illumination;
 - the design and appearance of the ground floor in terms of its relationship to upper floors;
 - the implications for access to upper floors;
 - the relationship to adjoining buildings; and
 - the character of the surrounding area.
- The likely effects on the amenity of the shopping area and residents within it. This will involve consideration of the potential of the proposal to adversely affect the ambience of the shopping area for other reasons, for example, unsightly litter or excessive late night

¹ Vitality is a measure of how busy a town centre is. (PPS 5, paragraph 18)

² Viability is a measure of the town centre's capacity to attract ongoing investment for maintenance, improvement and adaptation to changing needs. (PPS 5, paragraph 18)

noise. Concern over such issues may be of particular significance in sensitive areas such as conservation areas where litter and smells could spoil the enjoyment of visitors or discourage residential occupation within the conservation area, thereby harming its character.

- Compliance with development plan policies.
- The possibility of the proposal causing parking and/or traffic difficulties with associated congestion and inconvenience, thereby jeopardising the safety of road users.
- The period for which the premises have been vacant, and the general level of vacancy in the area. This will be dependent on the merits of each individual case.

4.9 If a proposed restaurant, café or fast food outlet, can be shown to cause demonstrable harm to interests of acknowledged importance, particularly in relation to the issues outlined above, the application is likely to be refused.

District and Local Centres

4.10 The primary role of district and local centres³ is the provision of locally accessible convenience goods. However, PPS 5 acknowledges that 'district and local centres often provide, in addition to retailing, services to the local community...' and that these '...are often appropriate and desirable and will normally be acceptable within or adjoining district and local centres'.

4.11 Many urban areas contain commercialised radial routes, which have many similarities with district and local centres, in terms of scale and function and in the variety of shops and local services. Therefore, proposals for restaurants, cafés and fast food outlets on such routes will be subject to the same considerations as those applicable to district and local centres.

Assessment of proposals in District and Local Centres

4.12 When dealing with applications relating to new buildings, or the change of use of retail/non-retail premises to restaurants, cafés and fast food outlets in district or local centres, a number of factors need to be considered:

- The impact of the development on the vitality and viability of the centre, and the need to retain local retailing. The proposal should not by itself or cumulatively with other non-retail uses, undermine

³ District Centres are defined in PPS 5 'Retailing and Town Centres' as 'Groups of shops, separate from the town centre, usually containing at least one food supermarket or superstore and non-retail service uses such as banks, building societies and restaurants'. Local Centres are defined as 'Small groupings of shops, typically comprising a general grocery store, a sub-post office, occasionally a pharmacy and other small shops of a local nature'

the primary role of the 'centre' in providing for local convenience shopping needs. In this respect, the following will be regarded as particularly relevant:

- the level and nature of existing non-retail uses; and
- the number of unimplemented valid planning permissions for change of use to restaurants, cafés and fast food outlets.
- The impact in terms of the size of the premises and whether they can be absorbed without dominating the district or local centre in the visual sense.
- The quality and attractiveness of the proposed development. In order to avoid giving the appearance of a 'dead' frontage, attention should be paid to:
 - the scale of the proposal;
 - the materials, colours and lettering to be used;
 - the design and appearance of security shutters and grilles;
 - the design and appearance of signage and means of illumination;
 - the design and appearance of the ground floor in terms of its relationship to upper floors;
 - the implications for access to upper floors;
 - the relationship to adjoining buildings; and
 - the character of the surrounding area.
- Adverse impact on the amenity of any adjoining residential areas in terms of noise disturbance, smell, fumes or litter. Unlike town centres, where there may be a residential component, district centres are often entirely commercial in nature, purpose-built and self-contained. However, they may be located in close proximity to established residential areas and so their potential impact on amenity is likely to be a consideration in determining their overall acceptability. In addition, along the commercialised radial routes, many retail and non-retail premises will often have dwellings nearby or flats directly above. If it is not possible to reduce amenity impacts, for example, from late night activity, smells and fumes to a level acceptable in such locations, this could render the premises unsuitable for restaurants, cafés and fast food outlets.
- Likely impact on the amenity of the centre itself. This will involve consideration not only of the matters referred to above but also the potential of the proposal to adversely affect the ambience of the centre for other reasons, for example, problems with litter or excessive late night noise.

- The possibility of the proposal causing parking and/or traffic difficulties with associated congestion and inconvenience, thereby jeopardising the safety of road users.
 - The period for which the premises have been vacant and the general level of vacancy in the area. This will be dependent on the merits of each individual case.
- 4.13 If a proposed restaurant, café or fast food outlet can be shown to cause demonstrable harm to interests of acknowledged importance, particularly in relation to the issues outlined above, the application is likely to be refused.

5.0 Other considerations

5.1 Applications for restaurants, cafés or fast food outlets generally give rise to a number of issues and objections which are specific to these particular categories of land use. As a result, the likely impact of such proposals on the character and amenity of the adjoining or surrounding area will be an important concern when determining applications. In assessing this impact, a number of factors need to be taken into account i.e.

- noise disturbance;
- smells and fumes;
- refuse and litter;
- traffic considerations and car parking; and
- provision for people with disabilities.

5.2 The use of planning conditions is often paramount to the control of restaurants, cafés and fast food outlets, particularly in relation to the above considerations. The impact of many proposals which would otherwise be rejected, may be mitigated by the imposition of such conditions. Preventative measures can be taken through the development control process by for example restricting opening hours and dealing with the technical aspects of noise and fume attenuation. The Environmental Health Department of the relevant local council will be consulted as appropriate during the processing of planning applications and in the formulation of any conditions considered necessary for the approval of the development. Local councils also have an important reactive role to play and have extensive regulatory control of restaurants, cafés and fast food outlets, especially in relation to food and hygiene aspects.

Noise Disturbance

5.3 Whilst residential areas are likely to be sensitive to noise disturbance, it can also be a serious problem in town centres and in areas where

commercial activities dominate but where there may be residential accommodation beside or over the proposed use.

5.4 Noise associated with restaurants, cafés and fast food outlets emanates from a variety of sources, the main ones being:

- vehicles - starting, revving of engines, screeching of tyres, sounding of horns, radios playing, opening and closing of doors, manoeuvring;
- people - the comings and goings of customers and staff (talking, shouting);
- use of equipment associated with catering establishments.

5.5 These sources of noise are especially noticeable in the late evening when local residents have a legitimate expectation that surrounding background noise levels will remain low. In that respect, take-away uses, which often generate frequent vehicle and pedestrian movements, can be particularly annoying and unacceptable. The weight that the Department will attach to noise disturbance will be greater where there is an increased likelihood that customers will seek to park close to the premises, or in nearby residential streets.

5.6 Objections to planning proposals, based on the harmful effects of noise, may, however, be overcome by means of planning conditions attached to a grant of permission in appropriate cases. If the Department is not satisfied that such objections can be overcome by the imposition of conditions, the application will be refused.

5.7 Conditions designed to prevent noise disturbance will generally involve or require some, or all of the following:

- Restrictions on hours of opening (in predominantly residential areas).
- Restrictions on Sunday opening.
- Restrictions on the use of land within the curtilage of the premises e.g. open areas at the front or rear of the premises.
- Sound-proofing of the premises i.e. walls and ceilings.
- Double-glazing of windows and installation of self-closing external doors.
- The prevention or restriction of live or amplified music.
- The installation and maintenance of any necessary equipment.
- Restriction on customer numbers/floorspace.
- Restrictions on servicing.

Smells and Fumes

5.8 Objections based on the likely impact on amenity of smells and fumes, particularly in relation to nearby residential property, are among the most

common objections to which proposed restaurants, cafés and fast food outlets give rise.

- 5.9 Although nuisance caused by the unpleasant effects of smells and fumes emanating from food preparation areas can be considerably reduced by modern filtering and extraction equipment, residual odour often proves detrimental to residential amenity, particularly if there are a number of such uses in close proximity to one another. The problem can be exacerbated if ducting cannot be installed to a height sufficient to ensure efficient dispersal of smells or if topographical and atmospheric conditions combine to impair such dispersal. Where high levels of odours or inadequate odour dispersal are anticipated, an active odour abatement system may be required e.g. activated carbon or the use of electrostatic precipitation combined with odour neutralisation after the main grease filters in the canopy. The adoption of such a system coupled with atmospheric dispersion and dilution represents the best practicable means of mitigating odour nuisance.
- 5.10 If unacceptable smells and fumes cannot be prevented by means of effective low or high level ducting, or if ducting cannot be installed without significant detriment to visual amenity, planning permission will be refused.
- 5.11 Generally, conditions to prevent smell nuisance will involve or require the following:
- Approval by the Department of a scheme for the extraction of cooking odours.
 - Installation of equipment before commencement of the use and maintenance thereafter.
 - Appropriate siting and design of ducting and other external equipment.

Refuse and litter

- 5.12 Litter is inherently unsightly and causes considerable annoyance to residents and adjoining businesses. It can also be prejudicial to regeneration efforts, particularly within town centres. The fact that litter will be a consequence of a proposed use of land, particularly a take-away premise use, is therefore a material planning consideration.
- 5.13 Inadequacy of storage facilities for refuse can result in harm to visual amenity as well as serious risk to public health, and it is important to ensure that there is sufficient physical space for its accommodation. Proposals for restaurants, cafés and fast food outlets should therefore include adequate facilities on the premises for the storage/disposal of refuse generated by the business. Refuse should not be left outside the

premises, for example, on forecourts or on the public road (except for collection purposes) but should be stored in containers within an enclosed area of the premises. Suitable access must also be provided for the collection of refuse. Applicants should note that failure to comply with environmental legislation in relation to the storage/disposal of refuse could result in prosecution by the local council. More information on the storage and collection of refuse can be obtained from local councils.

5.14 Typically, conditions to prevent nuisance arising from refuse and/or litter will involve or require:

- Provision of space within the premises for the storage of refuse in containers.
- Prohibition on the use of public footpaths and/or roads for the storage of refuse (except for collection purposes).
- Provision of litterbins both inside and outside the premises.

5.15 Article 13 of the Litter (Northern Ireland) Order 1994 empowers local councils to issue 'street litter control notices' in relation to litter on the occupiers of certain premises. These notices are the means whereby local councils can ensure that the owners of premises such as restaurants, cafés and fast food outlets (only fixed premises are covered – not mobile vendors) are required to clear litter from the frontage of their properties. This can involve sweeping or providing and servicing litterbins.

5.16 The litter legislation allows for local councils to place signs, outlining the litter law, in prominent areas. The courts can impose fines of up to £2,500 for litter offenders, and Article 14 of the Litter Order empowers the local councils to provide and maintain receptacles for litter in any street.

Traffic considerations and car parking

5.17 Restaurants, cafés and fast food outlets often give rise to concerns about their effect in terms of traffic flow, road safety and car parking, and the following matters will be taken into account by the Department in coming to its decisions on applications for restaurants, cafés and fast food outlets.

- The planning history of the site.
- The existing use of the site.
- Existing traffic conditions.
- The availability of public transport.
- The availability of public parking provision.
- The implications for the amenity of the surrounding area (particularly if predominantly residential).
- The availability of private parking provision, where required.

- 5.18 Fast food outlets are often located on busy urban or suburban main roads, and experience has shown that a significant proportion of their trade is car borne and short-stay. Where there is limited or no parking, either outside or in the immediate vicinity of the premises, customers may be tempted to indulge in short stay parking of an opportunistic and possibly dangerous nature, for example, near to junctions and traffic lights or within the approaches to pedestrian crossings. Combined with the manoeuvring of vehicles (in order to park in a confined space, for example) and the additional movements of vehicles stopping at and leaving the premises, the free flow of traffic on the main roads can be obstructed, causing congestion and inconvenience and jeopardising the safety of other road users.
- 5.19 In such circumstances, the Department may have to refuse planning permission or to impose conditions on a restaurant use, for example, to prevent its use as a take-away (this will be inappropriate where the use is ancillary). Applicants may therefore wish to consider other options such as locating on secondary roads or a location not directly fronting onto a highway, which would satisfy traffic/car parking considerations.
- 5.20 Inadequate car parking provision may also lead to an increase in parking in adjacent streets where parking problems may already exist, causing inconvenience to residents. Restaurants, cafés and fast food outlets cause most parking problems in the evenings and at weekends when the demand for on-street parking spaces by residents is heaviest. The Department will have regard to the availability of kerbside spaces and any off-street parking provision. Planning permission may be refused if customer and staff car parking would prevent local residents from parking their cars near to their homes.
- 5.21 Adequate arrangements must also be made for the servicing of the premises, both by delivery vehicles and for refuse collection. Ideally this should occur away from the main road.
- 5.22 It is important that each case is decided on its own specific merits and that advice from DRD Roads Service is fully considered.

Provision for people with disabilities

- 5.23 The Disability Discrimination Act 1995 gives disabled people new rights in a number of areas including access to goods, facilities and services, and the Act will require physical alteration to premises by October 2004.
- 5.24 The suitability of access to buildings for use by the public, which includes people with disabilities, is a matter of public interest and is a material planning consideration. Furthermore, the Department would draw the attention of applicants to the need to satisfy the provisions of Disability

Discrimination Act 1995, and the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978.

5.25 Private transport is the preferred travel mode for many people with impaired mobility. Therefore, where appropriate, conditions will be attached to the grant of planning permission requiring development, whether new development or a change of use of an existing building, to provide the following in order to facilitate people with impaired mobility:

- suitable means of access to the building;
- suitable means of access between buildings where the planning application relates to more than one building;
- appropriately designed means of access to the building from other parts of the development, such as external car parks; and
- an appropriate proportion of designated, appropriately positioned, designed and sized car parking spaces (where new provision is required).

5.26 In addition, applicants are strongly encouraged to consider the following:

- the provision of a section of the counter within takeaway and self-service restaurants at an appropriate height for wheelchair users; and
- the provision within cafés and restaurants of sufficient space around seating areas to allow for the movement of wheelchairs and the provision of some tables without permanent seating to accommodate wheelchairs.

5.27 Further guidance is set out in Policy PSU 7 'People with Disabilities' contained in "A Planning Strategy for Rural Northern Ireland" (DOE 1993) and Development Control Advice Note No. 11 'Access for People with Disabilities' available from Planning Service Headquarters.

Appendix 1: Equality Impact Assessment Executive Summary

Development Control Advice Note 4 - Restaurants, Cafés and Fast Food Outlets

Assessment of Impact

- The people most affected by the Advice Note will be all those submitting planning applications for restaurants, cafés and fast food outlets.
- An analysis was carried out of all planning applications received in relation to restaurants, cafés and fast food outlets dating back to 1998. Ethnic minorities were found to represent just under 20%⁴ of those who made planning applications for these uses. As ethnic minorities in Northern Ireland (including Chinese, Indian, Pakistani and Travelling communities) comprise only around 1% of the total population⁵, it is likely that the Advice Note will have a differential impact on certain racial groups.
- In accordance with Section 75 of the Northern Ireland Act 1998, a pre-consultation discussion was held with the Northern Ireland Council for Ethnic Minorities (NICEM), an umbrella organisation which represents a number of affiliated groups. This was used to assess the potential impact of the guidance on persons of different racial groups.
- In addition, research carried out by the University of Ulster and data from the Multi-Cultural Resource Centre (NI) was also examined.

Impact of Policy

- It is intended that the Development Control Advice Note (DCAN) will have a positive impact by providing more comprehensive and up to date guidance for those people who are applying for planning permission for restaurants, cafés and fast food outlets.
- The only negative impact on the Section 75 groups, which was identified, involved language barriers. It was considered that this could prevent access to the guidance provided by the Advice Note. The pre-consultation discussion with NICEM and an analysis of Planning Service data identified the Chinese community as the group most likely to be affected.

Outcome of consultations

- As a result of initial consultations with NICEM the Department produced a summary of the document in Chinese, and this was attached to the public consultation draft of the DCAN.

⁴ Source: Planning applications database – Planning Service (Northern Ireland)

⁵ Source: Multi-Cultural Resource Centre (NI)

- When producing the public consultation draft, the Department also took a proactive role by writing directly to a number of Chinese groups in Chinese, and offering to provide a presentation with interpreter provision which would assist in explaining the purpose of the guidance. However, no response was received from any of the ethnic minority communities in Northern Ireland.
- After the public consultation draft was issued, a number of responses were received generally welcoming the Equality Impact Assessment. Several of the consultees suggested that the summary of the document should be produced in different languages.

Conclusion

- The Department sought the advice of NICEM on whether there was a need to produce a summary of the document in several different languages. NICEM felt that the Chinese community would benefit most from a translation in order to help overcome any language difficulties. NICEM expressed the view that as other ethnic groups did not experience the same language difficulties it was not considered that a summary of the document was required in other languages. This view was supported by the results of recent research.
- A summary has therefore been provided in Chinese, and this will accompany the final version of the published document. However, if it were considered, as a result of monitoring, that other ethnic groups would benefit from a summary of the Advice Note in a different language, this will be facilitated.

The full text of the Equality Impact Assessment is available on the Northern Ireland Civil Service website: www.nics.gov.uk/pubs/equalityimpact

Appendix 2: Planning Applications

In order that the Department can give full consideration to applications, it is recommended that, in the first instance, applicants read the following leaflets produced by Planning Service:

- Explanatory Notes on Applying for Planning Permission, Approval of Reserved Matters and other Planning Consents;
- Notes on the Completion of Form P1;
- Planning Fees – Explanatory Note for Applicants.

In addition, applicants for restaurants, cafés and fast food outlets will be required, where appropriate, to submit the following details:

- 1:50 scale drawings of the location and siting of any proposed external ventilation ducting and any other mechanical plant indicating clearly its design and dimensions and relationship to existing and proposed windows and architectural features.
- Indicate on the submitted drawings clearly the location of the fan and motor elements within the ducting, specifying details of silencers or other sound attenuation measures, including anti-vibration mountings and acoustic cladding.
- Confirm that the proposed ventilation ducting will achieve a minimum of 30 air changes per hour and/or 0.2-0.5 metres/second across the canopy face or 1.5-2.0 metres/second across the filter.
- Provide details of proposed refuse storage and collection arrangements (particularly the storage/disposal of putrescible waste material). All refuse should be stored in suitable containers within an enclosed area, which should be clearly identified on the submitted drawings.
- Provide details of L.P.G. storage arrangements and provision of grease traps to the drainage system.
- Give details of any off-street parking provision. If on-site car parking spaces are proposed, these should be clearly identified on the submitted drawings.
- Give details to show that all glazed areas which could result in noise nuisance will be double glazed and non-openable, and that all external doors will be self closing. Where windows are required to be fixed, a suitably silenced mechanical ventilation system will be required.
- Give details of the size of the restaurant. The area proposed for the use of customers should be clearly identified on the submitted drawings and

the number of covers should be confirmed.

- Indicate whether the use is primarily for a restaurant, café or take-away.
- Specify details of the intended days and hours of operation including servicing and deliveries intended to take place outside normal opening hours.
- State the anticipated staffing levels.
- Give details of any delivery service.
- Give details of those areas of the premises where entertainment may take place and/or live or amplified music played together with any sound attenuation measures to be incorporated in order to reduce noise breakout.
- The Department may request further information regarding the application such as the sound power levels of individual pieces of machinery (e.g. fan and motor units) which is obtainable from manufacturers and suppliers, and details of the calculated sound pressure level and the background sound level, both of these levels being measured one metre from the boundary of the site and predicted back to one metre from the façade of the nearest noise sensitive premises.

Appendix 3: Other Relevant Legislation

1. In addition to the planning control exercised by the Department in respect of restaurants, cafés and fast food outlets, there is extensive regulatory control of premises on which food is prepared, particularly in respect of the quality of the food sold and food hygiene. *The Food Safety (NI) Order 1991* allows local councils to appoint authorised Environmental Health Officers. This legislation makes it an offence to sell food which does not comply with food safety requirements, and which is not of the nature, substance or quality demanded by a purchaser. In circumstances where the health risk condition is fulfilled, an authorised officer may serve an emergency prohibition notice on the proprietor of a food business. This has the effect of closing down premises or a process. Environmental Health Officers are concerned about such matters as water supply, toilet and washing arrangements for staff, provision of facilities for washing food and equipment, discharge of cooking fumes and the provision of sludge boxes and grease traps in order to protect the sewerage system. In all these matters the primary concern of the Environmental Health Officer is with the cleanliness of the premises. *The Food Safety (General Food Hygiene) Regulations (NI) 1995* set minimum structural and operational standards for persons carrying on food businesses.
2. *The Pollution Control and Local Government (Northern Ireland) Order 1978* confers powers on local councils in relation to such matters as litter, disposal of waste, noise and atmospheric pollution. However, external ducting to deal with expelled cooking smells can only be **required** under planning powers. It is important to stress that the powers of the local council are reactive; preventative measures are only possible through the development control process by the imposition of conditions or by the refusal of planning permission. *The Litter (Northern Ireland) Order 1994* also empowers local councils to issue street litter control notices.
3. Under the *Licensing (NI) Order 1996*, a licence is required for the serving of alcohol in places of public entertainment and in restaurants. The hours during which alcohol may be served are controlled by the same Order.
4. Under Article 5 of the *Local Government (Miscellaneous Provisions) (NI) Order 1985*, local councils may serve a closing order to limit late night trading by premises selling food for consumption on or off the premises (subject to certain exceptions) if neighbouring residents complain of being disturbed by:
 - persons resorting to the premises; or
 - by the use of the premises

However, there are exemptions and closing orders cannot take effect before midnight nor cease later than 5:00 a.m.

5. Under *Article 3 and Schedule 1 to Local Government (Miscellaneous Provisions) (NI) Order 1985*, places of public entertainment require a licence from the council for the district in which the place is situated. Entertainment licence conditions can be used to control noise arising from entertainment so that persons in the neighbourhood are not unreasonably disturbed. If a music and dancing licence is already in force, a restaurant licence may be extended by the grant of a special hours certificate under the *Licensing Act 1964*.
6. Planning controls in respect of the storage of hazardous substances complement but do not override the requirements of the *Health and Safety at Work (NI) Order 1978* and its relevant statutory provisions (defined at Article 63 of the 1991 Order) which are enforced by the Health and Safety Executive Inspectorate of the Department of Enterprise, Trade and Investment.
7. Whilst those provisions of the *Disability Discrimination Act 1995* which require physical alteration of premises do not become law until October 2004, other sections of the law are already in place.
8. Approval may be required to ensure that the proposed works comply with the *Building Regulations 2000*.

Appendix 4: Glossary of Terms

(Definitions as contained in PPS 5 'Retailing and Town Centres')

<i>Town Centres</i>	City centres and town centres which provide a broad range of facilities and services which fulfil a function as a focus both the community and public transport.
<i>District Centres</i>	Groups of shops, separate from the town centre, usually containing at least one food supermarket or superstore and non-retail service uses such as banks, building societies and restaurants.
<i>Local Centres</i>	Small groupings of shops, typically comprising a general grocery store, a sub-post office, occasionally a pharmacy and other small shops of a local nature.
<i>Town Centre Vitality</i>	Vitality is a measure of how busy a centre is.
<i>Town Centre Viability</i>	Viability is a measure of the town centre's capacity to attract ongoing investment for maintenance, improvement and adaptation to changing needs.

Summary - English/Chinese

Development Control Advice Note 4

Restaurants, Cafés and Fast Food Outlets

Summary

Proposals for restaurants, cafés and fast food outlets, particularly those in close proximity to residential property often generate objections, and it is important that potential purchasers of premises intended for such uses have access to appropriate advice before making planning applications.

The purpose of this Development Control Advice Note (DCAN) is to provide supplementary planning guidance that indicates acceptable locations for restaurants, cafés and fast food outlets.

Development Control Advice Note 4 applies throughout Northern Ireland to development proposals (including new buildings and changes of use) for the sale of food for consumption on the premises or of hot food for consumption off the premises. It does not apply to shops such as sandwich bars selling cold food for consumption off the premises.

This guidance supersedes:

- Development Control Advice Note 4 ' Hot Food Bars' (1983) and;
- Development Control Advice Note 6 'Restaurants and Cafés' (1983).

Contents of Development Control Advice Note 4

- Section 1:** Purpose and scope of the guidance.
- Section 2:** Policy context.
- Section 3:** Need for planning permission and other consents when dealing with proposals for restaurants, cafés and fast food outlets.
- Section 4:** Locational considerations, focusing on the locations which are generally acceptable for restaurants, cafés and fast food outlets i.e. town centres, district centres and local centres.
- Section 5** Effects on amenity that can result from this particular type of land use i.e. noise disturbance, smells and fumes, refuse and litter. Traffic considerations/car parking and provision for people with disabilities are also taken into account.

開發控制通知單 4

餐館、咖啡館和快餐零售店

概覽

對餐館、咖啡館和快餐零售店，特別是那些緊鄰住宅區的餐館、咖啡館和快餐零售店提出的提案常常受到阻擾。那些打算購買房地產作以上用途的潛在購買者在申請建築許可前務必瞭解相應的提案。

這項“開發控制通知單”(DCAN)的目的是提供補充的建築指導，為餐館、咖啡館和快餐零售店指明可接受的經營地點。

“開發控制通知單4”是對整個北愛爾蘭地區開發提案的補充（包括新建築物及建築物用途改變），適用於在店內售賣消費性食品或在店外售賣消費性熱食的情況。它不適用於在店外售賣消費性冷食的零售店，如：三明治店。

這項指導取代：

- * 開發控制通知單4 “熱食店” (1983)，以及
- * 開發控制通知單 6 “餐館和咖啡館” (1983)。

開發控制通知單 4的內容

- 第1節： 指導的目的和範圍。
- 第 2節： 政策背景。
- 第3節： 當涉及針對餐館、咖啡館和快餐零售店的提案時，需要建築許可和其他許可。
- 第 4節： 位置的考慮，重點是餐館、咖啡館和快餐零售店普遍可接受的位置，即市鎮中心、轄區中心以及當地中心區。
- 第 5 節： 這種特定的土地用途會對環境產生影響，即： 噪音干擾、氣味和濃煙、廢物和垃圾等。交通因素或車輛的停放以及為殘疾人提供便利也要考慮在內。