



West Lothian  
Council

## A DEVELOPMENT CONTROL POLICY FOR CONSIDERING PROPOSALS FOR CLASS 3 USES AND HOT FOOD TAKEAWAYS

### **INTRODUCTION**

Class 3 uses and hot food takeaways can give rise to a number of problems for residential neighbours and other occupiers in the immediate vicinity as well as the surrounding area in general. These problems include cooking smells, noise and disturbance, litter and traffic generation, particularly outwith normal shopping hours. Nevertheless, these businesses provide a valuable contribution to the life of a town or village and there is obviously a great demand for them, particularly in the evenings.

This policy document has been designed to identify areas or circumstances where Class 3 uses and hot food takeaways may or may not be acceptable. It explains that the first element to be considered is the predominant use of the area where the Class 3 use or hot food takeaway is to be located. The document also covers the types of issue which need to be covered by planning conditions should the principle of a Class 3 or hot food takeaway use be acceptable. Traffic and Road Safety issues are briefly examined. Finally, there is a brief look at other similar uses.

### **THE PREDOMINANT USE OF AN AREA**

#### **Presumption in Favour of Class 3 Uses or Hot Food Takeaways**

There is a presumption in favour of granting planning permission for Class 3 uses or hot food takeaways in existing shopping centres where there would be minimal conflict with residential properties. *However, even if a proposal is situated within a town centre, if it is either below or immediately adjacent to residential property in separate ownership or occupation and it is for an unrestricted hot food shop use, it is unlikely to be considered favourably since there will inevitably be conflict between the two uses.*

#### **Presumption Against Class 3 Uses**

There is a presumption against granting planning permission for change of use to Class 3 uses in quiet housing areas or in side streets in town centres where the predominant existing use is residential. Proposals for restricted Class 3 uses such as tea rooms where the method of cooking is microwave only and the hours of operation are restricted to daytime, may be acceptable in predominantly residential areas or when there is residential property above, depending on the individual circumstances.



West Lothian  
Council

## ***PLANNING CONDITIONS FOR CLASS 3 USES AND HOT FOOD TAKEAWAYS***

Even where Class 3 uses and hot food takeaways are acceptable, it is usually necessary to impose planning conditions to ensure the uses do not cause any avoidable problems. This section outlines the types of issues which may be covered by planning conditions. Alternatively, some of these issues will need to be clarified by the applicant at the time of his or her application (e.g. whether the premises can be adequately ventilated).

### **Ventilation Systems**

An effective system for the extraction and disposal of cooking odours will be provided for all Class 3 uses and hot food takeaways where the method of cooking is likely to cause smell or fumes.

Details of this ventilation system shall be submitted with any planning application and the application will not be determined by the Council until the feasibility of the proposed system has been established to the satisfaction of the Development and Building Control Manager in consultation with the Environmental Health and Trading Standards Manager.

Conditions will be applied to a planning permission for a Class 3 and hot food takeaway uses to ensure the effective ventilation system described above is installed before any business opens and that it is operational at any time thereafter when the premises are in use. Alternatively, if no effective ventilation system can be provided, a condition will be imposed to restrict the form and means of cooking so that no fumes are created.

Any proposed ventilation system will be designed to accord with the following points:

- The ventilation system for the kitchen shall be capable of achieving 30 air changes per hour and the cooking odours will be ducted to an exhaust point agreed with the Development and Building Control Manager in consultation with the Environmental Health and Trading Standards Manager to ensure no cooking odours escape or are extracted into any neighbouring premises.
- The ventilation system will be tested for the escape of odours prior to the commencement of operations.
- In those cases where it is necessary to provide a duct up the back of the property, the applicant will confirm that the agreement of all the owners to which the duct is to be fixed, has been obtained.
- The provision of any external flue will not adversely affect the character or visual amenity of the building to which it is attached.

### **Litter/Refuse**

- An area shall be formed within the premises for the storage of refuse. A litter bin shall be provided immediately outwith the premises.
- The location and type of refuse storage facilities and litter bins will be provided to the satisfaction of the Development and Building Control Manager in consultation with the Environmental Health and Trading Standards Manager and maintained to their satisfaction thereafter.



## West Lothian Council

### **Noise**

- Any amplified music or sound attributable to the premises shall be so controlled as to be inaudible in nearby residential or commercial property.
- The design and installation of any plant and equipment shall be such that any associated noise complies with NR25 when measured within any neighbouring house and no structure borne vibration is perceptible within any neighbouring house.
- The sound insulation properties or sound transmission characteristics of the structures and finishes shall be such that no impact or airborne noise from the normal operations within the commercial catering premises is audible in any neighbouring house.

### **Hours of Operation**

Hot food shops or restaurants will be allowed to open to 1.00am any day of the week in line with Licensing Committee guidelines unless there are specific circumstances where to allow such late hours would be detrimental to the amenity of nearby residents. Each proposal will be examined on its merits to see if an earlier closing time would be justified. Factors examined in each case will include the following :-

- The proximity of the premises to residential property.
- The volume and type of activity at late hours already existing in the area (this will include other late opening premises such as public houses, other hot food shops and restaurants, social clubs and the existence of bus stops or taxi-ranks nearby).

### **TRAFFIC AND ROAD SAFETY**

Each proposal for a Class 3 or hot food takeaway use will be treated on its merits as far as its effect on traffic and road safety is concerned. It is likely that in the town centre areas where there is a presumption in favour of such uses, there will be sufficient on and off-street car parking nearby, particularly since the busiest times for such uses tend to be in the evenings when other businesses are closed. Proposals will not be allowed if they would have a detrimental effect on road safety in an area.

### **OTHER SIMILAR USES**

The Council occasionally deals with applications for other uses town centre uses such as amusement arcades, snooker halls, discotheques which also generate noise, disturbance and require late hours opening. These and other licensed or late hours opening premises will be subject to similar considerations as Class 3 uses or hot food takeaways although some of their impacts will be greater (e.g. noise from discos). For this reason, planning approval for a Class 3 or hot food takeaway does not necessarily mean that planning permission will automatically be granted for a discotheque or public house or other similar uses.

