

Subject: Interim Policy Statement: Hot Food Takeaways **Status:** For Publication

Report to: Cabinet Policy Overview & Scrutiny **Date:** 17th June 2009
16th June 2009

Report of: Executive Director – Business

Portfolio

Holder: Portfolio Holder for Regeneration

Key Decision: Yes

Forward Plan General Exception Special Urgency

1. PURPOSE OF REPORT

- 1.1 The attached document is the Interim Policy on Hot Food Takeaways that require planning permission. The policy seeks to control the location of Hot Food Takeaways and the number in any location, their hours of opening and impact on visual and residential amenity. The other criteria include the proximity of Hot Food takeaways to schools, youth facilities and parks, bin storage and waste disposal, ventilation, highway safety, parking, servicing and turning, accessibility both by public transport and for the mobility impaired up to and into the shop. The Policy also has a chapter on how the policy will be monitored.
- 1.2 Cabinet approval is sought to go out to consultation on the attached document for a period of 6 weeks starting from 18th June 2009 seeking the views of the statutory consultees, local businesses and residents as well as other stakeholders. After the period of just over 6 weeks, the closing date for responses being Friday 31st July 2009, the responses will be collated and considered with the final document being amended where necessary. The Policy will be brought back to Cabinet for adoption and final publication.

2. CORPORATE PRIORITIES

- 2.1 The matters discussed in this report impact directly on the following corporate priorities and associated corporate objective.
- Encouraging healthy and respectful communities.
 - Promoting the Borough.
 - Delivering regeneration across the Borough.
 - Delivering quality services to our customers.
 - Keeping the borough clean, green and safe.

- Providing value for money services.

3. RISK ASSESSMENT IMPLICATIONS

3.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:

- The Interim Policy Statement: Café's, Restaurants and Hot Food Takeaways will be an essential tool in assisting the regeneration of Rossendale, keeping the Borough clean and would assist in health and well-being across the Borough. The Policy would achieve this by controlling the location and number of Hot Food Takeaways thereby keeping the Borough's Town Centres vital and viable as well as securing improvements in visual amenity where approval is given. The Policy would assist in keeping the Borough clean through the provision of adequate litter bins and suitable waste management within the proposals. The policy would seek to locate new Hot Food Takeaways some distance from schools, youth facilities and parks. Resisting applications for planning permission where such problems exist would be much more difficult and costly for the Council without this Interim Policy.

4. BACKGROUND AND OPTIONS

- 4.1 The purpose of this Interim Policy is to set out clearly the Council's policy of where new proposals for Hot Food Takeaways should be located, the density of such uses and the considerations the Council will expect applicants to have addressed in order to make their schemes acceptable to gain planning permission.
- 4.2 The current draft of the document is ready to be consulted upon for a period of just over 6 weeks starting from 18th June 2009 although authority is sought to adopt the Policy for Development Control with immediate effect.
- 4.3 Following the consultation process, all comments will be collated, considered and the final Interim Policy will be amended where necessary with a view to returning the document to Cabinet for final adoption.

COMMENTS FROM STATUTORY OFFICERS:

5. SECTION 151 OFFICER

- 5.1 There are no material financial implications.

6. MONITORING OFFICER

- 6.1 There are no legal implications arising from this report.

7. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

7.1 There are no material people or organisational development related implications from this report.

8. CONCLUSION

8.1 The Interim Policy has been drafted and is ready to be consulted on to be used in determining planning applications. This provides the Council with a policy document which will gain increasing weight when seeking to control new Hot Food Takeaway development in the Borough.

9. RECOMMENDATION(S)

9.1 That Cabinet authorise the document to be consulted on for a period of 6 weeks and that the Policy be adopted for Development Control purposes with immediate effect.

10. CONSULTATION CARRIED OUT

10.1 N/A.

11. EQUALITY IMPACT ASSESSMENT

Is an Equality Impact Assessment required Yes

Is an Equality Impact Assessment attached Yes

12. BIODIVERSITY IMPACT ASSESSMENT

Is a Biodiversity Impact Assessment required Yes

Is a Biodiversity Impact Assessment attached Yes

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Either

Background Papers	
Document	Place of Inspection
Interim Policy Statement: Café's, Restaurants and Hot Food Takeaways	Adrian Harding 01706 252586 One Stop Shop

Interim Policy Statement: Hot Food Takeaways

Rossendale Borough Council

Forward Planning Team
One Stop Shop
Rawtenstall
Rossendale
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June 17th 2009

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How to Respond to Consultation Exercise

Rossendale Borough Council proposes to adopt an Inteim Policy Statement to provide additional guidance on the development of hot food takeaways in the Borough.

The Interim Policy Statement is the subject of a six-week period of consultation which runs from 18th June 2009 to 31st July 2009. All representations received during this period will be carefully considered, and where appropriate the Interim Policy Statement will be amended prior to adoption. **All comments are welcomed but must be received by the Council no later than 5pm on Friday 31st July 2009 if they are to be taken into account.**

You may comment on the draft Interim Policy Statement by any of the following means:

- Via the Council's website at:
http://www.rossendale.gov.uk/site/scripts/consultation_open.php
- By email, using the address forwardplanning@rossendalebc.gov.uk.
- By post, using the following address

Hot Food Takeaways Interim Policy Statement
Forward Planning
Rossendale Borough Council
One Stop Shop
Lord Street
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BB4 7LZ

We are encouraging the online (electronic) submission of responses as this saves paper, reduces postage costs and enables respondents to view the status of their submission. If, however, you cannot, or prefer not to submit your representations online for any reason, we also welcome paper submissions.

Any queries regarding this Interim Policy Statement should be directed to the Forward Planning Team on 01706 252417.

It is anticipated that the Council will formally adopt the Hot Food Takeaways Interim Policy Statement in October 2009.

INTRODUCTION

This Interim Policy Statement (IPS) has regard to saved policy DC.1 of the adopted Rossendale District Local Plan and provides additional guidance on the development of hot food takeaways. It explains the Council's overall approach to hot food takeaway development, and sets out considerations related to:

- The location of hot food takeaways
- The impact of proposals on visual and residential amenity
- The impact of proposals on highway safety and accessibility.

The provisions of this IPS will be implemented primarily through the development management process and the determination of applications for hot food takeaway development.

Anyone intending to submit an application for a hot food takeaway is encouraged to read the guidance contained within this IPS and then contact the Council's Planning Department for further advice and pre-application discussion prior to submitting a planning application. Rossendale Borough Council's duty planning officer can be contacted on 01706 252580.

This IPS does not have the same status as the development plan. Nevertheless, once adopted, it will be an important material consideration in the determination of planning applications.

The Town and Country Planning (Use Classes) Order 1987 (as amended) subdivides different development types into separate Classes of Use. Hot food takeaways, where the primary purpose of the property is the sale of hot food for consumption off the premises, fall within Class A5 of the Use Classes Order. In planning terms, there is a distinction between hot food takeaways and cafés/restaurants, which fall within Class A3 of the Use Class Order.

The guidance contained within this IPS will be applied to all applications for hot food takeaway development. However, as proposals for café/restaurant development can often raise similar issues, there are elements of this document, in particular but not exclusively, the policies relating to Over-Concentration (Policy HFTA1), New Build Development and the Extension or Alteration to an Existing Building (Policy HFTA4), Hours of Opening (Policy HFTA7) and Accessibility (Policy HFTA 11), which may also be of relevance to applications for café/restaurant development.

HOT FOOD TAKEAWAYS AND THE NEED FOR THIS DOCUMENT

Hot food takeaways represent a popular service for local communities and an important complimentary use in town and neighbourhood centres. Nevertheless, when compared to other retail uses, hot food takeaways have a greater potential to detract from residential amenity and environmental quality through increased incidence of litter, odours, noise and general disturbance, parking and traffic problems.

In recent years a number of retail units in the Borough have been converted into hot food takeaway establishments. High concentrations of hot food takeaway establishments in town and neighbourhood centres can have a detrimental impact on the vitality and viability of these centres and adversely affect the range of services offered to local communities by excluding other uses and services. Consequently, there is a need to ensure that the Borough's town and neighbourhood centres contain an appropriate concentration of hot food takeaway establishments which does not undermine their primary purpose of providing a range of shopping and other functions.

Planning applications for hot food takeaways, particularly those in close proximity to residential properties, frequently generate a significant number of objections, and it is therefore important that potential applicants have access to appropriate advice before making planning applications.

The increasingly popular nature of these services has reinforced the need for up-to-date guidance on hot food takeaways. This IPS provides more detailed planning guidance to assess and determine planning applications and is intended to guide prospective take away owners and their agents to encourage the submission of good quality planning applications.

Furthermore, in an effort to provide a holistic approach to tackling concerns over community health and childhood obesity, and as promoted in recent government guidance¹, this Interim Policy Statement also encourages hot food takeaways to provide healthier eating options and seeks to manage the proliferation of fast food outlets in particular areas.

¹ Healthy Weight, Healthy Lives: A Cross Government Strategy for England - Department of Health, January 2008.

PLANNING POLICY CONTEXT

NATIONAL POLICY

Planning Policy Statement 6: Planning for Town Centres

National Planning Guidance outlined in Planning Policy Statement 6: *Planning for Town Centres* encourages local authorities to develop local strategies to help manage the evening and night time economy. It encourages authorities to consider the “likely impact, including cumulative impacts, on the character and function of the centre, anti-social behaviour, crime and the amenities of nearby residents”. Other relevant national guidance includes PPS1 – Delivering Sustainable Development, PPS3 – Housing, PPG13 – Transport and PPG15 Planning and the Historic Environment.

REGIONAL POLICY

The Regional Spatial Strategy for the North West was published on 30th September 2008. It constitutes part of the development plan for Rossendale Borough Council. There are number of policies of the RSS that are relevant to this IPS, these include:

- DP 1 - Spatial Principles
- DP 2 - Promote Sustainable Communities
- DP 3 - Promote Sustainable Economic Development
- DP 4 - Make the Best Use of Existing Resources and Infrastructure
- DP 5 - Manage Travel Demand; Reduce the Need to Travel, and Increase Accessibility
- DP 6 - Marry Opportunity and Need
- DP 7 - Promote Environmental Quality
- RDF2 - Rural Areas
- W5 - Retail Development

LOCAL POLICY

The principal policy within the Rossendale District Local Plan that is supplemented by this IPS is Policy DC.1: *Development Criteria*. This IPS will provide additional guidance on how this policy will be implemented for hot food takeaway proposals. **Policy DC.1** states that:

The Council aims to ensure that all new development is in accordance with the district plan. In general, all development proposals will be expected to provide a high standard of building and landscape design, to contribute to environmental quality, and not to be detrimental to existing conditions in the surrounding area. After taking into account any likely future extension, developments should not take more land than is reasonably necessary, nor should they prejudice the future development of any wider area. All applications for planning permission will be considered on the basis of the following criteria:-

- a) **Location and nature of proposed development, including its relationship to existing and other land uses**
- b) **Size and intensity of the proposed development;**
- c) **Relationship to existing services and community facilities;**

- d) **Relationship to road and public transport network;**
- e) **Likely scale and type of traffic generation;**
- f) **Likely level of air, water and other environmental pollution, including noise nuisance and the possible creation of any risk or hazard to surrounding land uses;**
- g) **Likely effect of existing trees and other natural features of the development site;**
- h) **Arrangements for servicing and access to proposed development, including access for pedestrians, disabled people and emergency services;**
- i) **Car parking provision;**
- j) **Sunlighting, daylighting and privacy provided;**
- k) **Density, layout and relationship between buildings;**
- l) **visual appearance and relation to surroundings;**
- m) **Landscaping and open space provision;**
- n) **The needs of watercourses;**
- o) **The impact upon man-made or other features of local importance.**

Reasons

The list of criteria will be used in considering all development proposals, but obviously they will not be equally important in all cases. In some cases, other factors may also need to be taken into account, and these are explained in the Policy Sections which follow.

The IPS also supplements the following policies of the local plan:

- DS1 – The Urban Boundary
- DC4 – Materials
- DC5 – Advertisements
- HP1 – Conservation Areas
- HP2 – Listed Buildings
- HP5 – Shop Fronts

In addition there are other licensing regimes and departments of the Council it would be expedient for applicant's to contact before submitting a planning application. These include

Building Control

01706 252521 or buildingcontrol@rossendalebc.gov.uk

Environmental Health – Pollution Team

01706 252565 or envhealth@rossendalebc.gov.uk

Licensing Team

01706 238 648 or licensing@rossendalebc.gov.uk

Communities Team – Refuse Section

01706 878660 or refuse@rossendalebc.gov.uk

DO I REQUIRE PLANNING PERMISSION?

New Premises

If the intention is to build new premises for use as a hot food takeaway, planning permission is required.

Change of Use to a Hot Food Takeaway

The Town and Country Planning (Use Classes) Order 1987 (as amended) subdivides different development types into separate Classes of Use. In general, to change the use of a property from one use to another requires planning permission. Hot food takeaways, where the primary purpose of the property is the sale of hot food for consumption off the premises, fall within Class A5 of the Use Classes Order. If the intention is to change the use of an existing shop, restaurant, pub, office, house or other use to a hot food takeaway, planning permission will be required.

Where a property currently has permission for use as a hot food takeaway, planning permission will not be required to use the property for any other type of hot food takeaway. However, any conditions attached to the previous planning permission, such as restrictions on opening hours, will still apply.

External Building Works or Alterations to an Existing Hot Food Takeaway.

Planning permission will usually be required for external alterations or works which would result in a material change to the appearance of the existing premises, such as the installation of a new shop front, extending the existing building or the addition of external shutters or grilles.

Advertisements

There are a number of signs that require advertisement consent before they can be erected. In particular, all externally located illuminated signs require advertisement consent. The Department for Communities and Local Government has produced a user friendly booklet entitled "Outdoor advertisements and signs: a guide for advertisers", which provides detailed information and guidance on the acceptability of advertisement proposal. This information can be accessed via their website:

<http://www.communities.gov.uk/planningandbuilding/>

Extraction Systems

The installation of a new extraction system will require planning permission where any part of the system is mounted externally. Where an existing system is already in place and the intention is to replace this with a larger system, planning permission may also be required.

Change to Opening Hours

If the intention is to extend the hours of operation beyond the times listed on an existing planning consent, a planning application to vary the conditions on your opening hours may be required.

If you are in doubt as to whether you require planning permission you should contact the Duty Planning Officer on 01706 252580.

PLANNING POLICIES

PART 1 – LOCATION OF HOT FOOD TAKEAWAYS

HFTA 1 – Over Concentration

When considering whether a proposed hot food takeaway would result in an over-concentration of such uses to the detriment of the vitality and viability of a town centre, neighbourhood centre or local retail parade, regard will be had to:

- The number of existing hot food takeaway establishments in the immediate area and their proximity to each other;
- The type and characteristics of other uses, such as housing, shops and public houses;
- 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 community; and
- Any known unresolved amenity, traffic or safety issues arising from existing uses in the area.

Justification

It is acknowledged that hot food takeaways offer a popular service to local communities and have a significant role to play within town centres and other shopping areas. However, it is important to evaluate the possible adverse effects of an over-abundance of hot food takeaways on the vitality and viability of existing town and neighbourhood centres.

An overabundance of hot food takeaways, particularly where they form clusters of such uses, can have an adverse impact on the vitality and viability of a centre and, as a consequence, affect the overall attractiveness of the centre to shoppers. It is essential that such uses do not detract from the centres primary retail function, or result in a loss of shops or other key services to the detriment of local residents.

Consequently, the impact of the proposal, by itself and cumulatively, with other non-retail uses on the role, character, vitality and viability of a town centre or other shopping area will be an important material consideration when determining proposals for hot food takeaways.

HFTA 2 – Proximity of Hot Food Takeaways to Residential Properties

Planning permission for hot food takeaway establishments will not normally be granted where a unit of residential occupation exists directly above or adjacent to the proposed hot food takeaway.

Similarly, applications to convert properties directly above or adjacent to an existing hot food takeaway use into a residential unit will not normally be permitted.

Justification

The potential impact of hot food takeaways on the amenity of neighbouring properties will be a significant issue when considering applications for hot food establishments, particularly if these are residential properties. Hot food takeaways can give rise to a number of problems for residential neighbours and other occupiers in their immediate vicinity as well as the surrounding area in general.

A balance is needed between the provision of these increasingly popular facilities and the need to protect the amenity of residents living near to hot food establishments from excessive odour, noise, vibration, disturbance and traffic, by restricting the introduction of hot food establishments below or adjacent to residential properties.

The impact of cooking smells is largely dependent on the proximity of the premises to neighbouring uses. In the case of this policy 'adjacent to' includes those properties which are directly above adjoining uses.

Effective removal of fumes from premises is essential, although, in practice, it is virtually impossible to completely eliminate all cooking smells, irrespective of the extraction equipment installed. In older properties, fumes, smells and odours can often penetrate the fabric of the building and can have a significant detrimental impact on the occupiers of adjacent properties. Therefore, residential properties directly adjacent to a hot food takeaway are not normally acceptable, irrespective of the extraction system installed.

Furthermore, it is recognised that hot food takeaways can cause particular disturbance because activities are often at their peak in the evening and late at night when background noise levels are low. The noise generated from the cooking process (including extraction systems which inevitably have to discharge at a high level to aid with the dispersion of the odourous emission), the late night opening and attraction of large numbers of people in particular periods of the day (afternoons and evenings) mean takeaways can produce a higher degree of noise and disturbance than other kinds of retail use.

Insert diagram to illustrate policy

HFTA 3 – Proximity to Schools, Youth Facilities and Parks

With regard to proposals which fall outside town centre and local parade locations, hot food takeaways will be resisted where the proposal would fall within:

1. 200m of the boundary of an existing school or youth centred facility
2. 200m of a park boundary.

Justification

The document “Healthy Weight, Healthy Lives: A Cross Government Strategy for England”, published by the Department of Health in January 2008 highlights the Governments’ commitment to promoting healthier communities.

The document highlights the need for local authorities to manage the proliferation of fast food outlets as a means of combating their known adverse impact on community health. In particular, it is advocated that such management should be scaled up around schools and parks.

Accordingly, where the premises lies outside of town centres and local retail parades, planning permission will not usually be granted for hot food takeaway shops which fall within 200m of the boundary of either a school facility, any youth facility or any designated park.

PART 2 – VISUAL AND RESIDENTIAL AMENITY

HFTA 4 – New Build Development and the Extension or Alteration to an Existing Building

New build hot food takeaways, and extensions or alterations to existing buildings will not be permitted where it would:

- detract from the appearance of the street-scene or neighbouring properties through the use of inappropriate materials or by virtue of its design, massing, bulk, proportion, scale or style; or
- have an unacceptable impact on the amenity of the occupiers or users of other developments in terms of loss of light, privacy and outlook.

Roller shutters or grilles should normally be painted in an appropriate colour and fitted internally. Where it can be demonstrated that it is not possible to fit roller shutters internally they should:

- take the form of a steel rolling grille or be perforated to allow passers-by to view into the shop out of hours;
- be fitted to cover only the shop window to stall-riser level and not to floor level; and
- have a shutter box which is fitted internally, usually behind the fascia boards.

Justification

Poor quality, insensitive design can detract from the quality of the built environment and have an unacceptable impact on the occupiers and users of neighbouring properties. Each application will be determined on its own merits but the Council will expect all applications for new build hot food takeaway development, or the extension or alteration to an existing building to form a hot food takeaway, to achieve a high standard of design. There are a number of parts of the Borough that are designated as conservation areas due to their special architectural or historic interest, including Rawtenstall and Bacup town centres. The design quality of proposals are likely to be even more important in these areas and a higher standard of design required.

Security shutters or grilles may be appropriate where the risk of crime cannot be satisfactorily reduced by other measures. The design of shutters and grilles is, however, very important. When placed on shop fronts external shutters and grilles can have a major impact on the appearance of the premises, especially given hot food takeaways are often only open during evening hours. Solid, faceless aluminium/steel shutters or grilles can also engender a fortress type atmosphere and detract from the character of the surrounding area.

Grilles are encouraged as these allow views into the unit and have a less oppressive and threatening feel than roller shutters. Indeed, by being open to view, grilles can assist in helping to promote the vitality and viability of the centres in which the units are based, by providing an active frontage. Similarly, perforated shutters, if internally located and illuminated from behind, allow for surveillance from the street.

HFTA 5 – Bin Storage and Waste Disposal

Where possible, commercial bin stores should be contained within the main building. Where this is not possible, secure structures should be provided on site.

The bin stores provided should adequately screen stored refuse and be designed so as to respect the character of the area. Refuse storage structures should be sited and of a form so as not to cause an odour nuisance to neighbouring residential or commercial properties but be convenient to access for refuse collection services.

Suitable grease traps must also be installed on all drains for hot food takeaways to prevent blockages and the flooding of properties.

Justification

Hot food takeaway shops can generate a significant volume of waste. Consideration must be given to providing bins that are of a suitable size, appropriately sited and screened. These should be accessible at all times for the proprietor as well as for servicing and collection without affecting adjacent residents.

Inadequate storage facilities for refuse can result in harm to visual amenity as well as serious risk to public health. Consequently, it is important to ensure that there is sufficient physical space for their accommodation. Proposals for hot food takeaway shops should therefore include adequate facilities on the premises for the storage of waste generated by the business.

Within the Borough, there are many examples of premises which are of an inadequate size to provide storage space for commercial waste products within the building. Often this leads to the proposals to permanently locate the waste containers outside the premises. This will only be permitted where the bins would be adequately screened and sited where they would not have an unacceptable impact on the character and appearance of the area or the amenities of neighbouring residential or commercial properties.

The operation of hot food takeaway shops can cause significant problems for the drainage system as a result of the disposal of fat/grease from these premises. Most fat or grease discharged into private drains is liquid but in the cooler temperatures of the drains the fat/grease then solidifies. A build up of fat deposits may block the drain either locally or further down the sewerage system. These blockages can create subsequent problems, such as the leakage of foul sewage or the internal flooding of properties or of neighbouring areas. Consequently, the installation of grease traps is often necessary to prevent fat/grease from entering the public sewerage system.

Full details of refuse storage arrangements and grease traps should be included in all planning applications. It is the proprietors responsibility to arrange a waste disposal contract for the type of waste being used. For further information please contact:

Communities Team – Refuse Section 01706 878660 or refuse@rossendalebc.gov.uk

HFTA 6 – Litter Bins

Hot food takeaways will not normally be granted planning permission without the provision of a litter bin outside the premises at all times when the business is open.

On larger units or where deemed necessary by the Council, one or more litter bins may also be required within the surrounding area.

Justification

Litter is inherently unsightly and causes considerable annoyance to residents and adjoining businesses. It also raises concern about the potential attraction of pests and vermin. Irrespective of how careful the owner/operator is, hot food takeaways have the potential to generate a significant amount of litter because customers need to dispose of food wrappings/containers after the food is consumed. The problem, however, may actually be more likely to arise at some distance from the premises.

Objectors often quote litter dropped by the clientele of hot food takeaways as a reason for refusing permission for a hot food takeaway. Although the proprietor has no control over whether patrons drop litter, this is still a potential negative impact of a proposal on the surrounding area, which can be diminished through the provision of litter bins.

A condition will usually be attached to planning permission to require the operator to provide a bin outside the premises at all times when the business is open. Where a litter bin is required it should be positioned so as not to create any obstruction that would unduly restrict the free flow of pedestrians or wheelchair users. The bin should also be positioned so that it does not impede visibility splays and sight lines required for adjacent junctions and major access points. Details of the design and siting of the bin should be submitted with all planning applications.

The proprietor should make every effort to keep the area around the premises litter-free. It is the operators' responsibility to ensure litterbins are regularly maintained and emptied, and the surrounding area remains litter free. Where a litter problem is found to be directly linked to specific takeaway premises, the Council can issue a Street Litter Control Notice. Any operator seen to be non-compliance with such a notice, can incur a fine. For further information please contact:

Communities Team – Refuse Section 01706 878660 or refuse@rossendalebc.gov.uk

HFTA 7 – Hours of Operation

The hours of opening of a hot food takeaway within 30 metres of a residential property will normally be restricted to the hours of 08:00 – 22:00 Monday to Saturday with one hour at the start of the day to prepare food and one hour at the end of the day to pack up and tidy away. Opening on Sundays and Bank Holidays will not normally be permitted.

When alternative hours of opening are sought, or where the hot food takeaway would not be situated within 30m of a residential property, regard will be had to the following when considering what hours of opening are appropriate:

- The existence of an established late night economy in the area;
- The character and function of the immediate area; and
- The potential benefits of the proposal for the wider community.

Justification

The Council recognises that hot food takeaways often open at different times from most other businesses. Nevertheless, it is important that those with later opening hours are located where they would not adversely affect residential amenity.

The noise generated from the cooking process and the attraction of large numbers of people at particular times of the day mean hot food takeaway establishments often create a higher degree of noise and disturbance than other kinds of retail use. This noise generated by the activities of the trader and from the patrons can be very difficult to control.

Accordingly, in order to protect the amenities of the surrounding area from adverse effect, by reason of noise, disturbance, vehicular traffic movements, or pedestrian traffic, it is often essential to restrict the hours of opening of a proposed hot food takeaway. Consequently, in deciding to grant planning permission for hot food takeaway uses the Council may impose conditions to control opening hours.

The Council acknowledges that the viability of hot food takeaway establishments may be reliant upon late evening trade. However, concerns about residential amenity may dictate that a takeaway use may be completely unacceptable unless its hours of opening are restricted. Additional mitigation measures may be required to make such late night opening acceptable. The proposed hours and days of opening should be specified as part of any planning application for hot food takeaway development.

Each application will be considered on its individual merits. Nevertheless, restrictions on opening hours will generally be less rigid where the premises is situated in a town or local centre and there are no residential properties in close proximity to the premises.

HFTA 8 – Odours and Cooking Smells

To disperse odours effectively from hot food takeaways, extraction systems, where practicable, should normally:

- Have a flue that terminates at least 1 metre above the eaves height of the building to which it is attached, unless it can be demonstrated that an alternative height would be acceptable;
- Route ducting so as to avoid proximity to residential or office windows on neighbouring properties;
- Incorporate flue terminals that do not impede discharge;
- Have a minimal number of bends in the ducting;
- Use ducting with a smooth internal surface;
- Maximise dispersion by being capable of achieving a ventilation rate of 30 air changes per hour for kitchen areas;
- Have an efflux velocity of at least 8m/s;
- Use circular duct cross sections whenever possible;
- Fit all ductwork with anti-vibration couplings or mountings to minimise the vibration caused by air passing through; and
- Not exceed the existing background noise level as measured or calculated at the nearest residential property.

Extraction systems must also be designed so that they do not have an unacceptable impact on visual amenity. Consequently, the installed systems must not appear as an incongruous feature in the street scene. To be acceptable the proposed extraction system will normally have to be:

- Located to minimise its visual impact on the street scene;
- Of a colour, finish and design to blend in with the buildings to which it is attached;
- Incorporating cladding where appropriate; and
- Wherever practicable, but especially in conservation areas or within the setting of a Listed Building, installed predominantly within the building.

Special attention will have to be paid to the effects of noise and vibration when installed internally. If unacceptable smells and fumes cannot be prevented by means of an effective extraction or abatement system, or if ducting cannot be installed without significant detriment to visual amenity, planning permission will not normally be granted.

Justification

Cooking smells from hot food takeaways can cause amenity problems, especially if there are nearby residents. An effective system for the extraction and dispersal of cooking odours must be provided. In most cases, natural ventilation is insufficient and an extract duct with a fan and filters is required to ventilate cooking fumes and remove odours without causing a nuisance to neighbouring properties.

The design of the fume extraction/ventilation equipment should ensure that odours, fumes, or noise cause no nuisance or disturbance to nearby properties. Odours must be extracted directly upwards at a speed and height that will ensure adequate dispersion past adjacent buildings. Regular cleaning and maintenance will be necessary to any equipment, including the flue stack, to prevent the possibility of fires due to grease build up and also to prevent the generation of smoke from the flue.

Consideration must also be given to the visual impact of flues and care should be taken to locate them where they will not appear prominent. The Council will take into account issues of visual amenity in deciding whether or not a proposed extraction system is acceptable.

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. For further information please contact:

Environmental Health – Pollution 01706 252565 or envhealth@rossendalebc.gov.uk

HFTA 9 – Safety, Crime and Anti-Social Behaviour

When considering applications for hot food takeaways, the Council will seek the advice of the Police Crime Prevention & Design Adviser. Proposals considered to pose an unacceptable risk will not normally be supported.

Justification

When determining planning applications for hot food takeaways concern is often raised about the proposed use having the potential to result in crime and anti-social behaviour, particularly if the proposed establishment would be situated in close proximity to public houses.

It is important to ensure that issues relating to safety, crime and crime prevention are taken into account when determining planning applications.

As the threat of public disorder at a hot food takeaway is not inevitable, it cannot always be assumed that granting permission for a hot food takeaway would result in an increase in congregating youths and/or anti social behaviour. Nevertheless, where there are concerns over reasonable and justifiable crime and antisocial behaviour in the area, the application may be refused unless security measures can be taken, such as the use of CCTV cameras to reduce the level of risk.

PART 3 – HIGHWAY SAFETY AND ACCESSIBILITY

HFTA 10 – Highway Safety: Traffic and Parking

When considering whether a proposal for a hot food take away would have an unacceptable impact on the safety of pedestrians and road users, regard will be had to:

- The existing use of the site;
- Existing traffic conditions;
- The accessibility of the site by public transport and cycling;
- The proximity of the premises to major road junctions, traffic lights, pelican crossings or bus bays;
- The adequacy of public parking provision in close proximity to the premises, including on-street parking;
- The availability of easily accessible private parking provision;
- The arrangements for parking, turning and servicing for employees and deliveries to the shop; and
- The implications for the amenity of the surrounding area (particularly if predominantly residential).

Justification

The impact of hot food takeaways on traffic flow and road safety is an important consideration when determining applications. A significant proportion of the trade generated by hot food takeaways is car-borne and short stay, particularly for those establishments located on the main routes out of towns and in local shopping parades.

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, on dangerous bends 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 potentially jeopardising the safety of other road users.

The impact of inadequate car parking provision can be detrimental to the amenity of the area, especially if there are nearby residential properties, as it usually leads to an increase in parking in adjacent streets where parking problems may already exist, causing inconvenience to residents. Hot food takeaways cause most parking problems in the evenings and at weekends when the demand for on-street parking spaces by residents is likely to be greatest.

Hot food takeaways located in the town and neighbourhood centres and on high quality bus corridors are more likely to attract a large proportion of customers travelling by foot due to linked journeys and good accessibility by public transport and cycling. In addition, hot food takeaways in established shopping centres often benefit from adequate car parking spaces in the vicinity of the site. Consequently, dedicated off-street parking provision is not normally necessary for those establishments located in town and

neighbourhood centres. The onus will be on the applicant to demonstrate that the parking and servicing arrangements are adequate.

HFTA 11 – Accessibility

Hot food takeaways will be required to ensure that the premises provides access to all members of the community.

When considering proposals for hot food takeaway development the Council will have regard to the level of inclusive design proposed by the applicant and, in particular, the level of access offered to wheelchair users.

Applications failing to propose suitable access to a premises will not normally be permitted.

Justification

The Council is committed to ensuring that all developments, which are open to the public, cater for the needs people with disabilities. All hot food takeaways should strive to achieve inclusive design that allows the premises to be used safely and easily by as many people as possible.

Service providers are required under Part 3 of the Disability Discrimination Acts 1995 and 2005 gives disabled people a right of acces to goods, facilities and services. These requirements apply to all buildings where services are provided to the public, which, therefore, includes hot food takeaways. It is the proprietors duty to take steps to ensure that where a physical feature makes it impossible or unreasonably difficult for disabled persons to make use of a service they:

- Remove the feature;
- Alter the feature so that it no longer has that effect;
- Provide a reasonable means of avoiding the feature; or
- Provide a reasonable alternative method of making the service available to disabled persons.

A Design and Access statement must be submitted with any planning application for a hot food takeaway. This should provide details on how any issues around accessibility will be addressed.

ASSOCIATED ISSUES

Hygiene

Under the Food Hygiene (England) Regulations 2006 hot food takeaway operators are required to ensure that all staff who handle food are supervised by someone who is suitably qualified with a basic food hygiene certificate or that the staff themselves are appropriately qualified in the practical procedures and methods of applying food hygiene in the workplace.

In addition, the Food Hygiene (England) Regulations 2006 obliges the proprietors of food businesses to ensure that any of the following operations are carried out in a hygienic way: the preparation, processing, manufacturing, packaging, storing, transportation, distribution, handling and offering for sale or supply, of food.

It is strongly advised that the applicant should contact the Council's Environmental Health team prior to making an application for planning permission. Environmental Health Officers can provide detailed advice on the current requirements according to Food Hygiene and Health & Safety Legislation. Advice provided before an application is submitted can ensure that all necessary requirements are met prior to the commencement of the business. The Environmental Health team can be contacted on envhealth@rossendalebc.gov.uk.

Licensing

Under the provisions of the 2003 Licensing Act hot food takeaway establishments that provide hot food or drink between the hours of 23:00 and 05:00 am will need to obtain a license from the Council's Licensing Team. The Council's Licensing Team can be contacted on 01706 238 648.

It should however be noted that restrictions placed on the hours of operation of premises through a planning permission override any hours of operation granted in a Premises License.

Access for All

Part 3 of the Disability Discrimination Acts 1995 and 2005 gives disabled people a right of access to goods, facilities and services. This requires service providers to:

- Alter a barrier feature so that it no longer has effect;
- Provide a reasonable means of avoiding that feature; or
- Provide a reasonable alternative method of making the service available.

These requirements apply to all buildings where services are provided to the public, which, therefore, includes hot food takeaways. The requirements of the Disability Discrimination Acts 1995 and 2005 are taken into account in Part M of the Building Regulations – Access to and Use of Buildings. Where the hot food takeaway is a new build or change of use from any use other than retail the premises will need to comply with Building Regulations Part M. Details of Part M of the Building Regulations can be found at www.communities.gov.uk.

Applicants are advised to contact the Council's Building Control Department on 01706 252521 or 252522 for further information.

IMPLEMENTATION, MONITORING AND REVIEW

Implementation

The provisions of this Interim Policy Statement will be implemented primarily through the development management process and the determination of planning applications. It will inform all hot food takeaway development within the Borough. It does not have the status of the development plan (for the purposes of Section 38 of the Planning and Compulsory Purchase Act 2004), but will be an important material consideration in determining planning applications.

Applicants are advised to discuss possible schemes with the Council, at the earliest opportunity, and wherever possible prior to any planning application being submitted. This will help to ensure that the requirements of this Interim Policy Statement are fully understood and are taken into account in development proposals.

Monitoring

The effectiveness of this Interim Policy Statement will be assessed each year in Rossendale's Annual Monitoring Report. This will identify whether there have been any problems in implementing the policies, and assess whether it is having its intended effects. The key indicators will be:

- Number of complaints to Environmental Health about noise, litter and odours from hot food takeaways.
- Number of complaints about parking problems outside hot food takeaways

Review

The assessment of the Interim Policy Statement's performance in the Annual Monitoring Report will help to identify whether there is a need for it to be reviewed. Changes in National or Regional Planning Policy, or progress on the production of Development Plan Documents, may also prompt the need for further reviews.

APPENDICES

Appendix 1 – Validation Requirements

Appendix 2 – Pre-application Timetable

Appendix 1 – Validation Requirements

1. **Application form** (3 copies) – fully completed and signed.
2. The correct **Certificate of Ownership** (1 copy) required by law in order to identify anyone who has an interest in the land.
 - Certificate A if you own the land
 - Certificate B if you do not own some or all of the land & Notice 1 served on the other interested parties
 - Complete the Agricultural Holdings and tenancy statement
 - Contact the Department if other ownership is involved and Certificates C or D are needed.
3. **A covering letter** with any other relevant information in support of your application, including also copies of any correspondence arising from discussions with planning staff prior to submission.
4. **The correct fee.** Contact the Development Control Team to ascertain the amount required (01706 232580).
5. **Scaled plans and drawings** - The plans and drawings for any new build hot food takeaways or any external alterations to existing premises
6. **Ordnance Survey based location plan** - three copies will be required at a scale of 1:1250 or 1:2500 with the application site boundaries edged with a red line and any other land you own edged with a blue line. This location plan should show:
 - at least two (if practicable) named roads
 - surrounding buildings and
 - the direction of north.
6. **Photographs** are helpful and are useful in understanding the proposals.
7. A range of other information may also be necessary to validate your application, including:
 - **Existing and proposed sections** at a scale of not less than 1:100.
 - **A Supporting Planning Statement**
 - **A Design and Access Statement** – if the proposal is to build new premises for use as a hot food takeaway or if it is a change of use application which will result in alterations to the external appearance of the building.
 - Details of **any new or altered access** to any public highway accessway or public right of way.
 - **Bin storage / refuse disposal details**
 - **A flood risk assessment** in locations subject to flooding.
 - **Ventilation / extraction details**

If you are in any doubt about the information you are submitting please e-mail the Development Control Team on planning@rossendalebc.gov.uk or phone 01706 232580.

Appendix 2 – Pre-Application Timetable.

A. Timetable for the submission of an application.

- Day -56 Contact Local Planning Authority regarding a minor or householder application to be submitted.
- Day -49 Submit plans on minor or householder applications to Planning Officer to review.
- Day -42 Contact to Planning Officer on major and more complex applications to check progress on action list and confirm follow up meeting. Issue Number:1 Team: Spatial Development
- Day -35 Meet Planning Officer to discuss proposal for minor or householder Applications. Discuss scheme looking at impact of development – especially in relation to visual and residential amenity as well as highway safety.
- Day -28 Follow up meeting on major and more complex applications discussing action list and further advice gained and confirming what has/ will happen in terms of community consultation and involvement in the process. Discuss contents of Design and Access statement, confirm information that will be required to validate the planning application and information required in relation to any planning obligations. Agree date of further meetings and/or short validation meeting.
- Day -14 Revisit Planning Officer on minor or householder applications to confirm that revisions or changes are acceptable and to establish if further revisions are needed or more information required on the plans. Discuss what will be needed to make the application valid and agree the date of the pre-validation meeting
- Day -7 Pre-validation meeting on major and more complex applications where the applicant/ agent meet the Planning Officer to check that the necessary information has been gathered to make the application valid.
- Day -3 Pre-validation meeting on minor or householder applications to establish that all the information required and details on the plans are present to make the application valid.
- Day -1 Submit the planning application to the Local Planning Authority.

B. Timetable for the Validation of an Application.

- Day 0 – The planning application is received by the Local Planning Authority
- Day 1 – Administration staff date stamp the application with the date received
- Day 2 – Administration staff prepare the paperwork for the application
- input the details on the system
 - prepare the application to be checked for validity
- Day 3/4 – Application checked against the validation checklist and determined whether it accords with the checklist. Applicant/ agent may be contacted for minor items of extra information

C. Timetable for the Determination of an Application

C1. Timetable for an Invalid Application

Day 5 - If the application is valid then the application will continue to be processed – see timetable for the determination of an application. If the application is deemed to be invalid the applicant or their agent if one has been appointed in their stead, a letter will be sent explaining the information that is missing and what will be required to make the application valid.

Day 14 – Follow up contact will be made with the applicant/ agent where possible.

Day 28 – If no further contact has been made by the applicant/ agent or the information has not been received by the Council, the application forms, plans and supporting information will be returned to the applicant or their agent.

C2. Timetable for the determination of a Valid application.

Day 5 – Application deemed to be valid and is registered. The application is given a reference number. The plans and supporting documents go to be scanned as an electronic copy

Day 6 – Statutory consultees and occupiers of adjoining or nearby properties are identified and letters sent thereby starting the consultation period of 21 days.

Day 27 – End of statutory consultation period

Day 33 – Letter sent to applicant outlining additional information and revisions to the plans required on minor and householder applications which must be submitted within 14 days of the letter. (It is important that applicants/ agents keep in contact with the Local Planning Authority at this time).

Day 47 – Last day for amendments to be received on householder and minor planning applications

Day 50 – Report completed by planning officer and passed through for signing off. If a planning application has to be referred to the Development Control Committee for determination the dates following the end of the statutory consultation period may vary.

Day 54 – Decision Notice sent to applicant on delegated decisions on minor and other applications such as householder extensions.

Day 40-69 Committee dates for non-delegated applications*

* Dates for Development Control Committee vary each month. This means that the date the application will be heard depends on the date of the Committees and as result the application may be heard sooner or later than the dates indicated on the timetable.