



Derry City & Strabane  
District Council

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DERRY CITY & STRABANE DISTRICT COUNCIL

# LOCAL DEVELOPMENT PLAN (LDP) 2032



## PLAN STRATEGY

Development Management Advice Notice 4 (DMAN 4) – Restaurants, Cafés  
and Fast-Food Outlets, DRAFT- June 2025

<https://www.derrystrabane.com/subsites/ldp>



# **DERRY CITY AND STRABANE DISTRICT COUNCIL**

## **LOCAL DEVELOPMENT PLAN (LDP) 2032**



### **Development Management Advice Note 4 (DMAN 4)**

### **Restaurants, Cafés and Fast-Food Outlets**

**DRAFT- June 2025**



Derry City & Strabane  
District Council  
Cathairín  
Chathair Dhoire &  
Cheantar an tSrátha Báin  
Derry Cille & Strábane  
District Council

## Explanatory Note

The purpose of Development Management 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 Council 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 LDP Team, Derry City and Strabane District Council, 98 Strand Road, Derry, BT48 7NN or by emailing your request to [ldp@derrystrabane.com](mailto:ldp@derrystrabane.com)

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## 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 Management Advice Notes (DMANs), 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 DMAN 4 explains the criteria and technical standards that the Council considers when dealing with proposals for restaurants, cafés and fast food outlets. It applies throughout the District 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 a sui generis use and therefore excluded from any class specified in the most recent Planning (Use Classes) Order for Northern Ireland is the Planning (Use Classes) Order (NI) 2015 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 Permitted Development) Order (NI) 2015 Part 4 Class A, Development consisting of a change of use of a building to a use falling within Class A1 (Shops) or Class A2 (Financial, professional and other services) of the Schedule to the Use Classes Order 2015 a use for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises is considered permitted development. However, the conversion from Class A1 (Shops) to Sui Generis Restaurants and Cafés) or (Hot Food Takeaways) is not included in these permitted development rights. Therefore, such a change requires Planning permission.
- 1.9 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.
- 1.10 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**

- 1.11 The purpose of this Development Management Advice Note is to provide supplementary Planning guidance in accordance with Chapter 10 of the Local Development Plan 'City/Town Centres, Retailing, Offices, Leisure and Other uses', and to support development plan policies relating to the location of restaurants, cafés and fast food outlets within the City/Town Centre. This DMAN therefore, further supplements the SPG guidance on Retailing in City/Town Centres and therefore should be read in conjunction with such. To avoid repetition between the other SPG and this DMAN, certain elements have been cross-referenced throughout.
- 1.12 It may also be applicable to consider Chapter 12, 'Tourism Development' where the proposal is linked to a Tourism facility and Chapter 15 'Other Development in the Countryside' where the proposal falls within a rural location. It is important to note that every proposal will also have to apply with GD POL 1 'General Development Management Policy' 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 direct the reader to the Planning criteria and SPG 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**

### **Strategic Planning Policy Statement NI (SPPS, 2015)**

- 2.1 Whilst there is no direct reference to, restaurants, cafés and fast-food outlets within the SPPS, it stresses the need to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions, consistent with the Regional Development Strategy 2035 (RDS).

### **General Development Principles and Policies (LDP)**

- 2.2 The General Development Principles and Policies chapter of the LDP outlines the strategic vision of sustainable development, there are eight general principles to guide this. Additionally, there are two General Development policies, GDPOL 1 and GDPOL 2, which all development management Planning applications must adhere to, including any future development of restaurants, cafés and fast-food outlets.

### **Chapter 10 ‘City/Town Centres, Retailing, Offices, Leisure and Other uses’**

- 2.3 Chapter 10 of the LDP discusses how the Council will adopt a town-centre-first approach for retail and main centre uses. Restaurants, cafés and fast-food outlets are considered a main centre use and therefore will be assessed under the sequential test approach. (See Chapter 10, Policy RP1 for full detail.)
- 2.4 Within the justification and amplification section of the policy, restaurants, amongst other uses are mentioned as being important to maintain and improve their offering across all these areas. The policy is set out to ensure that any potential further out-of-centre retail and/or commercial leisure development does not undermine its role in the hierarchy. The subsequent policies outlined in the chapter, discuss the various locations for development to be situated, following the sequential test approach.

- 2.5 It is important to note that restaurants, cafés and fast-food outlets, whilst considered a main town centre use are not explicitly covered by Policy RP10, which deals with 'Other Main Town Centre Uses', but is applicable nonetheless. For further guidance on the assessment of Planning applications of a restaurant, café or fast-food outlet using retail policy, refer to the Council's Supplementary Planning Guidance (SPG) on City/Town Centres, Retailing, Offices, Leisure and Other uses.

## **Chapter 12, 'Tourism Development'**

- 2.6 Following Chapter 12, the Council's Tourism vision and objectives are to sustain, grow and regenerate the City and promote it as a major tourist destination while respecting its heritage assets, exceptional landscape setting and historic walled centre through sensitive development. Nine tourism settlements have been identified, including Tourism Hubs, Gateways and Historic Villages in which to focus tourism-centric development.
- 2.7 Policy TOU 2 discusses Tourism Development in Settlements, within the justification and amplification section of this policy restaurants are listed amongst other uses as being a focus within regeneration schemes and a key component of mixed-use development, it is considered therefore that when considering a policy for a restaurant, the focus is not solely on the relevant retail policy, but also consideration should be given to its impact to the tourism offering and therefore the relevant Tourism Policies from the LDP chapter 12, should also be considered.

## **Chapter 15 'Other Development in the Countryside'**

- 2.8 Chapter 15 'Other Development in the Countryside' considers types of development that will be considered outside of settlement limits. Policy ODC 1 affirms that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, with extra consideration given to those located within the Green Belt areas.
- 2.9 Within the justification and amplification section, restaurants, cafés and fast food take-aways, considered as retail and or tourism development should be assessed within retailing in accordance with Policy RP7 and tourism development in accordance with Chapter 12 policies.

## **3.0 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 (NI). 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 Any 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.

3.5 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 5 – 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**

3.6 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**

3.7 Delivery services per se might not require Planning permission unless at a level where they dominate the existing restaurant or café use, so as to materially change the use.

### **‘Alfresco’ eating**

- 3.8 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**

- 3.9 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.
- 3.10 Further details regarding the above consents can be obtained from the Council Planning Department.
- 3.11 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 the 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 the LDP, retailing policy an application for such a development will be subject to the sequential test approach and considered under the ‘Town Centre First’ framework. (See chapter 10, Policy RP1 for specifics) Development within existing settlements of appropriate size and setting will be considered. Proposals within the countryside will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, with extra consideration given to those located within the Green Belt areas.
- 4.2 Further information on the ‘Town Centres First’ framework and applying the sequential test can be found in the SPG for Retailing and Town Centres. Further guidance on environmental considerations can be found in the supplementary Planning guidance for GDPOL 1.

- 4.3 The Council considers that a location in an Economic Development area would be a sensitive issue, with potential to impact negatively on the primary ED use of the area. Developers would need to ensure that such a location is ancillary, complementary, compatible, etc. as well as being acceptable in terms of the environmental impacts of adjacent uses, traffic hazards and potential dangers from industrial plant or machinery. (Refer in particular to the Justification & Amplification text in Policy ED 4 in the LDP Plan Strategy.)
- 4.4 In conservation areas, any proposed development should preserve or enhance the character and appearance of the area. Policy HE 5 of Chapter 23 of the LDP 'Planning, Historic Environment' states that the Council 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.
- 4.5 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 the relevant LDP policy 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.
- the design and appearance of security shutters and grilles (which can be particularly negative during the daytime hours, see Part F – Design, in the LDP Plan Strategy);
  - 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.
- 4.6 Adverse impact on the amenity of any adjoining residential areas in terms of noise disturbance, smell, fumes or litter. Unlike City / 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.
- 4.7 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.

- 4.8 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.

## 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.
- 5.3 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 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.
- 5.4 The Council 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

- 5.5 Whilst residential areas are likely to be sensitive to noise disturbance, it can also be a serious problem in City / town centres and in areas where commercial activities dominate but where there may be residential accommodation beside or over the proposed use.
- 5.6 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.
- 5.7 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 Council 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.
- 5.8 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 Council is not satisfied that such objections can be overcome by the imposition of conditions, the application will be refused.
- 5.9 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/floor space.
  - Restrictions on servicing.

## Smells and Fumes

- 5.10 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.



- 5.11 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.
- 5.12 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.
- 5.13 Generally, conditions to prevent smell nuisance will involve or require the following:
- Approval by the Council 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**

- 5.14 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.
- 5.15 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.

- 5.16 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.
- 5.17 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.
- 5.18 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**

- 5.19 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 Council 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.
- 5.20 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.

- 5.21 In such circumstances, the Council 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.
- 5.22 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 Council 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.
- 5.23 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.
- 5.24 It is important that each case is decided on its own specific merits and that advice from DFI Roads is fully considered.

### **Provision for people with Disabilities**

- 5.25 The Disability Discrimination Act (DDA), 1995 gives disabled people new rights in a number of areas including access to goods, facilities and services. Furthermore, from the DDA 1995, there has also been a Disability Discrimination (Northern Ireland) Order 2006 produced which must also be taken into account.
- 5.26 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 Council 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.
- 5.27 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).

5.28 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.

## Appendix 1: Other Relevant Legislation

1. In addition to the Planning management exercised by the Council 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. In addition, the Food Standard Hygiene Regulations (2006) must be taken into account.
2. The Pollution Control and Local Government (NI) Order 1978 with subsequent amendments 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. This was subsequently amended in 2011 by the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011. Which in addition adds to it the scope to include a broader range of environmental issues beyond litter, such as fly-posting, graffiti, dog control, nuisance alleyways, abandoned vehicles, and noise disturbances.
3. Under the Licensing (NI) Order 1996, and subsequent amendments and updates since, 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 Regulation (NI) 2012.