The Unitary Development Plan (UDP) policies and planning, building control and other legislation and regulations referred to in the text of this guide were current at the time of publication. Because this guidance is an electronic version of the printed guidance as approved and adopted, these references have NOT been changed. For ease of contact; names, telephone numbers and locations have been regarded as non-material editorial changes and have been updated.

As UDP policies and government legislation may have changed over time, before carrying out any work, it is recommended that you consult the current UDP http://www.westminster.gov.uk/planningandlicensing/udp/index.cfm for policy revisions and you may wish to check with planning and/or building control officers about your proposals.

A planning guide for Food and Drink Premises
1. Introduction

1.1 The City of Westminster contains some of the best restaurants in the world. These, together with its pubs, wine bars, local restaurants and new specialist bars adds to the vibrant character of much of our city.

1.2 Westminster is also home to over 200,000 residents. We are strongly committed to making sure that Westminster stays an attractive place to live, work and visit. Poorly-managed premises, particularly those too close to residents, can sometimes cause a lot of nuisance. This means that we have to take great care in deciding where new or expanded eating and drinking premises can go, and if we need to place restrictions on them. This is particularly important as the number of these premises continues to increase, and as the demand for late-night opening continues to grow. Some areas are already suffering from too many of these uses, where the effect on residents and the character of streets and neighbourhoods is considerable.

1.3 Most of Westminster is covered by conservation areas, with over 11,000 buildings listed as being of special architectural and historic interest. We are committed to achieving a high standard of design to protect and improve this special character. Restaurants and cafes, bars and pubs all have their own particular needs for shopfronts, internal layouts and new ducts for example, which can strengthen, and sometimes weaken, this special character.
1.4 This guide tells you about the main planning rules connected with food and drink uses and explains why they are necessary. They all relate to the two aims of making Westminster an attractive place to live and work, and of keeping its special architectural and historic character.

2. What this guide tells you
2.1 We receive thousands of enquiries every year relating to food and drink premises. This guide tries to answer most of the more common enquiries. It concentrates on planning matters, but also provides brief details of other permission and contact names and phone numbers you may need.

2.2 The guide covers the following:
Section No.
3 The main statutory rules.
4 Westminster's planning policies.
5 How to make a planning application for a new restaurant, café or bar.
6 How we will deal with your application.
7 Sandwich bars.
8 The placing of tables and chairs on the pavement.
9 Design.
10 Other permits and licences.
11 Who to contact for further information and other published guides.

3. The main planning rules
3.1 The Town and Country Planning Act 1990 give the legal framework for all planning applications. You need planning permission not only for new buildings and extensions, but also for most changes of use of premises or land.

3.2 The Town and Country Planning (Use Classes) Order 1987 classifies different uses into categories called 'use classes'. You nearly always need planning permission to change from one class to another. You do not need it to change between uses within a defined class. The two relevant classes for the purposes of this guide are shown below.

Class A1 - Shops. This excludes selling hot food but includes selling sandwiches or other cold food which will be eaten off the premises.
Class A3 - Food and Drink. This includes selling food or drink to eat on the premises or hot food to eat off the premises.

3.3 Many enquiries relate to the difference between A1 and A3 uses. Section 7 gives more detail on how we make these decisions. We can treat other related uses, such as drinking clubs, in broadly the same way as Class A3 uses, as they often fall within this use class.

3.4 The Listed Buildings and Conservation Areas Act 1990 is also important. This places a legal requirement on all local authorities to protect the character and appearance of individual listed buildings both inside and outside, and conservation areas.

4. Westminster's planning policies
4.1 We set out all current policies and explain them in the City of Westminster Unitary Development Plan (UDP). This is an important document as the law says we must make our planning decisions according to the published policies, except in the most exceptional circumstances.

4.2 The policies themselves have come about after a long period of public consultation, including a public inquiry into every area of the plan. They try to balance the wishes of residents, societies representing residents, elected representatives and commercial interests.

4.3 There are three main areas of policy relevant to restaurants, cafes and sandwich bars. You will find the first two in Chapter 8 of the Unitary Development Plan. This includes the policies which help decide where to place new A3 uses. These make sure that we keep a healthy balance between these uses, and shops, financial and professional services and other uses adding to the mix of the areas. The Unitary
Development Plan includes lists of streets, and parts of streets where we are very unlikely to grant permission to change uses from shops to A3 uses.

4.4 Chapter 8 also includes policies aimed at controlling the effects of new or expanded A3 uses on local residents. Policy SS13 is especially relevant, and is critical when we consider applications for new or extended premises.

4.5 We set out the third area of policy in Chapter 9. This explains how we will consider applications to change the appearance of buildings, by extensions, new shopfronts, new signs and external plant equipment such as ventilation or air conditioning and ducting. Some policies, together with other published guidance, concern alterations to the outside and inside of listed buildings.

5. Making a planning application

5.1 Proposals for new restaurants, cafes, bars and pubs involve a wide range of important issues, all of which we and other need to consider. This means that information must be clearly expressed, with good-quality drawings which can be understood by everyone, not just professionals. We will not normally begin to consider an application until we have the complete picture of the proposal. It is often worthwhile contacting the local society representing residents before you make a planning application. They will normally welcome a chance to discuss your proposals and any particular worries they may have. You can get the contact names and phone numbers from the area team in Development Planning Services (see 'contacts' at the end of this leaflet).

5.2 As a basic checklist, you should aim to provide the following:

**Explanatory statement**
What the existing legal use of the premises is.

The uses you plan for the premises.

An explanation of all physical changes you propose to make.

The times and days you want to operate.

The servicing and refuse arrangements.

The number of covers you hope to serve at any one time.

Details of any proposed dancing or entertainment.

Providing access for people with disabilities.

**Architect’s drawings**
Existing and proposed plans including an area of the layout showing kitchens, seating (inside and outside), toilets and bar areas, staff toilets, changing or locker rooms and so on, elevations and sections showing buildings nearby, where relevant.

If you propose demolition work, you should colour a set of existing drawings to show the full extent.

We will need full details of ductwork and other equipment such as air-conditioning units. We cannot assess the use without making sure that it is possible to provide a duct which will not cause nuisance to residents or other commercial occupiers, particularly from noise, vibration and smells, and which will be acceptable to the eye. These drawings must show the size, materials and route of the duct to roof level in plans, sections and elevations. It is important that these drawings show the relationship of the duct to any nearby windows and gardens or roof terraces.

The proposed plans should include a suitable storage area for refuse, which must be big enough for up to four days’ refuse. If possible you should provide off-street collection for refuse, either at basement level (with direct access to the street) or at ground floor level. In larger restaurants, you should provide facilities for recycling containers so that you can recycle glass safely.
Manufacturer's details
We need the specification of all air-conditioning units and plant, particularly the likely noise levels. The better the system, the more likely it is to deal with both our local residents’ concerns.

We also need an acoustic consultant's report if you are going to use new plant or equipment, or if the unit is intended to have music or entertainment. This is particularly necessary in sensitive areas such as on mixed residential and commercial sites.

6. How we deal with your application
6.1 We will consider your application against the policies in the Unitary Development Plan. Along with use and design issues, we will take account of the effects on residents. We will carefully consider the views of existing residents nearby and representative amenity groups. We may ask you for information, or to change your proposals, either to lessen the possible nuisance or to meet the requirements from other council sections, such as Cleansing or the Commercial Business Unit covering environmental health matters.

6.2 Most applications will be decided by the Town Planning (Applications) Sub-Committee. If permission is granted, you will receive a decision letter usually with conditions. We may need you to send in further information and approve it before the use starts, or we may place restrictions on how the use may operate. You have the right to appeal against conditions if you feel they cannot be justified. However, if you do not appeal, or if your appeal is not granted, we may take legal action if you do not keep to the conditions.

6.3 We will impose conditions which are necessary to allow your premises to operate without damaging effects on nearly residents or the environment in general. This may for example include one or more of the following.

A restriction on the hours and days of opening for customer use, and for when you can use equipment.

Not being able to sell hot take-away food.

Not playing loud music that can be heard outside the premises.

Permanently fixing shut windows in kitchens and public rooms if the noise from inside could disturb residents.

A time limit for new equipment as a trial run to make sure that there is no long-term noise.

A general noise limit on the premises as a whole.

A requirement to provide a suitable refuse store.

The case officer will tell you which conditions we are likely to impose before the final decision by the Sub-Committee. The Sub-Committee may itself add further conditions.

6.4 If permission is refused, we will send you a decision letter telling you exactly why we cannot grant permission. We will also send you information about how you can appeal against this decision to the Secretary of State for the Environment.

7. Sandwich bars
7.1 Shopkeepers often ask us if they can sell sandwiches or drinks from their shops, or provide a few seats for customers. Many of these sandwich bar uses fall within Class A1, and can run legally from existing shops without the need for further planning permission. However, providing seating within the premises, or selling hot food, can chance the character of the use. You may the need planning permission for a change of use to Class A3.

7.2 It is important to understand the limits to Class A1 use for particular properties, as we may not grant a change to Class A3. You could have to pay high costs in removing kitchen equipment, ductwork and tables and chairs and so on if you find that an application for permission is refused and these works have already been done.
7.3 The best way to find out if you can operate legally from an existing shop without the need for planning permission is to phone Development Planning Services (see the numbers at the end of the leaflet under 'contacts'). If your case is not straightforward, you can apply for a 'lawful development certificate' from us. You can do this if you plan to take over an existing shop and run it as a sandwich bar, or if you already run a sandwich bar and want to introduce seating or sell more hot food. You will have to pay a fee and you can get forms and a guidance note from us.

7.4 The law does not say at what point a change of use happens between Class A1 and Class A3. We have to consider each case. So, we will have to decide if the overall character of the use would stay as a shop, rather than as a café or restaurant. A shop will normally stay within Class A1 if you provide a small amount of hot food and seating as long as it is 'ancillary' to the main use. This means that it must be clearly a secondary function aimed at adding to the main use.

7.5 If your main purpose is to see hot food for take-away, or to provide an eat-in service, your use will certainly be outside the limits of the A1 use class. On the other hand a small area serving hot drinks and sandwiches within a much larger shop may still be A1. Some large bookshops for example include small cafes at basement or first floors as an extra service to customers.

7.6 In a smaller shop, the distinction between primary secondary uses is usually harder to draw. As a general guide, as the law stands at present, you probably do not need planning permission to provide seating within an A1 shop for up to one in ten of your customers. The shop should still stay mostly free of tables and chairs. You may also sell some small amount of hot food, such as soup or a few dishes reheated in a microwave from an A2 use. In overall terms as a rough rule of thumb, we will have to be satisfied that at least 90% of your turnover would be accounted for by selling take-away cold food or drinks. The premises should still have the character and appearance of a shop, rather than a café.

7.7 If you do apply for a 'lawful development certificate', you will need to fill in an application form. You can get help on filling in the form at One Stop Services at City Hall, or by phoning Development Planning Services. You should also include the following information.

A scaled plan of the shop showing the total trading area, storage space, preparation areas and the service counter. Within the trading area, you should show the area to be used by any customer who want to eat in. You should also show toilets available for customer use. The Commercial Business Unit will usually say you need toilets if you invite customers to sit or stay in the shop.

What proportion of your customers will eat on the premises? Please consider this carefully and estimate the most you expect to eat in compared to those taking food away, both now and in the future.

What food will you offer? Is the range of food and drink offered to eat-in customers the same as the take-away menu? Are these goods served in the same packaging as take-away sales?

What proportion of your turnover is accounted for by eat-in sales, as opposed to take-away sales or cold food? It is more useful for existing operations if this is based on past receipts rather than a best guess.

If the use is already operating, you can base most of these answers on what is actually taking place. If the use has not begun, you will have to estimate carefully what the operations are likely to be.

7.8 In answering these questions, please bear in mind that if we grant a certificate, it will be on the strict understanding that the use stays within the various limits you gave in your supporting statement. Any later change may take the use outside the A1 Class and is likely to mean you need planning permission.

7.9 You should always consider whether it is more appropriate, and in your own long-term interest and that of local residents, to apply for a change of use to Class A3 if you really need the added flexibility.

8. Tables and chairs on the pavement
8.1 You are likely to need planning permission and a highways licence to place tables and chairs outside a restaurant, café or pub. Using any free-standing heaters will generally be considered as a part of the highways licence application. The Licensing Business Unit will always need you to send in a risk assessment before they grant a licence which includes heaters. You can get the latest list of requirements for this assessment by phoning the unit on the number given in the ‘contacts’ section.

8.2 Our revised guide 'The Placing of Tables and Chairs on the Highway' (available late 2004) gives advice on how to send in applications and tells you how we will decide whether or not to grant permission. The guide also covers tables and chairs outside sandwich bars.

9. Design
9.1 This section gives detailed advice on the design of the common parts of proposals for new or extended restaurants and cafes such as:

- ducts;
- ventilation plant including air conditioning or refrigeration;
- shopfronts; and
- signs and advertisements.

9.2 Ventilation ducting
It is almost always necessary to provide ducting to carry away cooking smells and fumes to a high level. In order to keep the Commercial Business Unit requirements this usually means taking the duct to the top of the building, or to the top of a neighbouring building if that one is higher, as long as you get permission.

Our policy regarding the design implications of ducts are set out in polices DES5C(1) and DES7(J) of the Unitary Development Plan.

It is important to make sure that the size, design and placing of any external duct will not be too obvious on the appearance of the building. The mechanical services designer will decide on the size of the duct, but it should be kept to the minimum size necessary to do its job.
The following will also be helpful.

Placing the duct at the back of the property, tucking it into a hidden place, such as the corner of a lightwell.

Making sure that the duct does not rise higher up the building than necessary. Ducts which rise noticeable above the parapet line or the ridge of the roof may not be acceptable.

Enclosing the duct in a material to match the wall for example, brickwork. Other treatments could include suitably treated glass reinforced concrete or other panels. We do not normally accept untreated stainless-steel or galvanised-steel ducts because of their damaging effect upon the appearance of a building.

If it is not possible to encase the duct, it should be coloured to match the colour of the wall it is next to. In some cases it may be better coloured black.

Changes of use and listed buildings
In the case of some listed buildings it may not be possible to install a duct either inside or outside without affecting the special interest of the building. In these cases the use of the building as a restaurant may be unacceptable. We may refuse permission for a change of use because the associated work (installing ducting) would affect the special interest of the listed building. See policy DES8(C) of the Unitary Development Plan and the published guide 'Repairs and Alterations to Listed Buildings'.

9.3 Ventilation and refrigeration plant including air conditioning
We are concerned that any equipment should be placed so that it does not affect the appearance of the building and does not worsen unreasonably the amenities of other premises by increasing overall background noise levels. Wherever possible you should place it within the building or in a purpose-built room. If this is not possible, it could be at the back of the building, perhaps at low level in a lightwell.

Or, you could use a roof-level location if this would have a lesser effect on the appearance of the building. It should normally be screened, for example, with a lead or slate-clad sloping screen.

You should consider providing air-conditioning early on in the design process. If you cannot install the equipment without affecting the appearance of the building and the area nearby or the amenities of nearby premises, it may be unacceptable. Very strict controls are now in force for wet-cooled systems. You must register all wet air-conditioned plant with the Commercial Business Unit. The leaflet 'Plant and Air-Conditioning Equipment' provides more detailed advice.

9.4 Shopfronts
New shopfronts should relate to the building in which they are installed and to the street as a whole. You should keep an existing shopfront which makes a valuable contribution to the character and appearance of a conservation area.
Historic shopfronts should be kept and respected.

Our policies relating to shopfront design and shopfronts are set out in DES5C(3) and DES7L of the Unitary Development Plan.

You will find further advice on the design of shopfronts in our supplementary planning guidance 'Shopfronts, Blinds and Signs' 1993.

A modern timber shopfront with fixed stallriser and mullions. The casement windows open inwards.

Opening shopfronts
In recent years there has been a trend for installing opening shopfronts, often in association with the placing of tables and chairs on the area in front of the building. An opening shopfront often has folding or sliding doors, which, when open, create an opening in the shop frontage which may extend almost the full width of the ground floor.

In most cases these shopfronts do not relate architecturally to the building in which they are installed, or to the street.

Creating these openings within a terrace of more solid and traditional shopfronts can be harmful to the appearance of the street and the character and appearance of a conservation area. They can also affect nearby residents, as the restaurant, café or pub use spills out onto the open pavement. Cooking smells are also likely to spread to nearby premises.

Opening shopfronts are almost certainly unlikely to be acceptable in the case of older buildings of traditional design and appearance. This applies to buildings inside and outside conservation areas.
Using fully-opening shopfronts and movable serving counters, which are pushed out of the shop during opening hours, is inappropriate and unacceptable for the reasons we have set out. They will often lead to obstruction of the pavement, through people queuing or eating and drinking around the shop or counter.

*External counters and too many signs result in unacceptable visual clutter.*

**Serving hatches and large opening windows**
Another recent trend is for installing serving hatches or large windows within the shopfront to allow customers to buy goods without entering the shop or restaurant. These are additions to traditional shop frontages and in most cases we will not accept them.

*You can often achieve a greater degree of opening of the shopfront using traditional methods. You can use similar features in the design of modern shopfronts.*

![A shopfront with side-hung casement windows, separated by fixed mullions, above a solid stallriser.](image)
Accessibility
Any food or drink premises should be made accessible to all including people with disabilities. If there is an opportunity to improve access we will make every effort to make sure that this is taken. You should consider providing access for all early on in the design process and not leave it as an afterthought. It is also a good advertisement for your business to make your premises accessible to all customers.

With some listed buildings you may not be able to make large improvements. However, it is often possible to make some improvements while respecting the special interest of the listed building.

You can find further advice in our leaflet 'Access for all'.

9.5 Signs and advertisements
Our policies regarding displaying signs and advertisements are set out in policy DES13 of the Unitary Development Plan. You will find further advice in our supplementary planning guidance 'Shopfronts, Blind and Signs' and 'Advertisement Design Guidelines'.

The following is a summary of the relevant points.

We may accept unlit signs or signs lit by outside lights of appropriate size (using small and discreet light fittings).

We will only accept one fascia sign and one projecting sign for each shop frontage.

Projecting signs should normally be at fascia level and should not be bigger than 800mm by 600mm and should be at least 2,600mm above the pavement.

Internally-lit fascia signs or projecting signs or internally-lit window signs are unlikely to be acceptable in conservation areas and on listed buildings.
You need a licence for ‘A’ boards on the public highway and you need advertisement consent from us. However, we are unlikely to grant these because these signs obstruct the pavement and are a danger to pedestrians, particularly the elderly, the visually impaired, those in wheelchairs and those pushing prams.

An ‘A’ board on the private forecourt of a building does not need a highways licence and it does not need advertisement consent as long as:

- it is not lit;
- it is not bigger than 4.5 sq.m in area;
- no character or symbol is more than 0.75 metres in height; and
- no part of the sign is more than 4.6 metres above ground level.

9.6 Awnings and blinds

In many cases it may be possible to add a retractable awning to the shopfront as long as the blind box can be carefully included in the design of the shopfront. Awnings should be traditionally designed. They should be straight, rather than curved, open at each end and made of canvas (or similar material). We will not normally accept Dutch blinds.

You normally need planning permission for awnings if they are not used to display any advertising material. If they do have advertisements painted on printed on them, the awning may need advertisement consent. If the lettering or logo is small (less than 750mm in height) and the awning is not lit, it may not need advertisement consent from us.

A retractable canvas awning and hanging sign in Regent Street.

10. Other permits and licences

10.1 In general you need a music and dancing licence from us when you provide public entertainment. You also need a night café licence when you keep a food establishment open after 11pm or if you provide take-away service after midnight.

10.2 However, there are some exceptions and if you are in any doubts as to whether you need a licence, you should consult the Licensing Business Unit. The relevant phone number, and those for all other permissions, are listed in the ‘contacts’ section at the end of this guide.

10.3 Most applications for licences have to be publicly advertised. If we receive objections that we cannot resolve, our Licensing Sub-Committee will decide the matter at a public hearing. You can get details of the application and hearing procedure from the Licensing Business Unit.

10.4 You normally need building regulations permission for building work. You can find out more by phoning the number at the end of this guide.

10.5 You may need registration under the Food Premises (Registration) Regulations 1991 at least 28 days before the premises start operating. Click on the Westminster Contacts List link below for details.

10.6 You will need a liquor licence from the Licensing Justices to sell alcohol which is drunk on the premises. The phone numbers are at the end of this guide.

11. Further information

11.1 We publish a number of guides which may be useful. The following are currently available.

Plant and Air Conditioning Equipment 1993 (Free)
Tables and Chairs on the Highway 1994  (Free)
Shopfronts, Blinds and Signs 1993 (£2)
Advertisements Design Guide 1992 (£2)
Shopfront Security 1995 (£2)
Repairs and Alterations to Listed Buildings 1996 (£2)
Access for All 1995 (Free)
Development and Demolition in Conservation Areas 1996 (£2)
Refuse Storage Requirements 1996 (Free)
Guide to Planning Enforcement in Westminster (Free)

These can be obtained from One Stop Services, click below for details.
We also keep copies, together with the Unitary Development Plan in local libraries.

Contacts

For information on liquor licences, contact the Licensing Justices.
For North Westminster: Marylebone Road Magistrates Court, Tel: (020) 7805 1171
For South Westminster: Horseferry Road Magistrates' Court, Tel: (020) 7805 1173

Department of Planning and City Development, Development Planning Services, 1999.