

CONSULTATION STATEMENT – City of Wolverhampton Draft Hot Food Takeaway Supplementary Planning Document (2017)

This report sets out the consultation that took place during public consultation of the City of Wolverhampton Council Hot Food Takeaway Supplementary Planning Document (in this document referred to as the Draft SPD) between 30 October and 11 December 2017. It reviews the consultation responses received, the number of representations made and a summary of the main issues raised by the representations.

This document has been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 which requires that Local Authorities set out the persons the local planning authority consulted when preparing the supplementary planning document, a summary of the main issues raised with the consultation responses, and how those issues have been addressed.

Public Consultation

The Council's Cabinet approved the draft SPD for public consultation on 18 October 2017 and public consultation was held between 30 October and 11 December 2017.

Press releases were placed in the Express & Star on 19 October, 2 November, and 27 November 2017.

Hard copies of the draft SPD were made available in Wolverhampton Central Library and the main reception of the Civic Centre House, Oldbury.

Comments were requested in writing to Planning Directorate, City of Wolverhampton Council, Civic Centre, 1 St Peters Square, Wolverhampton, WV1 1RT or by email to planning@wolverhampton.gov.uk.

An introduction to the Hot Food Takeaway SPD was made publicly available on the City of Wolverhampton website:

<http://www.wolverhampton.gov.uk/article/11631/Draft-Hot-Food-Takeaway-SPD---Consultation>

A statement was made on the "Wolverhampton Today" Facebook page and Wolverhampton Twitter profile welcoming comments on the Draft SPD from members of the public.

Emails were sent to Statutory Consultees and Headteachers of all Secondary Schools.

Summary of Response to the Consultation

The Council received a total of 4 responses to the consultation from the following stakeholders. The respondents are set out below:

Rep No.	Date Received	Respondent Name	Organisation	Agent
HFT/01	06/11/17	Tim Brown	Dudley MBC	
HFT/02	06/11/17	Bill Colden		
HFT/03	06/11/17	Frederick Cooke		
HFT/04	08/12/17	Benjamin Fox	McDonalds	Planware

A summary of the main issues raised by the representations is at Appendix 1 of this report.

Social Media Response to the Consultation

The Council posted a summary of the Draft SPD, details of the consultation and a link to the Draft SPD webpage. The response was as follows:

Facebook

Total Reach	45745
Likes	101
Comments	153
Link Clicks	50

Roughly 70% of all comments were positive towards the purpose of the Draft SPD.

Twitter

Total Reach	6966
Likes and Re-tweets	99
Link Clicks	59

Modifications to the Hot Food Takeaway Supplementary Planning Document

A schedule of modifications to the consultation draft SPD is set out at Appendix 2.

Appendix 1: Representations received and Council's responses

Reference	Name	Organisation	Representation	Council Response
HFT/01	Tim Brown	Dudley MBC	Comments noting the SPD and relevance to BCCS Review.	Comments Noted.
HFT/02	Bill Colden		Comments in support of measures to control proliferation of Hot Food Takeaways, especially on Stafford Road.	Comments Noted.
HFT/03	Frederick Cooke		Comments in support of measures to control proliferation of Hot Food Takeaways, especially near schools and in residential areas.	Comments Noted.
HFT/04	Benjamin Fox	McDonalds	The proposed SPD adds policy restrictions above and beyond the adopted core strategy and its supporting text. Thus, the SPD is outside the distinct area of the framework as being suitable for supplementary documents. The SPD is therefore not compliant with the Framework.	<p><i>(2) In preparing a local development document the local planning authority must have regard to (a) national policies and advice contained in guidance issued by the Secretary of State;</i></p> <p>The document is in line with the NPPF in terms of promoting healthy communities. It also accords with the BCCS which is in turn in accordance with the NPPF.</p> <p>This is expanded on in Section 2 – Promoting Health Communities of the NPPF, which states that “<i>Crucially, Local Plans should identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation</i>”.</p> <p>The document does not request that HFT's that are already in existence with 400m of secondary school to close. In terms of preventing new HFT's to locate within 400m of secondary school, the document does not ask for money or contributions, therefore it does not create a financial burden.</p>
HFT/04	Benjamin Fox	McDonalds	The SPD is not intended to assist applicants make successful applications (as design guidance	<i>(2) In preparing a local development document the local planning authority must have regard to (a) national</i>

			<p>would); nor will it aid in infrastructure provision. The proposed SPD will add further restrictions to the location of A5 uses above and beyond the scope of any adopted policy. The SPD is therefore not compliant with the Framework.</p>	<p><i>policies and advice contained in guidance issued by the Secretary of State;</i></p> <p>The document is in line with the NPPF in terms of promoting healthy communities. It also accords with the BCCS which is in turn in accordance with the NPPF.</p> <p>This is expanded on in Section 2 – Promoting Health Communities of the NPPF, which states that “<i>Crucially, Local Plans should identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation</i>”.</p> <p>The Flow Diagram (Figure 2) assists applicants to make successful applications.</p> <p>The document does not request that HFT’s that are already in existence with 400m of secondary school to close. In terms of preventing new HFT’s to locate within 400m of secondary school, the document does not ask for money or contributions, therefore it does not create a financial burden.</p> <p>Individual matters pertaining to each case can also be discussed at pre-application stage, which is a free service offered through the City of Wolverhampton.</p> <p>Furthermore, Paragraph 6 of National Planning Practice Guidance states that “<i>local planning authorities can consider bringing forward, where supported by an evidence base, local plan policies and supplementary planning documents, which limit the proliferation of certain use classes in identified areas, where planning permission is required. In doing so, evidence and guidance produced by local public health colleagues and Health and Wellbeing Boards may be relevant</i>”.</p> <p><i>“Local planning authorities and planning applicants could have particular regard to the following issues:</i></p>
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				<ul style="list-style-type: none"> •proximity to locations where children and young people congregate such as schools, community centres and playgrounds •evidence indicating high levels of obesity, deprivation and general poor health in specific locations •over-concentration and clustering of certain use classes within a specified area •odours and noise impact •traffic impact •refuse and litter”
HFT/04	Benjamin Fox	McDonalds	<p>The SPD introduction outlines that in the town centre there is a balance between hot food takeaways and retail with retail taking the majority of space. Government Guidance does not look to control the location or concentration of A5 uses because of the goods they sell. The SPD should focus on promoting healthy eating and lifestyles, not restricting A5 uses. There is no national policy justification for such a policy approach. Indeed, such an approach would be a negative one, in contradiction with the Framework.</p>	<p>HFT's are recognised as adding to the vitality and viability of centres but retailing should be the dominant use. As identified in policy and DCLG Guidance, <i>"Retailing plays a major role in attracting people to the centre of cities, towns and villages, thus contributing to the overall economic vitality of those centres and supporting their role as centres of social interaction in the community"</i> (DCLG Guidance, 2012).</p> <p>This is expanded on in Section 2 – Promoting Health Communities of the NPPF, which states that <i>"Crucially, Local Plans should identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation"</i>.</p> <p>In addition, each proposal for a new A5 use which is submitted to the council will be assessed on its individual merits and the guidance contained in the SPD will be applied with a degree of flexibility for each case, for instance, if an applicant wished to sell a range of healthier food instead of the typical high fat, high salt food sold in most hot food takeaways.</p>
HFT/04	Benjamin Fox	McDonalds	<p>The SPD outlines that Wolverhampton has “some of the highest levels of obesity in the country. Around two thirds of adults and nearly half of school children in Year 6 are classified as being either overweight or obese”.</p>	<p>This is not an issue for the SPD as other use classes are not dealt with here. In the main A5 uses generally offer foods high in salts, sugars and fat content somewhere on the menu. There is also the issue of undermining the retail function of a centre as well as issues surrounding smell and litter.</p>

			No consideration is given to goods sold from other A Class uses, yet it is only the A5 uses that are being restricted within the planning system.	
HFT/04	Benjamin Fox	McDonalds	In Table 2: it shows the figures from the 2011 census and the amount of hot food takeaways there are per 1000 people. With the information provided it appears to show the amount of takeaways in 2017 in contrast to the amount of people living in Wolverhampton in 2011, this therefore has not taken in to account the change of population levels per ward, which would mean that the number of hot food takeaways per 1000 people is incorrect and potentially misleading.	Noted, but to measure population in any other way would be impractical, as the Census is definitive. However, Table 2 will be amended to show an estimated population for the wards when applying ONS population growth projection figures between 2011-2017 (4%).
HFT/04	Benjamin Fox	McDonalds	It is accepted that a small chicken shop may add little to the area and only contribute to the night time economy. In comparison a McDonald's Restaurant can provide a number of benefits to the local community, including over 65 jobs to local people, whilst offering training schemes and initiatives to its staff.	<p>Noted, but the document does not seek to manage A3 restaurant applications.</p> <p>Whilst it is recognised that HFT units can add to the vitality and viability of a retail centre it is not the purpose of the document to discuss the merits of HFT's.</p> <p>HFT's are recognised as adding to the vitality and viability of centres but retailing should be the dominant use. As identified in policy and DCLG Guidance, "<i>Retailing plays a major role in attracting people to the centre of cities, towns and villages, thus contributing to the overall economic vitality of those centres and supporting their role as centres of social interaction in the community</i>" (DCLG Guidance, 2012).</p>
HFT/04	Benjamin Fox	McDonalds	Further to this no consideration has been given to range of food on offer.	<p>In the main A5 uses generally offer food high in salts, sugars and fats somewhere on the menu. There is also the issue of undermining the retail function of a centre as well as issues surrounding smell and litter.</p> <p>In addition, each proposal for a new A5 use which is submitted to the council will be assessed on its individual</p>

				merits and the guidance contained in the SPD will be applied with a degree of flexibility for each case, for instance, if an applicant wished to sell a range of healthier food instead of the typical high fat, high salt food sold in most hot food takeaways.
HFT/04	Benjamin Fox	McDonalds	General concerns over use of The School Fringe study as a reference, citation of various studies showing that newsagents were just as influential on unhealthy food choices. We therefore assert that sole inclusion of A5 premises is irrational, will not be effective, and is therefore not justified.	<p>The principle reasons behind the document have already been established and adopted. Furthermore, there is a link between consumption of HFT's and high fat, high sugar foods and health impacts. This is highlighted in the introductory text. Consumption is related to opportunity and frequency and this will be related to overall numbers.</p> <p>Food stuffs from ordinary shops are unlikely to contain the levels of sugar, salt and fats etc. as found in A5 - HFT food stuffs. Portion sizes are considerably smaller from ordinary shops, in the main.</p> <p>The 'Fringe Report' which you have attached with your response is one such piece of evidence, as although it does conclude that school children may purchase more unhealthy food from A1 convenience stores and newsagents than from A5 hot food takeaways, there is still a significant percentage of food being bought from these A5 outlets. The intention of the Exclusion Zones is that restricting even one element of where children may purchase junk food will enable us to take one more step in tackling food related health issues in our City.</p> <p>In addition, each proposal for a new A5 use which is submitted to the council will be assessed on its individual merits and the guidance contained in the SPD will be applied with a degree of flexibility for each case, for instance, if an applicant wished to sell a range of healthier food instead of the typical high fat, high salt food sold in most hot food takeaways.</p>
HFT/04	Benjamin Fox	McDonalds	Consideration needs to be given to the urban form, as 400m as the crow flies is different to walking 400m. For example a train line could separate a	Noted, but to measure this any other way would be impractical. Furthermore, 400m is a standard distance used. However the map will be amended to explain that the exclusion zones are only indicative distances.

			site from a school, meaning that the walking distance would be much further than the 400m as the crow flies.	
HFT/04	Benjamin Fox	McDonalds	This is a large restriction for A5 units, which goes directly against the National Planning Policy which states that the local plans are meant to create a positive approach to planning and outlines that A5 uses are town centre uses.	<p>HFT's are recognised as adding to the vitality and viability of centres but retailing should be the dominant use. As identified in policy and DCLG Guidance, "<i>Retailing plays a major role in attracting people to the centre of cities, towns and villages, thus contributing to the overall economic vitality of those centres and supporting their role as centres of social interaction in the community</i>" (DCLG Guidance, 2012).</p> <p>This is expanded on in Section 2 – Promoting Healthy Communities of the NPPF, which states that "<i>Crucially, Local Plans should identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation</i>".</p> <p>In addition, each proposal for a new A5 use which is submitted to the council will be assessed on its individual merits and the guidance contained in the SPD will be applied with a degree of flexibility for each case, for instance, if an applicant wished to sell a range of healthier food instead of the typical high fat, high salt food sold in most hot food takeaways.</p>
HFT/04	Benjamin Fox	McDonalds	Whilst the exclusion zone policy takes in to account the sequential test, the concentration policy does not. No evidence is provided to ascertain each existing centres saturation level of A5 uses as a percentage.	Other authorities as well as internal analysis have been used as a guide to determine the usage percentage limits. Furthermore, Wolverhampton has a higher level of obesity amongst its population than other centres so a lower percentage limit than that now being proposed could have been suggested. It is important to use other councils as a guide to see how effective the documents are in achieving their goals.
HFT/04	Benjamin Fox	McDonalds	This is shown in figure 2: Hot Food Takeaway (A5) Planning Application Flow Diagram, which shows how restrictive the allowances are for A5,	The Hot Food Takeaway (A5) Planning Application Flow Diagram (Figure 2) does not detail any allowances for A5, rather it shows the scenarios where an A5 application will or will not be permitted in line with the guidance. It is a tool

			and how much they must comply with before they even being able to consider the application for approval.	to help applicants make successful applications. Individual matters pertaining to each case can also be discussed at pre-application stage, which is a free service offered through the City of Wolverhampton.
HFT/04	Benjamin Fox	McDonalds	There is a lack of evidence to demonstrate the link between fast food, school proximity, and obesity.	The principle reasons behind the document have already been established and adopted. Furthermore, there is a link between consumption of HFT's and high fat, high sugar foods and health impacts. This is highlighted in the introductory text. Consumption is related to opportunity and frequency and this will be related to overall numbers.
HFT/04	Benjamin Fox	McDonalds	This lack of evidence has also been confirmed in a number of inspectors reports and planning decisions. Reference is made in the scoping report to a number of existing SPD's. Reference should be made to Inspectors comments regarding such policy considered at examinations.	As of January 2017, there were +40 Local Authorities in England with policies or draft policies designed to restrict hot food takeaways in their local areas. One of the most common policies within these was that of Exclusion Zones around schools. It is important to use other councils as a guide to see how effective the documents are in achieving their goals.
HFT/04	Benjamin Fox	McDonalds	As set out in the Framework, SPDs should only be used where they assist applicants, not provide further policy restrictions.	<p><i>(2) In preparing a local development document the local planning authority must have regard to (a) national policies and advice contained in guidance issued by the Secretary of State;</i></p> <p>The document is in line with the NPPF in terms of promoting healthy communities. It also accords with the BCCS which is in turn in accordance with the NPPF.</p> <p>This is expanded on in Section 2 – Promoting Healthy Communities of the NPPF, which states that “<i>Crucially, Local Plans should identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation</i>”.</p> <p>The Flow Diagram (Figure 2) assists applicants to make successful applications.</p>
HFT/04	Benjamin Fox	McDonalds	The SPD should work in conjunction with policy and “Help applicants make	The SPD provides guidance and clarity over the maximum percentage of HFT units that could be sustained within the

			<p>successful applications". It is therefore considered that the SPD, which predominantly takes a negative and restrictive policy approach, is contrary to the Framework and planning principles. No such policy exists.</p>	<p>City's centres. It adds more certainty to policies contained within the Local Plan.</p> <p>The Flow Diagram on Page 23 assists applicants to make successful applications.</p> <p>This is expanded on in Section 2 – Promoting Health Communities of the NPPF, which states that <i>"Crucially, Local Plans should identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation"</i>.</p> <p>Furthermore, Paragraph 6 of National Planning Practice Guidance states that <i>"local planning authorities can consider bringing forward, where supported by an evidence base, local plan policies and supplementary planning documents, which limit the proliferation of certain use classes in identified areas, where planning permission is required. In doing so, evidence and guidance produced by local public health colleagues and Health and Wellbeing Boards may be relevant"</i>.</p>
HFT/04	Benjamin Fox	McDonalds	<p>Chapter 8 of the Framework seeks to improve access to recreational facilities to encourage interaction and active lifestyles. The framework does not seek to limit people's dietary choices.</p>	<p>Chapter 8 of the Framework gives an overall principle of the role of the planning system in facilitating social interaction and creating healthy, inclusive communities. <i>"Local planning authorities should create a shared vision with communities of the residential environment and facilities they wish to see"</i>.</p> <p>This is expanded on in Section 2 – Promoting Healthy Communities of the NPPF, which states that <i>"Crucially, Local Plans should identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation"</i>.</p> <p>Furthermore, Paragraph 6 of National Planning Practice Guidance states that <i>"local planning authorities can consider bringing forward, where supported by an</i></p>

				<p><i>evidence base, local plan policies and supplementary planning documents, which limit the proliferation of certain use classes in identified areas, where planning permission is required. In doing so, evidence and guidance produced by local public health colleagues and Health and Wellbeing Boards may be relevant”.</i></p> <p><i>“Local planning authorities and planning applicants could have particular regard to the following issues:</i></p> <ul style="list-style-type: none"> <i>•proximity to locations where children and young people congregate such as schools, community centres and playgrounds</i> <i>•evidence indicating high levels of obesity, deprivation and general poor health in specific locations</i> <i>•over-concentration and clustering of certain use classes within a specified area</i> <i>•odours and noise impact</i> <i>•traffic impact</i> <i>•refuse and litter”</i>
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Appendix 2: City of Wolverhampton Draft Hot Food Takeaway SPD - Schedule of Proposed Changes

Page No. Draft SPD	Proposed Change	Reason for Change
9	Amend Table 2 to show an estimated population with ONS population growth estimate applied (4%).	Difference in Table 2 between 2011 Census data and 2017 data used in FEAT assessment of number of takeaways per 1000 population, owing to population change.
12	Insert table showing childhood obesity rates by ward.	HFT 2 is aimed at contributing towards addressing childhood obesity. Further information is required on childhood obesity by ward compared with number of Hot Food Takeaways.
26	Amend Page 26 to confirm that the 400m exclusion zones are indicative distances.	Consideration of the urban form.