

## **Hot Food Takeaway Supplementary Planning Document (HFT SPD)**

### **1. Purpose of this SPD**

The Council recognises the important role that hot food takeaways play in the economy. They can play an important service to local people and add vitality and interest to defined centres, but planning applications for hot food takeaways, particularly those in close proximity to residential properties, frequently generate a significant number of objections. If successful, these premises can also have a negative impact on the health and wellbeing of those in Coventry. It is therefore important that there are appropriate requirements in place to allow new hot food takeaways to provide a service to local people, but without having a negative impact on the health and wellbeing of those in the area.

This SPD is a material consideration in the determination of a planning application and provides information and appropriate guidance to those involved in planning applications covering hot food takeaways. It is aimed at individuals and organisations involved in preparing and submitting a planning application as well as those involved in the determination and enforcement of planning applications.

The SPD covers all applications that include an element of hot food takeaway (A5 use class) regardless of their size and nature. This includes applications for new build and changes of use to a hot food takeaway, as well as all forms of mixed use facilities (containing an element of A5 use).

In relation to mixed use schemes in particular it is not uncommon for the non A5 element of a scheme to diminish over time to the detriment of the centre as a whole. Therefore mixed use application, that contain an element of A5 use will be considered through this SPD in the same way as a singular A5 use. In such circumstances this may also generate the need for specific planning conditions to be attached to a decision which manage the level of A5 floor area or operating hours etc.

This SPD provides details of some relevant planning policies, guidance on how to meet Policy R6 (2(c)) and details of some non-planning related considerations that an applicant may wish to consider, with useful contact details.

### **2. Classification of Hot Food Takeaways**

In planning terms, there is a distinction between a shop (use class A1), a restaurant or café (use class A3), a drinking establishment (use class A4) and a hot food take away (use class A5). For the purposes of this SPD, a hot food takeaway refers to a premise that comes under the planning Use Class A5 under the Town and Country Planning (Use Classes) Order 1987 as amended (an establishment whose primary business is the sale of hot food for consumption off the premises).

For the avoidance of doubt an A5 use is where food is prepared, cooked and sold within the premises but to be consumed away from it. This can include Kebab shops, fish and chip shops or pizza places for example. Where food is also consumed within the premises it falls under use class A3 and is generally considered a café/restaurant. Where a café or restaurant also sells hot

food to be consumed off the premises it would be for the applicant to demonstrate what the primary business is: consumption on or off the premises. In such cases the premises would often be specified as a mixed use provision (use class A3/A5).

### **3. Local Planning Policy**

#### **3.1 The Coventry Local Plan**

This SPD has been developed to support The Coventry Local Plan, adopted in December 2017. The main relevant policy within this Local Plan is Policy R6: Restaurants, Bars and Hot Food Takeaways.

#### **Policy R6: Restaurants, Bars and Hot Food Takeaways**

1. Outlets should be located within defined centres and will normally be discouraged outside those locations.
2. Proposals within defined centres will be permitted provided they:
  - a) Would not result in significant harm to the amenity of nearby residents or highway safety;
  - b) Would not result in harmful cumulative impacts due to existence of any existing or consented proposed outlet;
  - c) Are in accordance with the emerging Hot Food Takeaway Supplementary Planning Document (in particular, for A5 uses); and
  - d) Are compatible with other Plan Policies.

Policy R6 in the Local Plan is accompanied by the following text:

*“The Council has pledged to improve its population’s health and wellbeing and to reduce health inequalities. One of the challenges the Council faces in promoting healthy eating is the availability of foods high in fat, salt and sugar in local neighbourhoods, including the prevalence of hot food takeaways in some areas.*

*Such uses do however have the potential to cause significant problems which impact upon residential amenity, highways and parking. Hot food takeaways often attract considerable customer numbers and are regularly associated with issues such as litter, waste disposal, noise, odour, traffic and health. For a combination of these reasons, they will normally only be supported within defined centres where residential amenity is less likely to be an issue and will be resisted elsewhere. Where homes are situated above such premises, specific care will need to be given to odour extraction, noise insulation and general public convenience. Where appropriate provisions cannot be included then such uses will not be supported, even within designated centres.”*

The defined centres referred to in Policy R6 (and throughout this document) will be as per the Policies Map accompanying the Coventry Local Plan<sup>1</sup> and include the City Centre, Major District Centres, District Centres and Local Centres.

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<sup>1</sup> [http://www.coventry.gov.uk/info/110/planning\\_applications/1333/online\\_planning\\_map/2](http://www.coventry.gov.uk/info/110/planning_applications/1333/online_planning_map/2)

### 3.2 The Coventry City Centre Area Action Plan

The Coventry City Centre Area Action Plan has been developed to help guide, inform and consider development proposals within Coventry City Centre and was adopted in December 2017. Particular policies to consider for Hot Food Takeaway applications include:

#### **Policy CC15**

b) Far Gosford Street will be regarded as a local centre meaning proposals for local shopping provisions will be supported. This will however exclude the provision of any further hot food takeaways (use class A5), which will not be permitted.

#### **Policy CC17**

b) Spon Street will be encouraged as a suitable and attractive location for specialist and independent retailers. In order to protect the availability of property for such use, further hot food takeaways (use class A5), which will not be permitted within this Area.

#### **Policy CC22: Primary and Secondary Frontages**

a) Primary Frontages, shown in appendix 1, are expected to include a high proportion of retail uses which may include food, drink, clothing and household goods. A clear majority of A1 retail uses should remain within all Primary Frontages at all times. Where proposals would result in less than 60% of primary frontages being classes as A1 retail then the applicant will be expected to demonstrate exceptional circumstance to justify change of use. Under no circumstances though will A1 retail be allowed to fall below 51% of primary frontages. Class A5 and sui-generis uses will only be permitted in exceptional circumstances.

If a hot food takeaway application does not comply with the relevant policies in the Coventry Local Plan and City Centre Area Action Plan, the Council may request additional information or for amendments to the application. If the issues remain, planning permission will not normally be granted.

## **4. Requirements for Hot Food Takeaway Applications**

All applications must demonstrate how they meet the requirements in 4.1 – 4.6 (below) in the application. Failure to do so may result in the application being delayed as the Council may request extra information, amendments or conditions to the application. If the issues remain, planning permission will not normally be granted.

### **4.1 Concentration of Hot Food Takeaways**

Coventry Local Plan Policy R6, referred to in section 1.1, refers to harmful cumulative impacts of hot food takeaways. 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, where groups of hot food takeaway uses develop, so can harmful cumulative impacts such as displacement of other retail shops, breaking up the continuity of the retail frontage and, in defined centres, an overabundance can undermine the primary retailing function of these areas and/or result in a loss of shops to the detriment of local residents. Additional harmful cumulative impacts include increased numbers of customers around hot food takeaways (including at less sociable hours), which can lead to problems in disturbance, increased noise, littering and anti-social behavior.

To encourage balanced and diverse shopping areas and to help reduce these harmful additional impacts, the concentration of hot food takeaways will be considered.

**Concentration of Hot Food Takeaways:** In areas that have become over concentrated by hot food takeaways, further hot food takeaway applications will not be permitted

In areas that have become over concentrated with hot food takeaways, further hot food takeaway applications will not be permitted. An area will be classed as over concentrated with hot food takeaways if the proposed address falls into a Lower Super Output Area (LSOA) where the number of takeaways per one thousand population exceeds the average for England as per the most up to date data on the FEAT tool (<http://www.feat-tool.org.uk/map/>). Further information and mapping is available on the Planning pages of the Council's website<sup>2</sup>. The current average number of takeaways per one thousand population in England is shown in Appendix A section 1.5, along with a table showing the current number of takeaways per one thousand population at each defined centre.

Failure to meet this threshold will mean the application is unlikely to be approved.

More information on the concentration of hot food takeaways can be found in Appendix A.

This requirement for the Concentration of Hot Food Takeaways will contribute to supporting part of policy R5 in the Coventry Local Plan "Retail Frontages and Ground Floor Units in defined centres"

**Policy R5: Retail Frontages and Ground Floor Units in defined centres**

2. The impact of a proposal on the primary retail function of a centre will be determined on the basis of:

- c) The number and proximity of other units occupied by 'A' class uses; and
- d) Compatibility of the proposal with nearby uses

Applications must demonstrate how they meet the policies above (Policy R6 from the Local Plan and Policies CC15, CC17 and CC22 from the City Centre Area Action Plan, see sections 3.1 and

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<sup>2</sup> [http://www.coventry.gov.uk/info/110/planning\\_applications/1333/online\\_planning\\_map/1](http://www.coventry.gov.uk/info/110/planning_applications/1333/online_planning_map/1)

3.2) in the application. Failure to do so may result in the application being delayed as the Council may request extra information, amendments or conditions to the application. If the issues remain, planning permission will not normally be granted.

#### 4.2 Proximity to schools

Obesity, and the long term consequences of obesity, is a growing problem with a significant burden on health and society in England and Coventry. Appendix A includes the evidence supporting an intervention limiting new hot food takeaways in close proximity to schools.

The Council understands that obesity is a complex problem and as such there is no single solution. The need for action at all levels of government and society has been recognised. This measure is one of many initiatives being worked on by the Council and its partners. This whole systems, coordinated approach can help to reduce the obesity crisis in Coventry.

**Proximity to Schools:** Hot food takeaway applications will not be approved if the hot food takeaway falls within a 5 minute walk from the gate(s) of any primary or secondary school (including any Special School, Sixth Form College and Academy), within or outside Local Education Authority Control.

To avoid any ambiguity with street geography increasing or decreasing the length of time to walk a distance, the Council have developed a map identifying the 5 minute walk boundaries around school gates. A sample of this map for illustration purposes and details on how it was created can be found in Appendix B.

A more detailed, interactive map showing the exclusion zones around schools (including special schools, colleges and academies) is available on the Councils local plan webpages<sup>3</sup>. This map is to be used by potential applicants and those involved in the determination of planning applications to ascertain whether a premise falls within an exclusion zone.

If the majority of the hot food takeaway falls within a zone, planning permission is unlikely to be granted.

Further information on the reasoning for a 5 minute walk as an exclusion zone is shown in Appendix A.

Failure to meet this requirement may result in the application being delayed as the Council may request additional information, amendments or conditions to the application. If the issues cannot be overcome, planning permission will not normally be granted.

This requirement will not apply to hot food takeaway proposals that fall within a defined centre in addition to falling into the 5 minute walk zone. However, if this situation does arise, provision must be made to minimise the negative impact on health and wellbeing. This may include conditions

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<sup>3</sup> [http://www.coventry.gov.uk/info/111/planning\\_policy/2310/local\\_plan/5](http://www.coventry.gov.uk/info/111/planning_policy/2310/local_plan/5)

being applied relating to the opening hours of the hot food takeaway (see requirement 4.6). If provision is not made, the application may be delayed as the Council may request extra information, amendments or conditions to the application and if the issues are not resolved, planning permission will not normally be granted. The supporting maps to this SPD show further detail of the areas where defined centres and 5 minute walk zones around schools overlap<sup>4</sup>.

This will ensure that requirement 4.2 “Proximity to Schools” aligns with Local Plan policy R6 (Restaurants, Bars and Hot food Takeaways – see section 3.1) around normally permitting hot food takeaways in defined centres, provided they meet a variety of criteria and also complies with Local Plan policy DS3 (Sustainable Development Policy):

**Policy DS3: Sustainable Development Policy**

- 1) When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work proactively with applicants to find solutions to enable proposals to be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area, including:
  - e) increased health, wellbeing and quality of life

### **4.3 Litter and Waste Disposal**

Litter is unsightly and causes considerable annoyance to residents and adjoining businesses and can attract vermin and harm the environment. Hot food takeaways are often associated with the generation of litter, which can be discarded both in the immediate vicinity and further afield. Objectors to hot food takeaway applications often cite litter as a nuisance. Although the proprietor of the hot food takeaway business has little control over where its customers drop their litter, they can act to significantly reduce the potential of its occurrence by providing litterbins within their premises.

Due consideration must be given to relevant policies in the Coventry Local Plan (such as policy EM8: Waste Management).

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<sup>4</sup> [http://www.coventry.gov.uk/info/111/planning\\_policy/2310/local\\_plan/5](http://www.coventry.gov.uk/info/111/planning_policy/2310/local_plan/5)

### **Policy EM8: Waste Management**

- 1) The Council's Waste Management Strategy will be supported through:
  - a) Encouraging less consumption of raw materials through the reduction and re-use of waste products;
  - b) A requirement for development proposals to incorporate adequate storage for waste and recycling services along with safe access for collection vehicles;
- 4) Development proposals should demonstrate measures to minimise the generation of waste in the construction, use and life of buildings and promote more sustainable approaches to waste management, including the reuse and recycling of construction waste and the promotion of layouts and designs that provide adequate space to facilitate waste storage, reuse, recycling and composting

If the planning application does not include evidence that adequate space to facilitate appropriate waste storage, refuse, recycling and composting has been provided for the proposal, extra information, amendments or conditions may be requested. If the issues remain, planning permission will not normally be granted.

The bins to be provided must be a suitable size and should be stored in a location so as not to cause a nuisance to neighbouring residential or commercial properties, including with regard to odours and accessibility. Where possible, the bins should be located where they are out of hot summer sunshine, be screened and be emptied and cleaned regularly. This will contribute toward preventing odours and flies. The bin stores should also be appropriately located for clear convenient access for refuse collection services and be accessible at all times to those working at the hot food takeaway. In addition to these points, commercial bin stores must be contained within the site. Where this is not possible, secure storage structures should be provided.

The applicant also needs to ensure that listed building consent and planning requirements in a conservation area are considered when developing the storage facilities for waste (see section 4.7).

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

Conditions to ensure that litter and waste requirements are met may be applied.

#### **4.4 Odour Extraction**

Many hot food takeaways produce odours during opening times. Consideration to the impact of odours is key when submitting a hot food takeaway planning application, however it is worth noting that some types of food preparation and cooking practices will produce more odours than others and therefore may require a higher specification control to remove the smoke particles.

**Odour Extraction:** Extraction systems should be installed to effectively disperse odours from hot food takeaways, whilst satisfying the councils design policies

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.

To be deemed acceptable, the proposed extraction system will need to:

- Have a flue that terminates at least 1 metre above the ridge height of the building to which it is attached, taking into consideration the height of neighbouring buildings
- Incorporate suitable odour treatment systems such as carbon or ozone (the use of odour neutralizing systems is discouraged)
- Include effective grease filtration in the canopy and, where carbon filtration systems are used, fine grease filters will normally be required
- Have route ducting so as to avoid proximity to residential or office windows on neighbouring properties (it is worth noting that this route ducting can only be run up walls that the applicant owns, where an external flue is proposed on a property in joint ownership or involving a wall owned by a third party, legal consent of all parties must be demonstrated)
- Incorporate flue terminals that do not impede discharge; i.e. chinmans hats
- 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 15m/s, dependent on stack height and odour treatment system
- 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
- Not exceed the existing background noise level as measured or calculated at the nearest residential property. It is recommended that noise assessments are carried out and submitted with the application
- Meet the planning requirements for a Conservation Area and Listed Building (see section 4.7)

Grease deposits in ducting can not only cause nuisance but present a fire risk, therefore a schedule of preventative maintenance and cleaning needs to be submitted with the application.

Particular reference to considering odour extraction for Hot Food Takeaway applications is included in the City Centre Area Action Plan:

*Designated centres are often focal points for commercial premises such as restaurants and hot food takeaways. Coventry city centre is no different and is becoming an increasingly popular place for the provision of such uses. Where new restaurants and/or takeaways are provided within the city centre consideration must again be given to the impacts this could have on adjoining uses, most notably in terms of odour control in this instance. As such, all food premises will require an odour extraction system tailored to the nature and location of the premises to prevent nuisance from odours. This will also include sufficient mitigation to prevent noise and vibration nuisance from extraction flues.*



## 4.5 Highway Safety

The impact of hot food takeaways on traffic flow and road safety is an important consideration when determining applications.

Hot food takeaways can attract a high proportion of car-borne and short-stay customers, particularly when areas in which they are located are not highly accessible. Often, in the vicinity of hot food takeaways, there is an increased occurrence of indiscriminate parking and interruption to the free flow of traffic along the roads adjacent to these premises. Customers may be tempted to park inappropriately for short periods to quickly pop in and out of takeaway premises, often jeopardising the safety of other road users. This short-term parking activity in the vicinity of hot food takeaways can have a negative impact on bus operation and accessibility. Customers may be tempted to park at bus stops and prevent buses from stopping close and parallel to the kerb.

This can lead to an increase in noise and traffic disturbance during the opening times of the hot food takeaway.

Insufficient parking facilities in and around hot food takeaways can also have an adverse impact on the amenity of the immediate and surrounding areas. The increased demand for on-street parking, particularly in the evenings and at weekends when this demand is at its highest and often inconveniences local residents.

**Highway Safety:** Information must be submitted with the application to evidence that the hot food takeaway will not cause detriment to highway safety

Where a proposal is considered to have an unacceptable impact on highway safety, the Council may request extra information, amendments or conditions to the application. If the issues remain, planning permission will not normally be granted.

The impact of a proposal on the safety of pedestrians and road users will be considered with regard to:

- The existing use of the site
- Existing traffic conditions
- The accessibility of the site by public transport, cycling and walking
- The availability of public parking provision in close proximity to the premises, including on-street parking
- Proximity of proposal to lighting junctions, pelican crossings, bus bays and bus stops
- The availability of easily accessible private parking provision
- The availability of safe and legal loading areas in close proximity
- The implications for the amenity of the surrounding area

Further information on Highway Safety can be found in the Coventry Connected SPD<sup>5</sup>.

A delivery and service plan statement will be required for all applications.

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<sup>5</sup> [http://www.coventry.gov.uk/info/111/planning\\_policy/2310/local\\_plan/5](http://www.coventry.gov.uk/info/111/planning_policy/2310/local_plan/5)

Proposals located near to traffic-controlled junctions, pedestrian-controlled crossings, bus bays and bus stops are likely to be refused if sufficient evidence has not been submitted in support of the application to demonstrate that there is no detriment to highway safety.

#### **4.6 Opening Times**

The proposed hours and days of opening should be specified as part of planning applications for hot food takeaways. Any agreed hours of opening will be made a condition of the planning permission if it is granted.

As mentioned at the beginning of this document, the Council recognises the important role that hot food takeaways can play in the local economy.

When a hot food takeaway application meets the majority of requirements in this document and the policies within the Local Plan, but might only meet all of the requirements if a limitation on the opening hours is imposed, a condition of restricting the opening hours will be considered.

Opening times will be considered on a case by case basis. When considering if an application might be approved with conditions on the opening hours, regard will be had to:

- The existence of an established late night economy in the area
- The character and function of the immediate area
- The potential benefits of the proposal for the wider community
- The impact of opening hours and the resulting effect of noise, crime, antisocial behavior, vibration and odours on neighbouring uses
- The impact on highway safety
- The impact on the health and wellbeing of pupils, students and their families attending local schools, colleges and academies

In these cases, the application may be approved with conditions specifying the opening hours, benefitting the local economy, yet minimising any negative impact on local residents and visitors to the area.

#### **4.7 Conservation Areas and Listed Buildings**

As with all planning applications, the applicant will also need to ensure that listed building consent and planning requirements in a conservation area are considered. More information can be found under the Conservation and Archaeology section of the Local Plan<sup>6</sup> and the “Design guidance on shop fronts for conservation areas and historic buildings”<sup>7</sup>.

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<sup>6</sup> [www.coventry.gov.uk/localplan](http://www.coventry.gov.uk/localplan)

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[http://www.coventry.gov.uk/downloads/download/4163/coventry\\_local\\_plan\\_2016\\_examination\\_library\\_heritage\\_and\\_design](http://www.coventry.gov.uk/downloads/download/4163/coventry_local_plan_2016_examination_library_heritage_and_design)

This includes the aesthetics of the extraction unit and flue (see section 4.4) and bin storage (see section 4.3)

## **5 Other Considerations and Legislation affecting Hot Food Takeaways**

It is recommended that applicants also consider other areas that are not covered by planning policy, but whose regulations and requirements could still affect a hot food takeaway. These include, but are not limited to:

### **a. Licensing**

If the hot food takeaway wishes to sell hot food and/or hot drink to the general public between the hours of 11p.m. and 5 a.m. then the hot food takeaway must apply to the Council for a Premises Licence. Application forms and details of the application fees and the annual charges can be found on the Councils website<sup>8</sup>.

All applications for licences and decisions made by the Council when considering applications must promote the four licensing objectives;

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm.

When considering applications for licences, the Council will also have regard to its Licensing Policy<sup>9</sup>.

For further information please contact the Licensing Team on [licensing@coventry.gov.uk](mailto:licensing@coventry.gov.uk) or 024 76831888.

### **b. Food Safety**

The proprietor of any hot food takeaway must register the premises as a food business with the Council's food safety team at least 28 days before the premise opens for business.

More information is available on the Councils website<sup>10</sup>. It is strongly advised that the applicant should contact the food safety team prior to the application for planning permission ([ehcommercial@coventry.gov.uk](mailto:ehcommercial@coventry.gov.uk)). Food safety officers can provide detailed advice on the current requirements of food hygiene and health and safety legislation. Advice provided before any application is submitted can help ensure that all necessary requirements are met prior to the commencement of the business.

The food safety team can be contacted on 08085 834333.

### **c. Building Control**

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<sup>8</sup> [http://www.coventry.gov.uk/info/19/licensing\\_and\\_regulation](http://www.coventry.gov.uk/info/19/licensing_and_regulation)

<sup>9</sup> [http://www.coventry.gov.uk/downloads/file/21698/licensing\\_policy](http://www.coventry.gov.uk/downloads/file/21698/licensing_policy)

<sup>10</sup> <http://www.coventry.gov.uk/foodsafety>

The applicant will need to comply with any relevant building regulations. More information can be found on the councils website<sup>11</sup> or by contacting the Building Control team on 024 76 832057.

#### **d. Litter and Waste Disposal**

Further information on how to reduce litter (and therefore the impact of litter) caused by hot food takeaways can be found at “Reducing litter caused by ‘food on the go’ – A Voluntary Code of Practice for Local Partnerships” by DEFRA<sup>12</sup>.

The applicant needs to consider their duty of care to dispose of waste lawfully under the Environmental Protection Act, for example all waste generated must be removed by an authorised waste contractor and providing an accurate description of waste (through the use of an appropriate transfer note). Further information on this can be found on the Waste Duty of Care Code of Practice produced by DEFRA in March 2016<sup>13</sup>.

Consideration should also be had to relevant acts, such as the following (non-exhaustive) list:

- Environmental Protection Act 1990 Section 34
- Environmental Protection (Duty of Care) Regulations 1991 Regulation 4
- The Waste [England and Wales] Regulations 2011 Section 35

Other considerations for litter and waste disposal include, but are not limited to:

- Commercial paper and cardboard waste is not allowed to be burnt
- Used cooking oil must not be poured down the drains

If you would like further advice regarding fulfilling your Duty of Care obligations please contact the Environmental Advice Section on 024 7683 2155. Alternatively you can contact the Commercial Waste Section to arrange for a waste management contract ([wastesolutions@coventry.gov.uk](mailto:wastesolutions@coventry.gov.uk), telephone 024 7683 2255).

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<sup>11</sup> <http://www.coventry.gov.uk/buildingcontrol>

<sup>12</sup> <https://www.gov.uk/government/publications/reducing-litter-caused-by-food-on-the-go-a-voluntary-code-of-practice-for-local-partnerships>

<sup>13</sup> <https://www.gov.uk/government/publications/waste-duty-of-care-code-of-practice>