

Coventry City Council

Hot Food Takeaway Supplementary Planning Document (SPD)

Regulation 12(a) Report of Consultation and Consultation
Statement

December 2018

Introduction

This report sets out the consultation that took place in the lead up to and during public consultation of the Coventry Draft Hot Food Takeaway Supplementary Planning Document (in this document referred to as the Draft SPD) from 8th August 2018 and 21st September 2018. It reviews the consultation responses received, the number of representations made and a summary of the main issues raised by the representors.

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. Once adopted, the Hot Food Takeaway Supplementary Planning Document will form part of the Council's Local Plan.

Background

The Hot Food Takeaway Supplementary Planning Document has been prepared to provide technical guidance and support to Policy R6 of the new Local Plan and other relevant linked policies. This will help deliver one of the overall objectives of the Plan which is to help improve the health and wellbeing of Coventry people.

The Hot Food Takeaway Supplementary Planning Document is aimed at individuals and organisations involved in submitting a planning application as well as those involved in the determination and enforcement of planning applications, for all relevant developments (residential, commercial and mixed developments).

Public Consultation

The Draft Hot Food Takeaway SPD was approved for public consultation by the Council's Cabinet Member on 6 August 2018. Public Consultation was held from Wednesday 8th August and Friday 21st September 2018. Notification of the Draft SPD consultation was sent via email and letter to:

- Statutory Consultees including adjoining Local Authorities; and
- Local Plan database contacts including individuals, developers and community groups.

Hard copies of the Draft SPD were made available in the customer contact centre and Council House in the city centre. The consultation was posted on the council's Facebook and Twitter account as well as appearing on the main council webpages.

A number of drop in sessions were also held across the City to facilitate community input and feedback.

Comments were requested via email to ldf@coventry.gov.uk. An email address and contact telephone number was provided on all the consultation material and the website for those who wanted to ask questions and seek further information.

Summary of Response to the Consultation

The Council received a total of 5 responses via email and post as well as a range of informal comments and suggestions made through stakeholder meetings and consultation drop in events. A summary of the representations made and the proposed action in response to the representations are set out in the table below.

Table 1: Summary of Consultation Responses

Representations - Hot Food Takeaway SPD	
Point Raised	Response
Comments received stating that restricting hot food takeaways in a 5 minute walk zone did not go far enough.	Noted and, if the evidence base develops to show that there is a link between hot food takeaways within a 10 minute walk of schools, the SPD can be reviewed as appropriate, but currently this evidence is not sufficient to justify this approach.
Comments stating the approach of the SPD is not positive, justified, effective or consistent with the Framework and that the framework provides no justification at all for using the development control system to seek to influence people's dietary choice.	Noted, however Chapter 8 of the NPPF states that "planning policies and decisions should aim to achieve healthy, inclusive and safe places" and paragraph 91c) within chapter 8 refers specifically to the food environment "...enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through...access to healthier food..." In addition to Chapter 8 of the NPPF, policy R6 in the Local Plan establishes the principle of developing a supporting SPD that responds to a number of issues including those around health and wellbeing.
Comments stating that the SPD is inconsistent with Para 80 of the framework, which states "Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential."	Comments noted, however the development of the draft HFT SPD has considered and acknowledged the role hot food takeaways play in the economy, but has also sought to balance the requirements in the framework around economy with those around healthy communities. This draft HFT SPD does therefore not seek to restrict all new hot food takeaway applications, but those that are likely to have the greatest negative impact on the health of the community. The Council is of the view that economic growth and productivity benefits from vibrant and diverse centres. In this context the SPD does not seek to prevent the delivery of hot food takeaways, it seeks to consider their concentration therefore it is mindful of the opportunities to provide vibrant and diverse centres.

<p>Comments stating that there is a lack of evidence to demonstrate the link between fast food, school proximity and obesity. The respondent refers to a number of studies and research with a variety of conclusions and to two planning decisions based on lack of evidence.</p>	<p>Comments noted, however the Appendix to the draft HFT SPD references studies showing evidence for the link. CCC also note that the studies referred to in the respondents evidence are dated between 2009 and 2013 and the planning decisions referenced are from 2012 and 2013. The evidence base in the appendix for the draft HFT SPD contains more recent research (e.g. Burgoine, T., Forouhi, N.G., Griffin, S.J., Wareham, N.J. & Monsivais, P. (2014), 'Associations between exposure to takeaway food outlets, takeaway food consumption, and body weight in Cambridgeshire, UK: population based, cross sectional study', BMJ 2014, 348: g1464; Health Matters: Obesity and the food environment (2017). In addition, there are also national guidelines supporting the approach in the draft HFT SPD that have been published more recently than the evidence cited by the respondent. These include Strategies for Encouraging Healthier Out of Home Food Provision (LGA and PHE 2017); Creating Health promoting guidelines (TCPA, 2017) and Planning Healthy Weight Environments (TCPA, December 2014).</p>
<p>Comments received stating that 70% of purchases by students in the school fringe are purchased in non A5 shops. No consideration has been given to other A class uses and their contribution or impact on daily diet or wellbeing. The suggested approach is therefore not holistic and will not achieve the principle aim.</p> <p>The respondent also stated that there is a lack of evidence to demonstrate that purchases in fast food outlets are any more or less healthy than purchases in other A Class premises.</p>	<p>Coventry City Council acknowledges that hot food takeaway purchases are only one of many contributory factors to childhood obesity. Although unhealthy food is purchased from other A class uses, a significant amount is still purchased from A5 use classes. Appendix A, chapter 1.4, of the draft HFT SPD evidences that the majority of hot food takeaways offer food which is dense and nutritionally poor which, among other health implications, contributes to childhood obesity. The draft HFT SPD is to provide guidance with regard to A5 use class proposals (or those with an element of A5 use class) and therefore does not refer to other A class uses. Coventry does not rule out the opportunity to expand this SPD into other use classes, as appropriate, but at this time the evidence supports a focus on hot food takeaways.</p> <p>In addition, the draft HFT SPD states that the measures are part of a city wide, whole systems approach to childhood obesity and do not seek to resolve childhood obesity as a single measure, but that restricting this one element will positively contribute to the city wide, whole systems approach work on childhood obesity.</p>
<p>Concerns raised that no consideration has been given to the time children spend in school and access arrangements they would have to such premises at certain times.</p>	<p>Comments noted, however Section 4.6 of the draft HFT SPD requires opening hours to be specified as part of the planning application, including with regard to the impact on the health and wellbeing of pupils, students and their families attending local schools, colleges and academies. The draft HFT SPD goes on to state "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." Therefore consideration to the time children spend in school will be made on a case by case basis where appropriate.</p>
<p>Only limited purchases of food are made at A5 uses on journeys to and from school.</p>	<p>As already stated, even reducing one element that contributes to childhood obesity will contribute toward reducing childhood obesity in the city and is part of the</p>

	whole systems approach to reducing childhood obesity in Coventry.
Consideration needs to be given to the age of Sixth Form students and whether it is proportionate to limit their freedom of choice. Some Sixth Form students are 18 years old.	The draft HFT SPD does not seek to close existing A5 class uses and therefore there will still be a choice.
The Framework cannot be interpreted to provide generic restrictions on a particular use class. Moreover, the evidence does not support such restrictions. The need for evidence is emphasised in para 31 of the Framework which states that each local plan should be based on adequate, up-to-date and relevant evidence. Compliance with the soundness test is still required.	<p>Comments noted, however the draft HFT SPD contains caveats in some circumstances (for example section 4.2 Proximity to Schools "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" and section 4.6 Opening Times which will be considered on a "case by case basis". Therefore the guidance does not provide generic restrictions, but restrictions that can be considered on a case by case basis.</p> <p>Section 53 of the NPPG for Health and Wellbeing (https://www.gov.uk/guidance/health-and-wellbeing) states that "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." The NPPG goes on to state that particular regard should be given to the following issues:</p> <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; and • Refuse and litter. <p>With regard to matters of soundness, the Council remain confident that the SPD is sound and appropriately justified, supported by the evidence included in the appendix of the HFT SPD.</p>
The proposals map clearly shows a conflict of where the proposed 5-minute walking buffer zones conflict with designated centres. No details are provided as to how such a conflict would be resolved during the development management process. If a site is available, suitable and viable within a local centre but falls within a 5-minute walking zone, does this discount the site from the sequential test?	Section 4.2 in the draft HFT SPD (Proximity to schools) states "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." It then goes on to state "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 being applied relating to the opening hours of the hot food takeaway"

Many restaurant operators have made major steps to expand the range of healthy options and work with the communities within which they are / will be part of. To place such a restriction on a broad use class without any consideration of site specific circumstances is not viable or justifiable.	Although Coventry welcome efforts by some restaurant operators to expand the range of healthy options, the draft HFT SPD is for A5 premises (or those with an element of A5) and not restaurants (which fall under use class A3). Furthermore, Planning Policy cannot be used to dictate a level of healthy foods that should be sold in a premises.
Comments confirming that McDonald's is a major employer of young people	Comments noted
Comment received stating "There is a lack of evidence to demonstrate whether fast food is located by schools, or whether schools are located by town centres."	In Coventry, schools are distributed throughout the city and not just next to designated centres, as can be seen on the supporting maps.
With a policy restricting location in place of over-concentration and in proximity to schools, all A5 development would likely be directed away from major, district and local centres – contrary to the sequential test.	Policy R6 in the Local Plan states that "Outlets should be located in defined centres.." Furthermore, as previously stated, section 4.2 of the draft HFT SPD (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..." It then goes on to state "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. This requirement would therefore not result in A5 development being directed away from major, district and local centres. Figure 6 in Appendix A of the draft HFT SPD shows the concentration of hot food takeaways in Coventry's defined centres. It shows that there are still many defined centres that are under the national average of concentration of hot food takeaways and therefore, on that requirement, an application for an A5 premise would not be rejected.
It is unsound to introduce such a widespread land use policy to protect the amenity of such uses, which could be dealt with on a case by case basis through proper planning practice via conditions.	Policy R6 is clear that this SPD will be produced to support the delivery and implementation of the policy. The SPD therefore provides the greater detail to the Local Plan Policy and sets the framework by which conditions can be applied. Without a SPD containing the requirements (which, where appropriate, state in the draft HFT SPD that they will be considered on a case by case basis), it would not be possible to efficiently and fairly apply conditions to applications.
There is also a clear absence of evidence to suggest restricting A5 use in 'over-concentrated' areas will lead to healthier lifestyles or influence and individual dietary choice.	Appendix A to the draft HFT SPD shows evidence linking obesity to concentration of hot food takeaways ("Studies have shown that people exposed to the highest number of takeaways are 80 per cent more likely to be obese and 20 per cent more likely to have a higher Body Mass Index than those with the lowest number of encounters"). In addition, the draft HFT SPD cites the reason for avoiding over-concentration of hot food takeaways is to reduce harmful cumulative impacts. These include displacement of other retail shops, breaking up the continuity of the retail frontage, undermining the primary retailing function of defined centres and increased numbers of customers around hot food takeaways (including at less sociable hours). Additional numbers of customers, particularly at less sociable hours, can lead to problems in disturbance, increased noise, littering and anti-social behaviour.

	<p>Consideration of the concentration of hot food takeaways will encourage balanced and diverse shopping areas.</p> <p>As part of monitoring the SPD, the Council are committed to reviewing the evidence behind the SPD to ensure it is having a positive effect on the health and wellbeing of local people.</p>
A variety of suggestions to update wording to clarify requirements and definitions suggested	Wording updated as appropriate on the draft SPD
S4.1 Comments received querying how the requirement for concentration of HFT will contribute to supporting part of Policy R5	Reference to R5 removed from draft HFT SPD
S4.2 Comments received to ensure the 5 minute walk time robust	Appendix A shows the supporting evidence to the requirement for a 5 minute walk time around school gates and appendix B shows how the zone was calculated, with consideration to street geography
Strong support of the draft HFT SPD, in particular on the approach of using the Planning System as part of a wider approach to tackle obesity. Comments about similar approach being developed by Nuneaton and Bedworth Borough Council	CCC welcome these comments, in particular around consistency across the region
<p>Comments received around concerns that SPDs should build upon and provide more detailed advice or guidance on the policies in the Local Plan, but that the respondent did not consider that the draft HFT SPD actually supplements Local Plan Policies R5 or R6. Comments also received stating that the SPD only focusses on Class A5 uses, when hot food may be purchased for consumption on or off the premises at shops, bakeries, restaurants and cafes.</p>	<p>The draft HFT SPD has been developed to provide more detailed guidance for Policy R6 and is therefore is supplementary to the Coventry Local Plan. The draft HFT SPD is in line with national policy such as the NPPF (in terms of promoting healthy communities, in particular access to healthier food, Chapter 8). Furthermore, section 53 of the NPPG states that "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."</p> <p>The NPPG goes on to state that particular regard should be given to the following issues:</p> <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; and • Refuse and litter. <p>CCC acknowledge there is little in the draft HFT SPD to supplement policy R5 and have updated the wording in the draft HFT SPD.</p> <p>CCC acknowledge that there are other use classes that sell hot food for consumption on or off the premises. This draft SPD has been developed for A5 uses, as laid out in the introduction and as per the reference in the adopted Coventry Local Plan to the "...emerging Hot Food Takeaway Supplementary Planning Document" and therefore cannot influence other use classes. In addition, Planning Policy</p>

	allows for different policy for different use classes, but it does not allow for policy specifying the nutritional value of food being sold within a use class.
Concerns raised regarding the arbitrary threshold for the concentration of Hot Food Takeaways (requirement 4.1 in the draft SPD) and the measurement of concentration being the LSOA level. In addition, concerns raised that requirements 4.1 and 4.2 will undermine policy R5 by directing Main Town Centre uses away from centres.	<p>Section 1.5 in the draft Appendix A accompanying the draft HFT SPD evidences the impact of a high concentration of Hot Food Takeaways on obesity. As mentioned above, the NPPG states that regard should be had to over-concentration and clustering of certain use classes. With the data available, using the national average as the threshold is the only practical way to provide consistency for applications. The concentration has been measured at LSOA level as this is the lowest geographical level that the data is available for at the time of developing the draft HFT SPD. If data were used from a higher geographical area, decisions would not be made with consideration to the impact on nearby residents, but with consideration to the impact on the wider community of Coventry.</p> <p>The draft HFT SPD states the measurement of the concentration of Hot Food Takeaways to be done at LSOA level (requirement 4.1), not as the concentration of hot food takeaways within a defined centre and will therefore not direct A5 uses away from defined centres.</p> <p>Requirement 4.2 (Proximity to schools) states that this requirement will not apply to A5 proposals that fall within a defined centre and will therefore also not undermine policy R5 by directing A5 businesses away from defined centres.</p>
Comments welcoming the use of real walk distance rather than simple radii	Comments welcomed and noted
<p>Reasonable justification for the draft policy has not been substantially provided in accordance with regulation 8 (2) of The Town and Country Planning (Local Planning) (England) Regulations 2012 and concerns that there is no strong or consistent evidence of a causal link between the proximity of hot food takeaways to schools and incidence of obesity. Comments made that research into this area has been inconclusive.</p> <p>In addition, concerns raised that, due to the lack of evidence, it was impossible to justify a policy that would lead to the loss of jobs and footfall</p> <p>Concerns also raised that Requirement 4.2 (Proximity to schools) unnecessarily includes Primary schools as these children are unlikely to travel to and from school unaccompanied.</p>	<p>Draft Appendix A, section 1.6, accompanying the draft HFT SPD lays out evidence showing the link between proximity of hot food takeaways to schools and obesity.</p> <p>CCC acknowledges that the research referenced in the consultation response shows that there is no evidence for a link between proximity of hot food takeaways to schools and obesity, however CCC also notes that the dates of this research is from 2009 - 2014. Draft appendix A references more recent research which does show a correlation and has therefore justified the requirement in the draft SPD.</p> <p>As per the above, the evidence for the requirement is presented in the draft Appendix. Furthermore, there would not be a loss of jobs and footfall as this draft HFT SPD would only apply to new hot food takeaway applications, it does not seek to impact on existing ones.</p> <p>The justification of the inclusion of primary schools in Requirement 4.2 (proximity to schools) is evidenced in the draft Appendix A, section 1.6 (paragraph 3).</p>

Comments made that, for requirement 4.4, Odour control system characteristics that may not be necessary in all circumstances and which should be determined by a risk assessment, for example, that issued by Defra or its replacement.	Comments noted and wording updated to reflect that odour control systems are not required in all cases.
Comments requesting minimum amendment to the draft HFT SPD of deletion of Requirements 4.1 and 4.2, but also because Requirements 4.3 - 4.7 replicate (inaccurately) existing policy, the SPD overall is unnecessary. Further detail given that fixed odour control system characteristics may not be necessary in all circumstances.	For the reasons explained above, requirements 4.1 - 4.2 will remain in the draft HFT SPD. CCC note the comments regarding odour control and will amend the wording in the draft HFT SPD to clarify that this might not always be necessary. CCC note that some parts of requirements 4.3 - 4.7 do replicate existing policy, but the draft HFT SPD has been designed as guidance for those submitting applications for hot food takeaway proposals (stated in the introduction) and therefore having the requirements, with extra detail, in one document will aid applicants
Request that the draft HFT SPD includes consideration of crime prevention and safety and security and that Police be involved in the consideration of hot food takeaway applications and that the HFT SPD reflects that advice be sought from the Police at the pre-application and planning application stages.	CCC notes the comments and has now incorporated some of the suggested wording into the HFT SPD. All the suggested wording was not added in to the draft HFT SPD as there was already reference to crime and extra reference could lead to an excessive focus on this single issue. The Council would be happy to work with WMP to explore the opportunity to include wording in the pre-application letter sent out by Coventry Planning Authority advising the developer to contact WMP.
The consideration of the concentration of hot food takeaways in the City Centre is inappropriate	Comments noted and caveat introduced to this requirement
Include reference to Coventry City Council website for pre-app advice.	Comments noted and HFT SPD updated.