



**Name of meeting: Economy and Neighbourhoods Scrutiny Panel**

**Date: 19 October 2021**

**Title of report: Hot Food Takeaway Supplementary Planning Guidance (SPD)**

**Purpose of report:**

- To highlight the approach taken in the emerging draft Hot Food Takeaway SPD for the purposes of consultation and allow questions and comments. Details of the scope and approach taken in the SPD will be presented at the Scrutiny session.
- To note the timeline for next steps for consultation and adoption of the SPD.

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>N/A - this is a Scrutiny report</b>
<b>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u></b>	<b>N/A - see above</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>N/A</b>
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>  <b>Is it also signed off by the Service Director for Finance?</b>  <b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	<b>David Shepherd – 07.10.2021</b>  <b>Eamonn Croston – 12.10.2021</b>  <b>Julie Muscroft – 08.10.2021</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Cllr McBride, Cllr Khan and Cllr Firth consulted at Portfolio Holder Briefing on 20<sup>th</sup> September 2021.</b>

**Electoral wards affected: All**

**Ward councillors consulted:**

- Portfolio Holder Briefing (Cllr McBride, Cllr Firth and Cllr Khan) - 20<sup>th</sup> September 2021
- Briefing note sent to all Cabinet Members - 23<sup>rd</sup> September 2021
- Briefing note and briefings offered to leaders of each political party and Planning Committee Chairs - 23<sup>rd</sup> September 2021
- Briefed Planning Committee Chairs (Cllr Hall and Cllr Hussain) - 7<sup>th</sup> October 2021
- Cabinet members - 11<sup>th</sup> October 2021

All consultees were supportive of the document being prepared for public consultation.

**Public or private:** Public

**Has GDPR been considered?**

The draft SPD does not contain any personal data. The storage of information received in relation to future consultation on this document will be in accordance with the Planning Policy Privacy Notice which can be viewed on the council's website.

## 1. Summary

The Hot Food Takeaway SPD is identified in the council's Local Development Scheme to provide further guidance to businesses and the local community on how the Local Planning Authority will assess planning applications for hot food takeaways (e.g. new hot food takeaways or applications for a variation of opening times) under Local Plan policies. The Local Plan Planning Inspector sought confirmation that an SPD was going to be produced in relation to Local Plan policies LP16 (Food and drink uses and the evening economy) and LP47 (Healthy, active and safe lifestyles).

Supplementary Planning Documents (SPDs) are produced to add clarity in relation to the application of planning policies set out in the Local Plan. The draft Hot Food Takeaway SPD provides clear guidance about how the council will implement Local Plan policies LP16 and LP47 and how decisions will be made which balance the need to consider the vitality and viability of centres whilst promoting healthy, active and safe lifestyles.

The draft Hot Food Takeaway SPD was emerging prior to the pandemic and has now been reviewed and revised in the light of issues raised by members (See section on member engagement), updated health evidence and further consideration on the need to balance health objectives with the vitality and viability of the centres. The SPD has been produced through joint working with Public Health, Environmental Protection, Development Management and Planning Policy to ensure a joined up and justified approach. It is considered an important tool in supporting the council's health objectives and includes signposts to other council initiatives to promote healthy eating and lifestyles.

SPDs are a material consideration in planning decisions but are not part of the development plan. SPDs are subject to consultation but not an Examination in Public. The decision to adopt the SPD will be a Cabinet decision following the consultation period.

## 2. Information required to take a decision

### **Obesogenic Environment**

Obesity is more complex than what we eat, it's about how physically active we are, how easy it is to walk and cycle around our communities, our income, our skills and understanding of cooking healthy food, our social norms and our access to healthy food. This complex relationship can create what is known as an obesogenic environment. This is where the environments in which individuals, families and communities live make it challenging for people for make healthy choices, which increases the risk of becoming overweight or obese. Regulating the number and location of hot food takeaways is one way that the council can influence the environment in which people live and to make the healthy choice the easy choice.

In Kirklees, 1 in 5 (19%) adults eat fast food or takeaway meals at least once a week, and a further 64% eat fast food or takeaway meals sometimes but less than once a week (CliK, 2016). Those living in the most deprived areas are the

most likely to eat takeaway at least once a week (21%), and those living in the least deprived areas are the least likely to (14%).

In Kirklees, approximately 1 in 4 (23.2%) of reception age children and 1 in 3 (35.5%) of year 6 children had excess weight (overweight and obese) (NCMP 2018/19). Over half (56%) of all adults in Kirklees are overweight or obese. The proportion of adults who are obese has increased from 1 in 6 (17%) in 2005 to 1 in 5 (22%) in 2016.

There are also inequalities in obesity rates between different socioeconomic groups, 14.3% of the population was income-deprived in 2019. Kirklees is ranked 87th most income-deprived (out of 316 local authorities in England). There is a strong relationship between deprivation and childhood obesity. Obesity prevalence among children in both Reception and Year 6 increases with increased socioeconomic deprivation (IMD score). Obesity prevalence in the most deprived 10% of children is approximately twice that of the least deprived 10%.

As well as the link between deprivation and obesity, research has also established a link between levels of deprivation and the proliferation of fast-food outlets. In Kirklees the highest density of fast-food outlets is in the most deprived areas.

### **Scope of the SPD**

The NPPF highlights that planning should aim to achieve healthy, inclusive and safe places, which enable and support healthy lifestyles, especially where this would address identified local health and wellbeing needs for example access to healthier food. The Local Plan sets out the local approach through LP16 (Food and drink uses and the evening economy) and LP47 (Healthy, active and safe lifestyles).

The SPD will embed the objectives from the Corporate Plan, the Kirklees Health and Wellbeing Plan 2018-2023 and the Healthy Weight Declaration and provide the context around the wider determinants of health and the role that the SPD can play alongside other initiatives to address the obesogenic environment.

Public Health England recommends that local authorities use planning policies to ensure that:

*“Development avoids over-concentration of hot food takeaways in existing town centres or high streets and restricts their proximity to schools or other facilities for children and young people and families.”*

The SPD explains the overall approach to planning applications relating to hot food takeaway development across Kirklees only, including:

- Using local health intelligence to inform decision making via a health toolkit;
- Recognising the role of hot food takeaways in the vitality and viability of town and other centres;
- The over concentration and appropriate level of clustering of hot food takeaways in centres;

- Limiting opening hours within 400m of primary and secondary schools; and
- Limiting the impacts of takeaways in relation to environmental health, highways issues and general residential amenity.

In addition to planning applications for new hot food takeaways, principles HFT3 (Proximity to Schools), HFT4 (Noise abatement and extraction of odours) and HFT6 (Takeaway design and community safety) will apply to any applications for planning permission to existing hot food takeaways, for example applications to vary planning conditions relating to the opening times.

A hot food takeaway is defined as, for example:

<b>Examples of Hot Food Takeaways (Sui Generis)</b>	<b>Examples of other uses not defined as Hot Food Takeaways</b>
Fish and Chip Shops	Restaurants/Snack Bars/Cafes
Pizza Takeaway	Sandwich/Deli shops
Chinese/Thai Takeaway	Bakeries
Indian Takeaway	Coffee shops
Kebab Takeaway	Public houses (pubs)/Wine bars
Burger Takeaway	Ice cream shops/parlours
Chicken/Southern Fried Chicken/Fried Chicken shops	Shisha bars
Fast Food Drive Through	Night club

The SPD principles will fall into three main areas when assessing planning applications relating to hot food takeaways (e.g. new hot food takeaways or applications for a variation of opening times):

#### 1. Health impacts:

##### HFT1 Public Health Tool Kit

In order to reflect the complexities of the obesogenic environment, the council has developed a tool which will support the decision-making process for new hot food takeaway applications. The tool will use a range of local data in order to assess which areas have multiple risk factors for obesity. These are:

- Index of Multiple Deprivation (IMD) quintile
- Percentage of adults overweight
- Percentage of adults obese
- Percentage of 5-year olds (reception) with excess weight
- Percentage of 11-year olds (year 6) with excess weight
- Diabetes prevalence rate
- Coronary heart disease prevalence rate

Each indicator is assessed and allocated points using the postcode of the proposed hot food takeaway. 20 points is therefore intended to identify areas which have significantly above average combined levels of obesity and deprivation for more than half of the criteria. The threshold of more than 20 will

encompass 20% of postcodes in Kirklees (80% of Kirklees postcodes would be accepted through the tool).

As an example, using all the indicators above areas within (LSOA's) Cleckheaton and Ashbrow Wards have high levels of obesity and deprivation and any new hot food takeaway would be rejected in these areas, unless other material considerations indicate otherwise (evidence/circumstances put forward by the applicant). Areas within Almondbury, Holme Valley North and Holme Valley South Wards have relatively low obesity levels and low levels of deprivation, therefore a new hot food takeaway would be accepted in this area based on the Toolkit only.

The Public Health Toolkit will not apply to new hot food takeaways within our Principal Towns (Huddersfield and Dewsbury) or our Town centres (Batley, Cleckheaton, Holmfirth and Heckmondwike). The toolkit has been produced in conjunction with Public Health colleagues who will monitor and review the data annually.

#### HFT3 Proximity to Schools

Hot food takeaways within easy walking distance of schools can provide an attractive and affordable food option for pupils. In an effort to establish appropriate healthy eating habits and reduce the rate of childhood obesity in the local population, officers consider it appropriate to restrict the hours of operation of hot food takeaways within 400m walking distance of primary and secondary schools, as follows:

- A primary school (infant and/or junior or middle) - the hot food takeaway is not open to the public between 3pm to 5pm weekdays and there are no over the counter sales during these times.
- A secondary school: the hot food takeaway is not open to the public before 5pm on weekdays and there are no over the counter sales before that time. This is on the basis that secondary school pupils may be allowed to leave the school premises at lunch time.

This approach supports the work of Environmental Health colleagues through their initiatives on promoting access to healthy food options. The restrictive zone will not apply to hot food takeaways within our Principal Towns (Huddersfield and Dewsbury) or our Town centres (Batley, Cleckheaton, Holmfirth and Heckmondwike).

#### 2. Vitality and viability of centres:

##### HFT2 Town Centre Vitality and Viability

Shopping centres have changed over time with the loss of traditional shops such as greengrocers, newsagents, convenience stores and increasing numbers of retail service uses such as hairdressers, health and beauty salons and hot food takeaways. This has detrimentally affected the mix of uses raising concerns about the vitality and viability of centres. It has also resulted in a dominance of uses that are generally open in the evening, creating dead frontages during the day particularly where shutters are closed, it is important that centres are

retained as they provide a focus for the local community, support social interaction and contribute to sustainability.

The balance of uses needs to be managed to ensure that centres remain attractive to shoppers, visitors, residents and businesses during the day and in the evening, whilst ensuring that health outcomes associated with limiting hot food takeaways are secured through the SPD.

As such, where there are a significant number of vacant units in proportion to the size of the centre and there is little demand for an alternative use, flexibility will be set out in the policy in relation to the restrictions on where hot food takeaways even if the threshold has already been reached. This is on the basis that vacant units have a detrimental impact on the vitality and viability of a centre by reducing pedestrian footfall and economic activity.

### 3. Impact on residential amenity:

- HFT4 Noise abatement and extraction of odours
- HFT5 Waste Disposal
- HFT6 Takeaway design and community safety
- HFT7 Highway safety

This guidance will aim to protect residential amenity and support Kirklees Local Plan policy LP24 Design. They have been developed in consultation with Environmental Health.

#### **Member engagement**

Previously during consultation with Portfolio Holders and Cabinet members, concerns were raised about the impact on businesses and officers acknowledge the difficulties balancing business needs against public health issues. To address these concerns it was suggested that changes were made to the document including improved signposting to healthy eating guidance and other council initiatives, added flexibility and improved explanation of the policy approach.

As a result of this, the SPD includes signposts and other information on related matters such as such as licensing, food safety and hygiene, environmental health, waste management and healthy menu advice. This would provide a comprehensive set of guidance for prospective businesses. The guidance has been developed in consultation with Development Management and Environmental Health colleagues. There is also flexibility within the SPD principles in relation to Principal and Town Centres and where a unit has remained vacant for a period of time to ensure areas are not blighted by the SPD approach.

All applications would be referred to the Kirklees Food Initiatives and Nutrition Education (FINE) Project, which offers free one-to-one support and consultancy or specific masterclasses to fast food takeaways across Kirklees to enable them to assess where they can make improvements and implement positive change within their business. The masterclasses aim to guide, encourage and inspire

Kirklees independent food businesses into reviewing current practice and to continually make improvements to the menu offer.

The SPD seeks to provide a framework to support a balanced and fair approach to supporting local business and economic growth whilst also taking steps to ensure our environments support the health and wellbeing of our residents.

### **3. Implications for the Council**

The main implications of the SPD for the council are that it adds greater clarity to the application of Local Plan Policy LP16 and LP47 and that it provides consistency and greater clarity for the local community and developers, agents, other stakeholders and development management to facilitate the determination of planning applications. It also provides clear guidance for developers submitting planning applications. The SPD will not only help deliver planning decisions but will support joint council and Public Health outcomes for children and healthy lifestyles.

#### **3.1 Working with People**

The draft SPD will enable communities to understand the council's expectations about the approach in considering appropriate locations for hot food takeaways. The council will undertake public consultation on the draft SPD in accordance with the Statement of Community Involvement (SCI).

#### **3.2 Working with Partners**

The draft SPD will enable developers and statutory consultees to understand the council's expectation with regard to the approach in considering appropriate locations for hot food takeaways. The SPD will signpost businesses and partners to sources of advice on providing healthy food options and provides flexibility in certain circumstances.

#### **3.3 Place Based Working**

The draft SPD will balance the need to consider the vitality and viability of centres with places that promote healthy, active lifestyles. The SPD content on impact on residential amenity seeks to protect the quality of places.

#### **3.4 Climate Change and Air Quality**

The draft SPD requires that all new hot food takeaways have effective kitchen odour control and extract systems. It also encourages recycling and other initiatives such as 'litter picks' in the vicinity of the takeaway. Applicants are also encouraged to consider the use of sustainable food packaging, such as cardboard boxes and paper straws. Consideration is also given to adverse impacts on highway efficiency.



### 3.5 Improving outcomes for children

Where planning applications for new takeaways or variation of opening times are considered, the draft SPD will assist in seeking healthy outcomes for children through the appropriate location of hot food takeaways and principles relating to the opening times of takeaways in a 400m radius of a school. The potential for restricting opening times will also have positive impacts on improving the health of children.

### 3.6 Other (eg Legal/Financial or Human Resources) Consultees and their opinions

**Legal** - The requirements for producing SPD's are set out in the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017.

**Financial** - The cost of public consultation activity will be met from the existing budget.

**Human Resources** - The SPD is identified in the Local Development Scheme (timetable of planning policy making) as approved by the Cabinet and as such existing resources have already been identified for the project. The SPD provides additional guidance to Local Plan policies and its use for development management purposes will help to save resources and enhance the development management process.

**Communication** - Consultation will include interested parties identified on the Local Plan consultation portal, statutory consultees, schools, businesses, Public Health and environmental protection networks. Internally, Economy and Skills and the Town Centre Team have also been involved in the production of the document, as well as Public Health, Environmental Protection and Development Management. The consultation will be for a period of 6 weeks and in accordance with the council's SCI.

## 4 Next steps and timelines

It is intended the Council will consult on the draft Hot Food Takeaway SPD in November and December 2021 for a period of six weeks. The consultation will be carried out in accordance with the Statement of Community Involvement. Following the consultation, all comments will be considered, enabling any changes to be incorporated in the Hot Food Takeaway SPD anticipated to be adopted in 2022.

#### The next steps:

- **Economy and Neighbourhoods Scrutiny Panel - 19<sup>th</sup> October 2021** - this is consistent with the approach to previous SPDs where the scope and broad approach is taken to Scrutiny Panel prior to the public consultation. The full draft SPD text will be published as part of the public consultation.
- **Public Consultation - 8<sup>th</sup> November 2021 to 20<sup>th</sup> December 2021 (6 weeks)** - an email will be sent to all ward members in advance of the consultation.
- **Cabinet - it will then be a Cabinet decision whether to adopt the SPD**

## **5 Officer recommendations and reasons**

Scrutiny Panel to note the production of a Hot Food Takeaway SPD and provide any appropriate feedback based on the Scrutiny Report and presentation during the Scrutiny Panel session.

Reason: Scrutiny Panel requested input into the SPD process to have early input into the likely content of the draft SPD.

## **6 Cabinet Portfolio Holder's recommendations**

Cllr McBride, Cllr Khan and Cllr Firth were briefed on 20 September 2021 about the content of the draft SPD and are supportive of this document being prepared for public consultation.

## **7 Contact officer**

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## **8 Background Papers and History of Decisions**

Local Plan adopted 27<sup>th</sup> February 2019 ([www.kirklees.gov.uk/localplan](http://www.kirklees.gov.uk/localplan))

Local Plan Examination Library (<https://www.kirklees.gov.uk/beta/planning-policy/local-plan-examination-library-2017.aspx>)

## **9 Service Director responsible**

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