

Report of Director of City Development

Report to Development Plan Panel

Date: 7th March 2017

Subject: Hot Food Takeaway Supplementary Planning Document

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Following concerns about a number of Hot Food Takeaway (HFT) proposals in Leeds and the White Paper Motion, Planning Officers have been tasked with preparing a Supplementary Planning Document to control HFT proposals, particular from the perspective of improving the health and wellbeing of Leeds' population.
2. With input from Licensing, Public Health, Environmental and Development Management officers, a draft SPD has been prepared that is provided at Appendix 1. It is proposed that this will be subject to 6 weeks of public consultation and revised accordingly and brought back to a future Development Plan Panel before being approved for adoption.
3. The SPD proposes guidance to control HFT near schools, clustering in designated centres and to address amenity concerns.

Recommendations

4. Development Developments Plans Panel is requested to comment on whether including a caveat for HFT 2 allowing an A5 use after a certain amount of unit vacancy would be beneficial.
5. Subject to 6.1, Development Plan Panel is recommended to endorse the undertaking of public consultation on the Draft Hot Food Takeaway Supplementary Planning Document (SPD).

1 Purpose of this report

- 1.1 The purpose of this report is to seek endorsement of Development Plan Panel for undertaking public consultation on the Draft Hot Food Takeaway (HFT) Supplementary Planning Document (SPD) attached as Appendix 1.

2 Background information

- 2.1 The SPD will provide further clarification on how current LCC planning policies can protect against all types of adverse impacts created by HFTs. Once adopted, the HFT SPD will form part of Leeds' Local Plan and will carry weight when the Council makes decisions on planning applications. It will build and expand upon existing policies found in the adopted Core Strategy and UDP, which are referenced in the SPD.

- 2.2 Development Plans Panel Members may recall a report in December 2014, which addressed the proliferation of HFTs (there are currently 966 HFTs in Leeds according to Public Health England data¹). As the Core Strategy (CS) had only been recently adopted, Members agreed that the development of further policies should be kept under review pending monitoring of the CS. Other local authorities such as Bradford, Gateshead and Newcastle have already adopted supplementary planning documents to advise on proposals for new HFTs.

- 2.3 In June 2016, a White Paper was issued by Cllr Leadley that put forward the motion that:

"This Council believes that in the interests of public health and well-being it is essential that it adopts a coherent planning policy to control the siting and concentration of hot food takeaways. Therefore it instructs the Director of City Development to prepare a draft hot food takeaway planning policy to be presented to Development Plan Panel with a view to adding an appropriate document to the Leeds Local Development Framework as quickly as the statutory consultation and adoption process will allow".

- 2.1 At Council the Executive Member for Planning set out his response to the White Paper motion that it was agreed that a review should be carried out that encompasses issues relating to public health, proximity to schools, proliferation and amenity (and should closely involve colleagues working in these sectors) and the findings be presented to Development Plan Panel.

- 2.2 A report that reviewed the effectiveness of CS policies and suggested amendments to the local planning framework was presented at Development Plans Panel on the 27th of September, 2016. Development Plans Panel resolved that the preparation of a draft SPD to address links between health issues and planning policy, with a specific focus on tackling the location and/or concentration of Hot Food Takeaways in areas where health issues arising from unhealthy food choices are prevalent be commenced.

¹ <http://www.noo.org.uk/visualisation>

3 Main issues

- 3.3 Once adopted, the HFT SPD will form part of Leeds' Local Plan and will carry weight when the Council makes decisions on planning applications. It will build upon and amplify existing policies found in the adopted Core Strategy and UDP.
- 3.1 The SPD will primarily be used by Development Management and Policy officers when determining applications for a HFT use (Use Class A5), as well as assisting applicants as to the appropriate locations for such uses.
- 3.2 Policy intervention should always be justified by evidence, and a range of different data sources have been used to validate the need for this HFT SPD.
- 3.3 In Leeds, a moratorium on all HFTs would not be justified, as HFTs have a role and a service to provide in appropriate places. Policies P1, P2, P3 and P4 of the Core Strategy advise where HFTs can be determined to be an appropriate use.
- 3.4 It is recognised that not all HFTs sell unhealthy food but evidence suggests that the majority do provide nutritionally poor and unhealthy items. However, there is little the planning system could do to control what HFTs do sell, as it would be difficult to implement a method of enforcement.
- 3.5 The draft SPD proposes two new guidelines that will help determine any future A5 applications:

3.6 HFT 1: Proximity to secondary schools

Hot food takeaways will not be permitted within 400 metres of a secondary school main school building except within the boundaries of designated centres.

- 3.7 National guidance advises Local Planning Authorities to restrict the location of Hot Food Takeaways, such as around schools. Studies show that HFT food is inherently unhealthy, and the food environment can influence diet. Therefore HFT 1 aims to restrict access to unhealthy foods to secondary school children in order to encourage and support health lifestyle choices. Primary, first and middle schools are not proposed to be included as their pupils do not have the same amount of independence and autonomy as secondary school children to access HFT's.
- 3.8 Designated centres are exempt due to core strategy policies stating that, subject to other considerations, centres can be an appropriate location for A5 uses. Where a HFT application falls within a 400m exclusionary zone and a designated centre, permission would be granted as long it complies with Local Plan policies and SPD guidance HFT 2 and 3.
- 3.9 **HFT 2: Clustering**

A. Planning permission will not be granted where an A5 proposal would result in the clustering of A5 uses which would detrimentally harm the function and vitality of the city centres, town centres, local centres and neighbourhood parades.

B. Planning permission will not be granted where clustering would have a detrimental impact on the amenity for existing and future occupants of the adjacent and connected properties.

C. To prevent clustering, an A5 use will only be permitted when the following criteria are satisfied:

I. No more than two consecutive A5 uses should be located adjoining to each other.

II. Between groups of existing A5 uses, there should be at least two non A5 uses.

III. Where the parade has fewer than 20 units, no more than 4 A5 units will be permitted in total.

3.10 HFT 3: Amenity Considerations

When considering suitable opening times for HFTs, the following will be taken into account:

A. The impacts on residential amenity;

B. Whether there is an existing night time economy in the area;

C. The existing character and levels of activity and noise in the area.

3.11 Leeds City Council currently has the second highest amount of HFTs of all English Local Planning Authorities. Whilst providing an important and popular service, HFTs can also have negative impacts on highways, litter, local amenity, odour and street scene. Clustering and high concentrations of HFTs can only exacerbate those issues, and therefore HFT2 seeks to restrict the clustering of HFT uses.

3.12 The current Core Strategy and saved UDP policies that can control the location of HFTs are as follows:

3.13 CENTRE USES: Core strategy policies **P1**, **P2**, **P3** and **P4** are relevant for the designation of centres and the uses acceptable within those centres. These policies also cover impact on amenity.

3.14 OUT OF CENTRE USES. Core Strategy policy **P8** controls town centre uses (including HFTs) proposed in out-of-centre and edge-of-centre locations

3.15 FRONTAGES: UDP saved policies **SF1 -10** refer to the allocation of primary and secondary frontages and the uses found acceptable along those frontages. The emerging SAP will supersede the UDP policies with **RTC1**, **RTC2**, **RTC3** and **RTC4**.

- 3.16 **DESIGN:** Core Strategy policy **P10** covers the key principles of design including appropriate provision for storage, recycling and collection of waste. Core Strategy policy **P11** is relevant if the A5 proposal is in an area of conservation importance.
- 3.17 **SHUTTERS: UDP Policy BD7** states that solid shutters will only be permitted in exceptional circumstances and the use of security glass or open mesh grills will be encouraged.
- 3.18 **TRAFFIC MANAGEMENT AND PARKING:** Core Strategy policies **T2, P3, P4** and **P10** cover car parking measures. The **Leeds Parking SPD** expands upon these policies.
- 3.19 If certain properties were rendered vacant due to not being able to secure a use other than A5, Development Plans Panel is requested to comment on whether there should be a caveat where after a certain vacancy period, the potential of an A5 use would become more appropriate. This would need to weigh up the potential negative effects of an 'empty' property along a street scene against an occupied unit, albeit for an A5 use.

4 Corporate Considerations

4.20 Consultation and Engagement

- 4.21 In preparation for this report and draft SPD, several multi service meetings were held. Representatives from Plans and Policies, Development Management, Environmental Health, Public Health and Licensing met to discuss what the SPD should include.
- 4.22 A meeting was also held with Councillor Leadley and Councillor Venner to discuss the key issues that the SPD would address.
- 4.23 Consultation for this SPD will be undertaken pursuant to the Town and Country Planning (Local Plans) Regulations 2012.

4.24 Equality and Diversity / Cohesion and Integration

- 4.24.1 An Equality Impact Screening (EIS) has been undertaken to identify implications for any of the protected characteristics groups. The screening report (appendix item 2) concluded that no particular impact can be seen for any protected group (characteristic) except a positive impact for the health of all communities.

4.25 Council policies and Best Council Plan

- 4.25.2 The Leeds Best Council Plan highlights the importance of a healthy city several times throughout the document. As part of its outcomes, it requires that people 'Live longer and have healthier, active lives', all children and young people 'Enjoy healthy lifestyles' and Leeds becomes 'a city which offers its residents the best support available to maintain their health and wellbeing long into the future'.

4.25.3 The Best Council Plan 2016/17 update highlights ensuring everyone in Leeds should 'Enjoy happy, healthy, active lives' as one of its key outcomes, and 'Early intervention and reducing health inequalities' as one of its breakthrough projects.

4.25.1 Leeds also has a higher proportion of young people than the national average, including a large student population. Within this context, the City Council has a key ambition for Leeds to be a Child Friendly City - in creating places and services where children and young people feel safe and welcome and involved and informed about what goes on around them. In taking this initiative forward, 12 'wishes' have been developed for a more child friendly Leeds. These include: a healthy lifestyle.

4.26 Legal Implications, Access to Information and Call In

4.26.1 The production of an SPD would be cost effective as the costs of consultation are relatively low and there is not requirement for an Examination in Public. An SPD is considered a more proportionate response to addressing concerns over health than a Development Plan Review.

4.26.2 The preparation of the draft SPD will be undertaken within the context of the Local Plans Regulations. This report is not eligible for call in as no decision is being taken.

4.27 Risk Management

4.27.3 Whilst the adopted Core Strategy (and Saved UDP Policies) provide a framework to address a range of public health issues, including hot food takeaways, the preparation of this draft SPD provides an opportunity to more effectively focus upon the issues outlined in this report. This has therefore provided the opportunity for the Planning Service to collaborate with a range of City Council services and to consult with a range of agencies and businesses, in the development of a targeted approach, which is 'fit for purpose'.

5 Conclusions

5.1 Development Plans Panel on the 27th of September, 2016 resolved that the preparation of a draft SPD to address links between health issues and planning policy should commence.

5.2 The draft SPD will form part of Leeds' Local Plan and will carry weight when the Council makes decisions on planning applications.

5.3 Whilst there are several policies that can currently help restrict the location of HFTs, the SPD will build and amplify upon those policies.

5.4 Following adoption of the SPD, HFT 1, HFT 2 and HFT 3 will help determine any future A5 applications.

- 5.5 Consultation for this SPD will be undertaken pursuant to the Town and Country Planning (Local Plans) Regulations 2012, dependent on the recommendations of DPP.

6 Recommendations

- 6.1 Developments Plans Panel is requested to comment on whether including a caveat for HFT 2 allowing an A5 use after a certain amount of unit vacancy would be beneficial.
- 6.2 Subject to 6.1 Development Plan Panel is recommended to endorse the undertaking of public consultation on the Draft Hot Food Takeaway Supplementary Planning Document (SPD).

APPENDICES

Appendix 1 - Plans of Hot Food Restriction Areas around Secondary Schools

Appendix 2 - Number of HFT outlets found in Local Authorities

Appendix 3 - Plans of Hot Food Takeways Locations