

Sandwell MBC  
Hot Food Takeaway Supplementary Planning Document  
Regulation 12(a) Report of Consultation and  
Consultation Statement  
July 2016

## Background

This report sets out the consultation that took place in the lead up to and during public consultation of the Sandwell MBC Draft update to the Hot Food Takeaway Supplementary Planning Document (in this document referred to as the Draft SPD) between 2<sup>nd</sup> November and 14<sup>th</sup> December 2015 and 1<sup>st</sup> February and 11<sup>th</sup> March 2016. It reviews the consultation responses received, the number of representations made and a summary of the main issues raised by the representations.

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

The consultation on the Draft SPD was taken in order to clarify, simplify, and update the document and the associated data and policy so the HFT SPD remains a robust and up to date document that continues to achieve its goals

Once adopted, the new Hot Food Takeaway SPD will replace the Council's current Hot Food Takeaway SPD (2012).

## Public Consultation

The Council's Cabinet approved the draft SPD for public consultation on 14<sup>th</sup> October 2015 and Public Consultation was held between 2<sup>nd</sup> November and 14<sup>th</sup> December 2015 and consultation was extended to between 1<sup>st</sup> February 2016 and 11<sup>th</sup> March 2016.

Notification of the draft SPD consultation was emailed to:

- Statutory Consultees including adjoining Local Authorities
- Local Plan database contacts including individuals, developers and agents.

A Press release was placed in the Express & Star on **5 November 2015 and 1 February 2016.**

Hard copies of the draft SPD were made available in the main six libraries within the six towns and Council House, Oldbury.

A comments form was made available for consultation responses. Comments were requested in writing to Strategic Policy, Sandwell Council, Directorate of Regeneration & Economy, Council House, Freeth Street, Oldbury B69 3DE or by email to [ldf\\_planning@sandwell.gov.uk](mailto:ldf_planning@sandwell.gov.uk).

An introduction to the Hot Food takeaway SPD was made publicly available on the Sandwell MBC website

[https://www.sandwell.gov.uk/forms/form/136/en/hot\\_food\\_takeaway\\_supplementary\\_planning\\_document](https://www.sandwell.gov.uk/forms/form/136/en/hot_food_takeaway_supplementary_planning_document)

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 7 responses to the consultation from the following stakeholders. The Respondents to the Draft Charging Schedule are set out below:

Rep No	Date Received	Respondent Name	Respondent/ Organisation	Agent
HFT/01	08/12/2015	Keith Watson	Birmingham City Council	
HFT/02	05/12/2015	Bob Piper	Sandwell MBC Councillor	
HFT/03	03/11/2015	Clare Saint	Historic England	
HFT/04	19/11/2015	Carla Jackson	Natural England	
HFT/05	10/03/2016	Claire Rick	Children's Food Trust	
HFT/06	10/11/2015		J & R Pizza 1	Pegasus Planning
HFT/07	11/03/2016	SteveSimms	KFC	SSA Planning - Steve Simms

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

### **Modifications to the Hot Food Takeaway Supplementary Planning Document**

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

## Appendix 1: Representations received and Council's responses

Reference	Name	Organisation	Representation	Council Reponse
HFT/01	Keith Watson	Birmingham City Council	The percentage limits to HFT's are different to Birmingham's. This may cause an issue in Quinton and Scott Arms which lie across shared boundaries, however, no additional HFT's would be permitted using the existing 10% and 15% limits.	Comments noted - As identified in Birmingham's comments, as no additional HFT units would be permitted using the existing figures of 10% and 15%, the implications and potential issues that may arise are minimal.
HFT/02	Bob Piper	Sandwell MBC	Why can people not respond to consultation on line	This was investigated. People were able to respond on-line during the extended consultation period which ran from 1st February to 11th March 2016
HFT/03	Clare Saint	Historic England	No Comment	Comments Noted
HFT/04	Carla Jackson	Natural England	Welcomes early engagement but document does not relate to their remit - No Comment	Comments noted
HFT/05	Claire Rick	Children's Food Trust	Welcome steps to create a healthier food environment which offers families affordable, healthy variety	Comments noted
HFT/06		J & R Pizza 1	Greater recognition should be given throughout the document to the benefits that can occur through the provision of Hot Food Takeaway (HFT) outlets. There is little or no relevance to the benefits that can accrue from occupying what would otherwise be a vacant retail premises	Whilst it is recognised that HFT units can add to the vitality and viability of a retail centre it is not the purpose of the document to discuss the merits of HFT's. Furthermore, policies in the Black Country Core Strategy and the Site Allocations and Delivery SPD encourage retail uses towards retail centre locations in favour of out of centre locations. This is in order to encourage the occupation of vacant uses whilst maintaining a vibrant and viable retail centre.
HFT/06		J & R Pizza 1	The statement 'Choice demand and current provision of centres remain largely unaffected by this policy which aims to strike a balance of interests and issues in granting new permissions for HFT's' is not accurate as such significant restrictions on new HFT outlets can only result in a reduction in choice and provision	The principle of the document has already been approved. The reduction in the percentages incorporates the clarification provided in the text and altering the units within the centre which are assessed as part of the calculation. In addition, the primary function for retail centres is retail activity and retail outlets, as identified in the NPPF, the BCCS and the SAD DPD. The document and policy recognises the importance of other compatible uses to support the main retail function of the retail centre. Other uses should support the main retail function, they should not dominate
HFT/06		J & R Pizza 1	the reduction in percentages is clearly	Due to the clarification provided in the written text, there are more

			aimed at reducing the ability of providing additional A5 outlets.	units within the retail centres that will be taken in to consideration. With this being the case, the overall percentages needed to be amended in line with this revision. In addition, the new percentages are more in line with other authority's figures.
HFT/06		J & R Pizza 1	There is no link between Sandwell and other town centres to determine the percentage limits.	Other authorities as well as internal analysis have been used as a guide to determine the percentage limits uses. Furthermore, Sandwell has a higher level of obesity amongst its population than other centres so a lower percentage limit than that now being proposed could have been suggested. It is important to use other councils as a guide to see how effective the documents are in achieving their goals.
HFT/06		J & R Pizza 1	There is no justification for reducing the maximum percentages for takeaways	The reduction in the percentages incorporates the clarification provided in the text and altering the units within the centre which are assessed as part of the calculation.
HFT/06		J & R Pizza 1	Relevant policies in the SAD DPD take a more flexible approach than that set out in the existing or updated SPD.	The SPD gives more clarity and assurance as to whether an HFT application will be approved or not. Lack of guidance would lead to greater ambiguity. Each A5 application is still determined on its merits, the SPD provides greater guidance in order to maintain a viable retail centre
HFT/06		J & R Pizza 1	The table listing examples of what is A5 and what is not A5 should include references to coffee houses	Coffee houses are similar to Cafes and it is not possible to list everything
HFT/06		J & R Pizza 1	Reference is made to HFT's having a detrimental impact on amenity and the retail character and function of shopping centres and that they are often shuttered up during the day. Reference should also be made to HFTs that do not have the same implications	The wording 'they are often shuttered up' by default suggests that not all are shuttered up during the day time. It is not the purpose of the document to say what all the benefits are for having HFT's within the centre, as it serves no purpose. This is identified in the introductory section of the document
HFT/06		J & R Pizza 1	HFT's can represent investment in their own right, reducing vacancy and improving vacancy and viability	HFT's are recognised as adding to the vitality and viability of centres but retailing should be the dominant use. As identified in policy and DCLG Guidance, "Retailing plays a major role in attracting people to the centre of cities, towns and villages, thus contributing to the overall economic vitality of those centres and supporting their role as centres of social interaction in the community" (DCLG Guidance, 2012).
HFT/06		J & R Pizza 1	The link between obesity and HFT's	The principle reasons behind the document have already been

			has not been adequately evidenced	established and adopted. Furthermore, there is a link between consumption of HFT's and high fat, high sugar foods and health impacts. This is highlighted in the introductory text. Consumption is related to opportunity and frequency and this will be related to overall numbers.
HFT/06		J & R Pizza 1	There is a wide range of HFT's providing significantly different food stuffs. This should be referenced in the document	This is not an issue for the SPD as use classes are not dealt with here. In the main A5 uses generally offer poor health quality foods somewhere on the menu. There is also the issue of undermining the retail function of a centre as well as issues surrounding smell and litter. It is not just health issues that are of concern. The SPD deals with the general trend for HFT's and would be unenforceable if applied to individual retailers. It would also be unable to account for manufacturers change in menu arrangements.
HFT/06		J & R Pizza 1	The NPPF and Local Plan should promote competitive retail centres that provide customer choice and diverse retail offer. It is felt the SPD does not adequately reflect this	HFT's are recognised as adding to the vitality and viability of centres but retailing should be the dominant use. As identified in policy and DCLG Guidance, "Retailing plays a major role in attracting people to the centre of cities, towns and villages, thus contributing to the overall economic vitality of those centres and supporting their role as centres of social interaction in the community" (DCLG Guidance, 2012).
HFT/06		J & R Pizza 1	The SPD should not set a threshold limit, this should be the remit of the Local Plan	The SPD provides guidance and clarity over the maximum percentage of HFT units that could be sustained within the Borough's centres. It adds more certainty to policies contained within the Local Plan. SAD DPD Policy DM9 refers to cumulative impact of HFT's
HFT/06		J & R Pizza 1	The 400m buffer surrounding secondary schools should not be a straight line, it should be walking distance from the school	To measure this any other way would be impractical. Furthermore, 400m is a standard distance used
HFT/06		J & R Pizza 1	The use of a percentage limit should not be the sole purpose for refusal. This should be documented in higher order plans.	The SPD provides guidance and clarity over the maximum percentage of HFT units that could be sustained within the Borough's centres. It adds more certainty to policies contained within the Local Plan. SAD DPD Policy DM9 refers to cumulative impact of HFT's
HFT/06		J & R Pizza 1	HFT's should be determined on their own merits as identified in SAD DM9	The SPD provides guidance and clarity over the maximum percentage of HFT units that could be sustained within the



				Borough's centres. It adds more certainty to policies contained within the Local Plan. SAD DPD Policy DM9 refers to cumulative impact of HFT's
HFT/06		J & R Pizza 1	Does not adequately cover clustering of units	DM9 refers to clustering. BCCS and SAD Policies also refer to vitality and viability of centres and undermining retail function.
HFT/06		J & R Pizza 1	Where a unit is vacant, special allowances should be put in place whereby a HFT can take up use of the vacant unit following a demonstratable market campaign for retail use	The HFTSPD does not prevent HFT's, it simply limits them, in line with SAD DPD DM9, in order to achieve a viable and functional retail centre. Adding the suggested text would make the policy unviable as there would be too many variables. EG. How long does a unit have to be vacant before it is considered? More uses than retail would also need to be considered. The BCCS aims to concentrate development in centres rather than outside of centres and numerous policies seek to direct retail uses within retail centres and vacant uses
HFT/06		J & R Pizza 1	The SPD is inconsistent with the NPPF	(2) In preparing a local development document the local planning authority must have regard to (a) national policies and advice contained in guidance issued by the Secretary of State; The document is in line with the NPPF in terms of promoting healthy communities. It also accords with the BCCS and the SAD which are in turn in accordance with the NPPF.
HFT/06		J & R Pizza 1	If the percentages are kept, they should be revised upwards	Due to the clarification provided in the written text, there are more units within the retail centres that will be taken in to consideration. With this being the case, the overall percentages needed to be amended in line with this revision. In addition, Sandwell has a greater problem with obesity than many other boroughs
HFT/06		J & R Pizza 1	The decision tree is inaccurate	Comments noted - The Decision Tree will be amended
HFT/07	Steve Simms	KFC	No regard given to national policy and advice in preparing Intervention Point HFT1 as no NPPF policies deal with dietary issues. It is felt the SPD does not comply with subsection 19 (2) of the Planning and Compulsory Purchase Act	<i>(2) In preparing a local development document the local planning authority must have regard to (a) national policies and advice contained in guidance issued by the Secretary of State;</i> The document is in line with the NPPF in terms of promoting healthy communities. It also accords with the BCCS and the SAD which are in turn in accordance with the NPPF.
HFT/07	Steve Simms	KFC	It would clearly add unnecessarily to the financial burdens of development.	The document does not request that HFT's that are already in existence with 400m of secondary school to close. In terms of preventing new HFT's to locate within 400m of secondary school, the document does not ask for money or contributions therefore it does not create a financial burden.

HFT/07	Steve Simms	KFC	It is not felt Intervention point HFT1 or 2 is in line with regulation 8 (2) of the Town and Country Planning (Local Planning) (England) Regulations 2012	<p>8.(2) A local plan or a supplementary planning document must contain a reasoned justification of the policies contained in it.</p> <p>The document is an update of an existing document, the principle of which has already been adopted. The update has revised the figures and simplifying the text. The reasoning and justification of the document has not changed.</p>
HFT/07	Steve Simms	KFC	Neither the supporting text nor the evidence base referred to explain, identify or recommend the particular percentages used.	<p>The base line information was taken from other authorities from around the country. A qualitative assessment of existing centres based on their current percentage revised on professional assessment on acceptable levels.</p>
HFT/07	Steve Simms	KFC	We do not consider the SPD supplements existing policies of the Development Plan.....SAD DM 9 does not engage health or diet issues and provides no basis to create zones within which uses will be banned.	<p>The principle of the document has already been approved.</p> <p>In terms of centres, the HFT should be read in conjunction with non-retail policies contained in both the BCCS and the SAD DPD. Furthermore, the SPD does not ban HFT's from centres, the numbers are restricted for reasons of health and well-being, fear of crime and the vitality and viability of a retail centre. DM9 refers to cumulative impact, it also refers to impact of noise and disturbance</p>
HFT/07	Steve Simms	KFC	Believe the SPD avoids demonstrating a causal link exists between the location of takeaways and incidence of adverse health Impacts	<p>The principle reasons behind the document have already been established and adopted. Furthermore, there is a link between consumption of HFT's and high fat, high sugar foods and health impacts. This is highlighted in the introductory text. Consumption is related to opportunity and frequency and this will be related to overall numbers.</p>
HFT/07	Steve Simms	KFC	The SPD is unfair and ignores efforts that individual operators might make to improve nutritional value of their menu.	<p>This is not an issue for the SPD as use classes are not dealt with here.</p> <p>In the main A5 uses generally offer poor health quality foods somewhere on the menu. There is also the issue of undermining the retail function of a centre as well as issues surrounding smell and litter. It is not just health issues that are of concern. The SPD deals with the general trend for HFT's and would be unenforceable if applied to individual retailers. It would also be unable to account for manufacturers change in menu</p>

				arrangements.
HFT/07	Steve Simms	KFC	The concept of 'unhealthy eating' is unhelpful if isolated from consideration of wider lifestyle issues, such as diet variety and activity levels	The SPD cannot tackle all issues. It is NOT preventing all HFT's from locating within the borough
HFT/07	Steve Simms	KFC	It is unhelpful for intervention points HFT1 to focus solely on A5 uses.	Other establishments are unlikely to contain the levels of fat etc. and portion sizes found in A5 foods
HFT/07	Steve Simms	KFC	Children are more likely to obtain 'unhealthy' food from ordinary shops than from HFT	Food stuffs from ordinary shops are unlikely to contain the levels of sugar, salt and fats etc. as found in A5 - HFT food stuffs. Portion sizes are considerably smaller from ordinary shops, in the main
HFT/07	Steve Simms	KFC	Policy incorrect to identify drive-throughs as A5. They tend to be mixed use that cross A1, A3 and A5.	A5, HFT's are by definition for eating hot food off the premises. This is their primary use. The definition is defined outside of the SPD remit A5 premises are classed as A5 as an assessment that is the majority of the outlet.
HFT/07	Steve Simms	KFC	To justify HFT1&2, there would need to be evidence of a specific intensity of cluster of HFT's above which harm occurs or is noticeably greater.	DM9 refers to clustering. BCCS and SAD Policies also refer to vitality and viability of centres and undermining retail function. The policy simply provides some clarity and certainty over what would constitute a cluster.
HFT/07	Steve Simms	KFC	Is it better to rely on objective evidence in a retail study to set maximum proportions of HFT's.	The SPD gives greater clarity and guidance so it is uniform throughout the borough.
HFT/07	Steve Simms	KFC	As it is usually impractical to apply a maximum frontage proportion outside centres, the suggested 400-metre distance could be applied, within which a proportion (rather than number) of units, be they in- or out-of-centre, used as hot food takeaways would not be permitted to exceed the same threshold as set for centres.	Appreciate suggestion but this would be impractical
HFT/07	Steve Simms	KFC	In adopting such an approach, it would be preferable to consider optimal proportions of all retail uses that could contribute to healthy centres or to a healthy offer generally.	This is not a practical

HFT/07	Steve Simms	KFC	How development that mealy contains an element of HFT use (e.g. restaurant and HFT with neither one predominating) would be considered and what other factors considered.	Dominant uses are what are taken as the main use and this is specified in the document. It is identified through a chair to counter ratio. Many outlets people think of as A5 are actually A3
HFT/07	Steve Simms	KFC	An issue with using simple distance radii on maps is that is doesn't take account of real barriers, either physical or perceptual	To measure this any other way would be impractical. Furthermore, 400m is a standard distance used

## Appendix 2: Sandwell MBC draft Hot Food Takeaway SPD - Schedule of Proposed Changes

Page no Draft SPD	Proposed Change	Reason for Change
16	Change percentages from 15% and 10% down to 12% and 7%	Decision Tree was showing old information