



Woking Borough Council

Local Development Documents

Hot Food Takeaway Supplementary Planning Document

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Produced by the Planning Policy Team

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1. Introduction

1.1 This Hot Food Takeaway Supplementary Planning Document (SPD) aims to provide additional guidance to support the policies of the Core Strategy 2027, in particular policies CS1: *Spatial strategy for Woking Borough*, CS2: *Woking Town Centre*, CS3: *West Byfleet District Centre*, CS4: *Local and Neighbourhood Centres and shopping parades*, CS5: *Priority Places* and CS21: *Design*.

1.2 This SPD will provide guidance on how to manage the development of Hot Food Takeaways within the main centres of the Borough in particular and across the Borough in general. It will also explain the Council's overall approach to Hot Food Takeaway development and relates to:

- The appropriate number/proportion of Hot Food Takeaway establishments in the Town Centre, District Centres, Local Centres, Neighbourhood Centres, Shopping Parades and Priority Places
- The appropriate level of clustering of Hot Food Takeaways in centres
- Measures to protect the amenity of surrounding residential occupiers
- Local environment issues including the control of odours and cooking smells
- Storage and disposal of waste products and litter
- Crime and anti-social behaviour
- Highway safety

This Hot Food Takeaway guidance has been produced in response to a number of concerns raised by Councillors and the general public. These include:

- Insufficient attention to the cumulative impact of proposals as a material consideration in the assessment and determination of planning applications
- Clarity of what is expected of applicants when they submit planning applications, and
- A lack of proactive enforcement of conditions.

The aim of the Hot Food Takeaway SPD is to address these concerns by clarifying policy requirements of these matters. It provides guidance to applicants that wish to submit a planning application for a Hot Food Takeaway as well as assist Development Management Officers in determining applications.

1.3 The Hot Food Takeaway SPD when adopted will be a material consideration in determining planning applications. Anyone intending to submit a planning application for a Hot Food Takeaway is encouraged to read this document and contact Planning Services for further advice and information if required. The Council is in the process of preparing a Design SPD. There is a direct relationship between the Hot Food Takeaway SPD and the Design SPD. In this regard, applicants are also encouraged to read the Design SPD.

2. Definition of a Hot Food Takeaway

2.1 The Town and Country Planning (Use Classes Order) 1995 (as amended) makes a clear distinction between a shop (Class A1), a restaurant or café (Class A3), a drinking establishment (Class A4) and a Hot Food Takeaway (Class A5). Establishments where the primary purpose is for the sale of hot food for consumption off the premises, fall within the A5 Use Class.

Often, the proposed layout of such premises provides a clear guide as to whether the use will fall into the A3 Class or the A5 Class. In determining the dominant use of the premises, consideration will be given to:

- The proportion of space designated for food preparation and other servicing in relation to the designated customer circulation space
- The number of tables or chairs to be provided for customer use.

The Council will expect the applicant to demonstrate that the proposed use will be the primary business activity. For clarity, examples of Class A5 uses include chicken shops, fish and chip shops, pizza shops, Chinese, Indian or other takeaway shops, kebab shops and drive through premises. Shops that do not fall within the A5 Class include restaurants/cafes, public houses, bistros, bakeries, wine bars and night clubs. This list is intended to be indicative and not exhaustive.

3. Planning Policy

3.1 National Planning Policy

The National Planning Policy Framework (NPPF) was published in March 2012 and sets out a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities. The NPPF aims to promote sustainable development which is defined as 'Meeting the needs of the present without compromising the ability of future generations to meet their own needs' (Resolution 42/187 of the United Nations General Assembly).

Paragraph 23 of the NPPF highlights that Local Plans (also known as Local Development Framework/LDF) should promote competitive town centres that provide customer choice, a diverse retail offer and reflect the individuality of town centres. It also states that local planning authorities, such as Woking Borough Council, should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality.

The NPPF defines town centres as city centres, town centres, district centres and local centres as defined on the local authority's Proposal Map. However town centres exclude small parades of shops of purely neighbourhood significance.

The NPPF also states in paragraph 24, 'local planning authorities should apply a sequential test to planning applications for town centres uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre'. Paragraph 27 states 'where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused'.

The NPPF defines main town centres uses as retail development, leisure, entertainment facilities, and the more intensive sport and recreation uses (including Hot Food Takeaways). This is also replicated in the Woking Core Strategy 2027.

3.2 Woking Core Strategy 2027

The Woking Core Strategy 2027 was formally adopted by the Council in October 2012 and sets out a 15 year vision for the Borough. The spatial strategy for the Borough (Core Strategy Policy CS1) states 'development located in the District, Local and Neighbourhood Centres to provide housing, jobs and convenient access to everyday shops, services and local community facilities will also be encouraged. This must be well designed to enhance their unique and distinctive characters and attractiveness. Uses that will provide convenient access to the everyday needs of the community will be encouraged at the District and Local Centres but at a scale that will not compromise their character and/or functionality'.

Core Strategy Policy CS2: Woking Town Centre

Core Strategy Policy CS2 identifies the type and indicative amount of development expected within Woking Town Centre up to 2027. It also states that the Town Centre is the preferred location for town centre uses and that new development proposals should deliver high quality and well designed buildings, which make efficient use of land, contribute to the functionality of the centre and add to its attractiveness and competitiveness.

Hot Food Takeaway applications are generally change of use applications where applicants seek to change the main business use of the premises, for example to convert a shop (A1) to a Hot Food Takeaway (A5). Core Strategy Policy CS2 states 'The Council will consider favourably change of use proposals to other A Class uses within secondary frontages if it can be determined they would not have significant harmful effects on the frontage, crime and disorder and the vitality and viability of the town centre'.

Secondary frontages, as defined in the NPPF, 'provide greater opportunities for a diversity of uses such as restaurants, cinemas and businesses'.

Core Strategy Policy CS3: West Byfleet District Centre

All new development within West Byfleet District Centre should be well designed and integrated and enhance local character. Proposals for a change of use from A1 to A5, for example, will only be permitted where it would not have significant harmful effects on the Primary Shopping Area, crime and disorder or the vitality and viability of the centre.

Core Strategy Policy CS4: Local and neighbourhood centres and shopping parades

Local and neighbourhood centres and shopping parades will retain town centre uses wherever viable in order to meet the day-to-day needs of the local community.

'In neighbourhood centres and shopping parades the Council will seek to protect and retain local shops and other small scale economic uses because of the importance of these uses for meeting the everyday needs of those living locally'. An A5 unit or a cluster of A5 units has the potential to adversely harm the vitality and viability of a local or neighbourhood centre.

Core Strategy Policy CS21: Design

Proposals for new development must meet the criteria indicated within Core Strategy Policy CS21, including, achieving a satisfactory relationship to adjoining properties and avoiding significant harmful impact, be designed in an inclusive way to be accessible to all members

of the community, create a safe and secure environment where the opportunities for crime are minimised, incorporate provision for the storage of waste and recyclable materials and be designed to avoid significant harm to the environment and general amenity, resulting from noise, dust, vibrations, light or other releases.

4. Guidance for planning permission

4.1 Planning permission is required for all new Hot Food Takeaway developments including:

- Any proposal for a built extension to an existing Hot Food Takeaway will require planning permission and will be viewed on its merits, taking into account any increased trading that will result from the extension. This will also include the effect on such factors as the amount of servicing area left available to the property, the increase in traffic and the effects on any neighbouring occupier.
- Alterations that materially change the appearance of the building. This includes the installation of a new shop front, signage or advertising and the installation of external shutters and grills.
- A change of use of an existing shop (A1), financial or professional service (A2), restaurant (A3) or drinking establishment (A4) to a Hot Food Takeaway (A5).
- If the intention is to build new premises for use as a Hot Food Takeaway.
- Where an existing extraction system is already in place and the intention is to replace this with a larger system.
- If the intention is to extend the hours of operation beyond the times listed on an existing planning permission, a planning application to vary the conditions on the opening hours will be required.
- If a mobile van or trailer selling hot food was to remain in a static location, a temporary change of use application should be submitted to the Council which would allow the vehicle to remain on site for up to 28 days. For any period longer than 28 days full planning permission or a change of use permission would be required.

Planning permission is **not required** for the sale of hot food available from mobile vans and trailers operating from a range of locations throughout the Borough as street traders operate on a temporary basis. However a street trader's licence is needed and is issued by the Licensing Department.

If there is any doubt as to whether planning permission is required, please contact Planning Services on 01483 743843.

5. Factors to consider when submitting an application

5.1 Protection of residential amenity

Applications for Hot Food Takeaway shops within close proximity to residential units will be refused where it is considered that there may be significant adverse impacts on residential amenity in terms of noise, vibrations, odours, traffic disturbance, litter or hours of operation as a result of the proposed premises that cannot be mitigated by design or planning conditions. This also applies to applications for the change of use of existing premises to Hot Food Takeaways and extensions to existing Hot Food Takeaway premises.

Planning permission for Hot Food Takeaways is also unlikely to be granted where the living conditions of the occupants of nearby residential accommodation would be significantly and adversely affected, including where premises share a party wall with an adjoining residential property or if there is a flat above the premises that is not used in relation to the takeaway.

The protection of the living conditions of nearby residents will be a significant material consideration when considering applications for Hot Food Takeaways.

Hot Food Takeaways can create significant disturbance to neighbouring occupiers in the evening and late at night when they tend to peak in trading and background noise levels are considered to be low. The disturbance can be caused by a number of factors including an increase in footfall, the external storing of waste and recyclable materials, deliveries of stock and traffic and associated car parking. It is important that such issues are controlled or restricted to protect the residential amenity of occupiers living in close proximity to such establishments. In this regard, all planning permissions will have strict conditions to regulate the hours of operation.

Compared against other uses, Hot Food Takeaways can generate unacceptable levels of noise, vibrations, odours, traffic disturbance and litter. It is therefore important that such uses are appropriately located to prevent an adverse effect on the neighbouring houses including in town centre locations where there are significantly fewer residential properties in close proximity.

5.2 Over-concentration and clustering

To ensure that the town, district, local and neighbourhood centres as well as shopping parades are diverse and balanced, applications for Hot Food Takeaways will be assessed for their cumulative impact.

Planning permission will only be granted for Hot Food Takeaways in a defined Core Strategy Centre providing that A5 units are not becoming the dominant use in any commercial frontages of the main centres and the cumulative impacts are acceptable.

The guidance seeks to control the over proliferation and excessive clustering of Hot Food Takeaways within defined centres and shopping parades. Where there is a concentration of Hot Food Takeaways the problems created as a result are intensified, further exacerbating their negative impact on amenity as well as the vitality and viability of existing designated centres and shopping parades.

Within the town centre and other shopping areas, it is important that takeaway establishments do not detract from the centre's primary retail function, or result in a loss of convenience shops to the detriment of local residents. Clustering of A5 units can result in dead frontages during daytime hours.

Sites outside of designated centres will be resisted in line with the NPPF and Core Strategy policies.

5.3 Highway safety

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

- The existing use of the site
- Existing traffic conditions
- The availability of public parking provision in close proximity to the premises
- The availability of safe and legal loading areas in close proximity
- Provision of appropriate parking facilities if the premises offer a delivery service
- The implications for the amenity of the surrounding area
- The accessibility of the site by public transport and cycling

The impact of A5 units on traffic flow and road safety is an important consideration when determining planning applications. This type of establishment tends to attract a high proportion of car-borne and short stay customers. This can result in a number of road safety issues if there is a lack of existing or proposed customer parking spaces or dedicated on street parking provision. Delivery vehicles can also create road safety issues, particularly if there is a lack of parking provision close to the premises. A suitable number of existing or proposed parking spaces should be identified for delivery vehicles when submitting an application for a Hot Food Takeaway premises.

An increase in activity, particularly at lunchtimes and in the evening tends to result in increased noise and traffic disturbance from vehicles and their occupants, and can create a nuisance for neighbouring occupiers.

Proposals located near to busy road junctions, traffic-signal-controlled junctions, pedestrian-controlled crossings, bus lanes, bays and stops are likely to be refused planning permission on road safety grounds unless impacts can be mitigated in a satisfactory manner. The County Council will be consulted where it is relevant to do so.

5.4 Hours of operation

Hours of operation will be considered with regards to:

- The existence of an established or emerging evening economy in the area
- The character and function of the immediate area
- Existing opening hours of the neighbouring premises
- The potential benefits of the proposal for the wider community, and
- The impact on residential amenity.

The proposed hours and days of operation must be specified as part of the planning application for a Hot Food Takeaway. Hours of opening will be made a condition of the planning permission if it is granted.

Compared to other retail type uses, it is recognised that Hot Food Takeaways often have later and longer operating hours. The Council recognises that often the viability of Hot Food Takeaway premises is dependent on their reliance on late evening trade. However the impact this can have on neighbouring residential properties can be detrimental and will often dictate the extent to which limitations may need to be placed on hours of operation.

The Council will ensure that a delicate balance is struck between these two competing objectives.

In order to minimise any adverse impacts longer opening hours may have on residential amenity, it is important that such premises are located in areas where minimum harm can occur, such as existing retail areas where there will not be an over-concentration of A5 units as a result of the application being permitted.

Restrictions on opening hours are unlikely to be implemented for Hot Food Takeaways within designated centres where there is no residential accommodation in close proximity to the premises. In designated centres, where residential use is in close proximity, opening hours are likely to be restricted to between 08.00 and midnight. This will however be determined on a case by case basis. Outside of a designated centre, Hot Food Takeaways will not be encouraged and limited operating times will be imposed should planning permission be granted in order to minimise the impact of such operations on any neighbouring residential properties.

5.5 Control of odours and cooking smells

Extraction systems should be installed to effectively disperse odours from Hot Food Takeaway premises. They should be designed so that they do not have an unacceptable impact on visual amenity. They should also not appear as an incongruous feature in the street scene.

To be acceptable, the proposed extraction system will have to be –

- Located to minimise its visual impact on the street scene and neighbouring land uses
- Of a colour, finish and design to blend in with the building to which it is attached
- Installed within the building where practicable. This is particularly important where the proposal is within a Listed Building or the setting of a Listed Building or in a Conservation Area, and
- Designed and sited to prevent a cumulative effect of proliferation of extraction equipment.

It is the operator's responsibility to maintain the extraction equipment and ensure it is fully operational in order to minimise odours and fumes affecting neighbouring properties.

If smells and fumes cannot be adequately controlled by means of an extraction or abatement system, or if necessary ducting and extraction equipment cannot be installed without significant detriment to visual amenity, it is likely that planning permission will not be granted.

Regardless of the form or effectiveness of extraction equipment installed, it is almost impossible to fully eliminate the odours which result from cooking activities undertaken in Hot Food Takeaways. Often these odours penetrate the fabric of buildings to the detriment of the occupiers of any surrounding properties. In this context, it is not usually considered acceptable to locate Hot Food Takeaway premises directly adjacent to residential properties, regardless of the nature or effectiveness of the extraction system utilised.

For further information on the suitability of extraction systems, please contact the Council's Environmental Health Service on 01483 743840.

5.6 Disposal of waste products

Hot Food Takeaway shops can produce a significant volume of waste. It is essential that secure and adequate waste storage is provided in order to reduce the harm to visual amenity and serious risk to public health. Commercial bin stores should be contained within the curtilage of the property and where this is not possible, secure storage structures should be provided. All applications for new build and change of use for Hot Food Takeaway premises or their expansion must identify adequate and appropriate space on-site for the secure storage and safe collection of waste products, as indicated in Core Strategy Policy CS21.

It is also important to ensure there is enough physical space for their accommodation and safe collection by suitably licensed operators. Proposals for Hot Food Takeaway shops must indicate in the planning application details of adequate facilities on the premises for the storage of waste and recyclable material generated by the business.

Suitable grease traps must be installed on all drains for Hot Food Takeaway shops to prevent blockages and the flooding of properties.

Consideration must be given to providing bins that are of a suitable size, appropriately sited and screened. They should be accessible at all times for the proprietor as well as for servicing without affecting adjacent neighbours.

They should also be sited in a location so as not to cause a nuisance to neighbouring properties with regard to odours or noise and should be conveniently located to clear, convenient access for refuse collection services.

5.7 Litter

A planning condition requiring the installation of litter bins on land within the applicant's control may be applied to permissions for Hot Food Takeaway establishments.

It is the proprietor's responsibility to maintain and empty these litter bins on a regular basis and to keep the area adjacent to the premises clear.

Litter can cause considerable annoyance and health risks to residents and adjoining businesses as well as raising concern about the potential attraction of pests and vermin.

Often Hot Food Takeaways generate significant amounts of litter in their immediate vicinity as well as further afield. Although the proprietor has little control over where customers drop their litter, they can act to significantly reduce the potential of its occurrence by providing litter bins both on their premises and outside.

5.8 Crime and anti-social behaviour

When assessing planning applications for proposed Hot Food Takeaways, the Council will consider issues around community safety, crime, disorder and the potential fear of crime.

Planning applications will be subject to considerations of the local context with regard to the potential for crime and disorder. Proposals considered to be an unacceptable risk will be refused.

Hot Food Takeaways often attract a gathering of people and create 'hot spots' for crime and disorder, particularly at night. Where there are concerns over crime and antisocial behaviour in the area, the applicant may be required to enter into a legal agreement (planning obligation) for the installation, improvements to or financial contribution towards safety and security measures such as CCTV systems.

6. Further Advice

6.1 The effective management of Hot Food Takeaways in the Borough is not only the function of the Planning Service. It will require a multi-disciplinary approach to include Environmental Health, Licensing, Health and Safety and Enforcement. Whilst this SPD provides a useful policy framework for its management, the relevant sections of the Council will be working together to ensure that the requirements of the SPD are comprehensively enforced.

If you have any planning questions or queries or would like to submit for pre-application advice, then initial contact should be made with Development Management on 01483 743843 or alternatively email developmentmanagement@woking.gov.uk. For the latest information on pre-application advice including the cost of the service please visit the Council's website <http://www.woking.gov.uk/planning/service/preapp>.

6.2 The Licensing Act 2003 came into effect in November 2005 and applies to any premises that sell hot food or hot drinks between 11pm and 5am. The Licensing Act has four principle 'licensing objectives':

1. Prevention of crime and disorder
2. Prevention of public nuisance
3. Promotion of public safety
4. Protection of children from harm

The Woking Borough Council Licensing Policy has been written based on these four objectives and forms the basis for considering licence applications.

6.3 For advice on the layout and choice of materials of both new and refurbished Hot Food Takeaway premises as well as information regarding the control of noise and odour, licensing of late night food and drink, food hygiene or health and safety, please contact Environmental Health on 01483 743840 or email environmentalhealth@woking.gov.uk.

6.4 In order for a Hot Food Takeaway to be compliant with the Equalities Act (2010), the applicant should seek to meet the requirements of Part M (Access to and use of buildings) of the Building Regulations. Where the proposal is for a new unit or a change of use from any use other than retail, the Hot Food Takeaway premise must comply with Part M (Access to and use of buildings) of the Building Regulations. Applicants are advised to contact the Council's Building Control team on 01483 743841 or buildingcontrol@woking.gov.uk for further information.