



Nottingham
City Council

Nottingham City Council Local Plan Part 2: Land and Planning Policies Document Publication Version Response Form

Ref:

For official
use only

You are advised to read the [guidance note](#) before completing this form, but if you have any questions, please call 0115 876 4594. For the [online](#) form if your response to any question is longer than 10,000 characters or contains maps/diagrams you can either upload your response using the [online](#) form or send it via [email](#).

Please return this response form to localplan@nottinghamcity.gov.uk or Nottingham City Council, LH BOX 52, Planning Policy Team, Loxley House, Station Street, Nottingham, NG2 3NG.

Your response will be regarded as a formal response on the Local Plan Part 2: Land and Planning Policy Document.

Responses must be received by 5.00pm Friday 11 March 2016.

Part A – Contact Details and Future Notifications

Q1 Are you responding as?

- Individual
 Landowner/Developer
 Organisation ✓
 Other _____

Q2 If you have commented before on the Local Plan and have your consultee ID number (this will have been provided on your consultation letter) please provide it.

ID No. _____ 3512

Q3 Your Details

Title	
First Name	
Last Name	
Job Title (if relevant)	
Organisation (if relevant)	Kentucky Fried Chicken (Great Britain) Limited
Address Line 1	Orion Gate
Address Line 2	Guildford Road
Address Line 3	Woking
Address Line 4	Surrey
Post Code	GU22 7NJ
Telephone Number	
E-mail Address	

Q4 Agent's Details (if relevant)

Mr
Steve
Simms
Director
SSA Planning Limited
PO Box 10201
Nottingham
NG9 9FZ

Q5 Do you wish to be notified of any of the following?

(please tick yes or no for each question)

**Submission of the Local Plan Part 2 for Examination?
Publication of the Recommendations of the Inspector?
Adoption of the Local Plan Part 2?**

- | | |
|-----------------------------|--------------------------|
| <input type="radio"/> Yes ✓ | <input type="radio"/> No |
| <input type="radio"/> Yes ✓ | <input type="radio"/> No |
| <input type="radio"/> Yes ✓ | <input type="radio"/> No |

Part B – Your Response

If you wish to make more than one response you will need to fill out another form for each response.

Q6 What does your response relate to? (please select **one only from a-e below).**

a) Does your response relate to a site (whether included or not included within the Plan)? (if yes, please specify the site and move to **Q7**)

Which site? (please provide details of the site including ref number and site name. If your comments relate to a site not included in the Plan please provide details so that the site can easily be identified).

- | |
|--|
| <input type="radio"/> Yes |
| <input checked="" type="radio"/> No ✓ |
| <input type="radio"/> Site included within the Plan
(please give details)
Site Ref: _____
Site Name: _____ |
| <input type="radio"/> Site not included in the Plan
(please give details)
Site Name and address:

_____ |

b) Does your response relate to a Policy? (if yes, please give the Policy, give details then move to **Q7**)

Which Policy? (please provide the Policy reference)

Does your response relate to the Policy text or justification text?

Which part of the text? (please provide the related Policy criteria or paragraph number)

c) Does your response relate to another part of the document? (if yes, please state which section then move to **Q7**)

- | |
|---|
| <input checked="" type="radio"/> Yes ✓ |
| <input type="radio"/> No |
| Policy
LS1 _____ |
| <input checked="" type="radio"/> Policy text ✓ |
| <input checked="" type="radio"/> Justification text ✓ |
| <i>Criteria (e), (f) and (g)
Paragraphs 4.152-4.159</i> |
| <input type="radio"/> Yes |
| <input checked="" type="radio"/> No ✓ |

Which part?

- | |
|--|
| <input type="radio"/> Policies Map |
| <input type="radio"/> Section 1: Introduction |
| <input type="radio"/> Section 2: Background |
| <input type="radio"/> Appendix 1: Parking Guidance |
| <input type="radio"/> Appendix 2: Schedule of Proposed Transport Network Schemes |
| <input type="radio"/> Appendix 3: Housing Delivery |
| <input type="radio"/> Appendix 4: Employment Delivery |
| <input type="radio"/> Appendix 5: Retail Delivery |
| <input type="radio"/> Appendix 6: Methodology for Significant HMOs Concentration |
| <input type="radio"/> Appendix 7: Schedule of Caves |

d) Does your response relate to supporting documents? (if yes, please specify which document, then move to **Q7**)

- Yes
 No

Which document?

- Sustainability Appraisal
- Equalities Impact Assessment
- Preferred Option Report of Consultation
- Employment Background Paper
- Retail Background Paper
- Green Belt Background Paper
- Climate Change Background Paper
- Site Assessment Background Paper
- Minerals Background Paper
- Sustainable, Inclusive & Mixed Communities Background Paper ✓
- Transport Background Paper
- Infrastructure Delivery Plan

e) Does your response relate to another item not listed?
 (please specify then move to **Q7** where you can provide more details)

Yes (please give details)

Q7 and **Q8** are required by Planning Regulations. Please refer to the [guidance note](#) for more information

Q7 Do you consider the Local Plan Part 2 to be legally compliant? (please tick yes or no)

- Yes
 No ✓

Q8 Do you consider the Part 2 Local Plan to be 'sound'? (please tick yes or no)

- Yes
 No ✓

If you consider that the Plan is unsound, explain why (please select all that apply and explain in the box to Q9)

a) Do you consider the Plan is unsound because it is not 'positively prepared'?

- Yes
 No ✓

b) Do you consider the Plan is unsound because it is not 'justified'?

- Yes
 No ✓

c) Do you consider the Plan is unsound because it is not 'effective'?

- Yes
 No ✓

d) Do you consider the Plan is unsound because it is not 'consistent with national Policy'?

- Yes
 No ✓

Q9 Please explain why you 'support' or 'do not support' the Local Plan Part 2 (ie why you think the Plan is/is not legally compliant/sound). Try and be as precise as possible.

COMPLIANCE

4213

We consider that no regard has been given to national policy and advice in preparing Policy LS1 because no National Planning Policy Framework (NPPF) policies deal with dietary issues. This means that the draft LAPP does not comply with sub-section 19 (2) (a) of The Planning and Compulsory Purchase Act 2004 (PCPA04).

Specifically, taking into account proximity of hot food takeaways to schools has no basis in national policy and national practice guidance (and the evidence base) simply refers to a briefing paper containing case studies on the issue. Indeed, restricting accessibility to services and facilities is directly contrary to national policy.

We consider that no regard has been given to national policy and advice in preparing Policy LS1 because the draft LAPP would furthermore be rendered unsound in terms of the criteria set out at NPPF paragraph 182. This also means that the draft LAPP does not comply with sub-section 19 (2) (a) of PCPA04.

4443

We do not consider a reasoned justification for the draft policy has been substantially provided in accordance with regulation 8 (2) of The Town and Country Planning (Local Planning) (England) Regulations 2012. The Policy Evidence Base document does not refer to any studies that demonstrate a causal link between proximity and obesity.

POSITIVELY PREPARED

4443

The draft policy is not based on any objectively assessed development requirement. It effectively assesses the requirement for hot food takeaways within 400 metres of the boundary of a school or further education establishment as zero, but does so without evidence of either a link between the incidence of obesity and the proximity of hot food takeaways to such places or any particular distance at which that link is demonstrated. Consequently, the development requirement has not been objectively assessed.

4444

In fact, the distance chosen could have the effect of banning hot food takeaways from a majority of the City. No assessment has been made of the number of hot food takeaways that might be refused as a result of this or what the social, economic or environmental impacts of that might be, so it is not possible to balance these impacts.

4445

The policy is negative in its assumptions, using the concept of 'unhealthy food', which is at best unhelpful in isolation from an understanding of the person eating the food, their health and lifestyle, and at worst is simply subjective. Furthermore, it assumes all hot food takeaways offer little choice and serve the same type and standard of food.

We are further of the view that food of high energy density or poor nutritional value is sold from and at a range of premises within a variety of other classes, including many in Class A1, such as coffee or sandwich shops, bakeries or, simply, supermarkets, and that focussing on Class A5 uses is both unhelpful and unfair.

4446

Furthermore, criterion (e) provides a clear indication to the decision taker neither as to what level of cumulative impact might be considered unacceptable nor how to assess it.

JUSTIFIED

4443

There is no evidence for a causal link between the incidence of obesity and proximity of hot food takeaways to schools or further education establishments and only limited evidence of any correlation at all, so it is unclear how refusing planning permission for hot food takeaways within 400 metres of such locations could ever be justified.

The inclusion of primary schools is particularly problematic, as it is clear that children at primary schools are not usually permitted to leave the premises at lunchtime and, given their age, are unlikely to travel to or from school unaccompanied. Outside school time, children's diets are quite properly the responsibility their parents or guardians.

Consequently, it is far from clear how refusing planning permission for hot food take- aways within 400 metres of primary schools could ever be justified. This was the view taken by a Planning Inspector in an appeal (APP/P4415/A/11/2159082) against refusal of a restaurant and hot food takeaway in January 2012.

4446

The Evidence Base contains no evidence of any threshold number of hot food takeaways at which the harm that the draft policy seeks to mitigate occurs or is noticeably greater. Indeed, there is no evidence of a causal spatial link between clusters of hot food and the incidence of obesity or overweight at all.

It is better to rely on objective evidence in a retail study to set maximum proportions of hot food takeaways. Whilst these are primarily directed at protecting the retail health of designated centres, there is scope to widen their application to support the retail health of retail provision outside centres, such as standalone or parade units.

As it is usually impractical to apply a maximum frontage proportion outside centres, the 400-metre walk distance might be applied, within which the 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.

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, whether in- or out-of-centre, instead of focussing on particular uses considered to be a problem, apparently for wider social reasons unrelated to retail planning.

On a practical point, there is a significant difficulty in using distance radii in that it takes no account of real barriers, physical or perceptual, so that premises on the other side of a line feature such as a canal or busy road could be affected despite in reality being more than a 400m walk away. It is far better to use real walk isochrones.

EFFECTIVE

4445

For the reasons set out, it is unclear how refusing permission for hot food takeaways within 400 metres of primary schools could ever be effective.

Some hot food takeaways, together with restaurants, pubs and shops are clearly a source of cheap, energy dense and nutrient poor foods, however, not all hot food takeaways, restaurants, pubs and shops are, and the planning system is ineffective in distinguishing between those that are and those that are not.

4447

The area that would be affected by the policy covers a large part of the City, so it is hard to see how the effectiveness of its extent could be monitored. Would poor or negative achievement against objectives result in reduction or expansion of the zones? What other corrective action might be taken short of its withdrawal?

4448

Diet is clearly a key determinant both of general health and obesity levels. Exercise is the other key determinant and must be considered for a complete picture. Focussing on improving access to open space, sport and recreation facilities would be a far more effective strategy for reducing childhood obesity.

CONSISTENT WITH NATIONAL POLICY

4213

We consider that no regard has been had to national policy and advice in preparing Policy LS1 because none of the NPPF policies include dietary issues.

The NPPF recognises the role planning takes in better enabling people to live healthier lifestyles. However, it seeks to do this by creating, not restricting choice, by increasing access to recreation and health services, and by ensuring developments are within walkable distances of local facilities and public transport to other facilities.

The NPPG simply refers to a briefing paper containing studies on the issue.

(please continue on a separate sheet if necessary)

Q10 Please set out what change(s) you consider necessary to make the Plan legally compliant or sound, having regard to the reasons you identified in **Q9**. You will need to say why this change will make the Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any Policy or text. Try and be as precise as possible.

4449

The amendment sought, and the only change to the Nottingham City Land and Planning Policies DPD Publication Draft that would render it sound, is deletion of criteria (e), (f) and (g) in Policy LS1. Similar objectives might be achieved with retail policy based on a wider application of proportional limits as set out above.

(please continue on a separate sheet if necessary)

Please note your response should cover succinctly all the information, evidence and supporting information necessary to support/justify the response and the suggested change, as there will not normally be a subsequent opportunity to make further responses. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

Q11 If your response is seeking a change, do you consider it necessary to participate at the examination in person?

- Yes, I wish to participate in person at the examination ✓
- No, I do not wish to participate in person at the examination

Q12 If you wish to participate in person at the examination, please outline why you consider this to be necessary.

Because the City Council has not presented evidence to support the proposed policy and it may be necessary to discuss research that exists in this area to explain why it does not support the specific policy proposed and to suggest alternative approaches.

(please continue on a separate sheet if necessary)

Please note the Inspector will determine who participates at the Examination and the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the examination.

Responses must be received by 5.00pm Friday 11 March 2016.

Thank you for taking the time to have your say on the Nottingham City Council Local Plan Part 2: Land and Planning Policy Document. For further information about this consultation and / or the Local Plan document please contact: Local Plans team on 0115 876 4594 or email localplan@nottinghamcity.gov.uk

Data Protection - The response(s) you submit on the Local Plan Part 2 will be used in the plan making process and may be in use for the lifetime of the Local Plan in accordance with the Data Protection Act 1998. The information will be analysed and the Council will consider issues raised. Please note that responses cannot be treated as confidential and will be made available for public inspection. All responses can be viewed at the Council offices. If you provide your email address this will be the method of communication used in the future by default unless you advise us otherwise.