



South Tyneside Council

Reference:	250712
Location:	Plot A3 Land South West of Telephone Exchange Claypath Lane South Shields NE33 4PG
Ward:	Beacon and Bents
Description:	Proposed Change of Use from Class E to Sui Generis Hot Food Takeaway (Dominos Pizza).
Recommendation:	Refuse Permission
Case Officer:	Helen Lynch
Case Officer Contact No.:	0191 4247408 or 07741106225

Description of the Site

This application relates to one unit, Plot A3, located within a newly constructed building on land to the southwest of the telephone exchange, Claypath Lane, Crossgate, South Shields. Plot A3 is an end unit, located to the north of a terrace of three units (Plots A1, A2 and A3). Plot A3 has a chamfered corner entrance and glazing to the front. The unit (alongside the remaining units and separate coffee shop with drive-thru opposite) are served by a car park, located to the side and front of the unit.

The site and associated adjacent commercial units was granted planning permission (reference ST/0746/22/FUL) for the construction of a coffee shop with drive-thru, 3 commercial units (Use Class E) together with car parking, cycle racks, new boundary treatments and landscaping on land southwest of the telephone exchange, Claypath Lane, Crossgate, South Shields (the site of the former Duncan House, now demolished) on 09/08/2023.

The site is located just outside the South Shields town centre boundary as defined within the South Shields Town Centre and Waterfront Area Action Plan.

Description of the Proposal

This application is for a change of use to unit A3 from Use Class E to a sui generis use, to operate as a hot food takeaway.

In respect of the submitted proposals, the details and plans to accompany the application identify the proposed internal layout for Plot A3. The submitted internal layout would provide and include an area of seating and tables as an identified 'customer seating area' and access to a serving / counter area.

Relevant Planning History

The planning history of the site is as follows:

ST/1103/15/FUL - granted on 20/06/2016 for the construction of 7 no. office/industrial/storage and warehousing units for B1, B2 and B8 uses with onsite car parking provision for 27 vehicles, including 2 disabled bays and 2 HGV servicing bays. Improvement of existing vehicle access from Claypath Lane and associated landscaping. This planning permission has not been implemented.

ST/0746/22/FUL - granted on 09/08/2023 for the construction of a coffee shop with drive-thru, 3 commercial units (Use Class E) together with car parking, cycle racks, new boundary treatments and landscaping.

ST/0055/24/COND – granted permission on 3/7/2025 for the Discharge of conditions 5 - Investigation and Risk Assessment, 6 - remediation, 11 - Drainage Scheme, 14 - Construction Method Statement & 18 - Car and Cycle Parking Layout - relating to previously approved planning application ST/0746/22/FUL.

250245 – granted permission on 2/7/2025 for the Discharge of Condition 3 - External Facing Materials relating to previously approved Planning Application ST/0746/22/FUL.

250012 – relating to Unit A2 advertisement consent was granted on 31-3-2025 for Advertisement Consent 1No. fascia sign internally illuminated and 1No internally illuminated projecting sign.

250223 – relating to unit A2, permission was granted on 24/4/2025 for an application for Non-Material Amendment in relation to previously approved Planning Application ST/0746/22/FUL to amend the shopfront and entrance door and to install 2no. condenser units and 2 extraction grilles on the rear elevation of Unit A2

250425 – Advertisement consent for (1) Drive thru directional sign (2) Thank you/no entry directional sign (3) Order canopy (4) height restrictor (5) totem pole (8) Starbucks wordmark (9) Starbucks wordmark (11) Building mounted illuminated roundel (12) Drive thru letters (13) Building mounted illuminated roundel (14) Monument totem (15) Preview menu board (16) Five panel menu board relating to the Dive-thru.

250424 - permission granted under Section 73 of the Town and Country Planning Act 1990 to vary Condition 2 - Approved Plans relating to previously approved Planning Application ST/0746/22/FUL. Proposed amendments to site entrance, inclusion of a substation, relocated bin store and cycle parking.

250609 - Application for a Lawful Development Certificate to establish that the use of Plot A3 is lawful and complies with Use Class E (b) of the Town and Country Planning (Use Classes) (England) Regulations 2020, relating to the sale of hot food and drink for consumption on and off the premises. This application remains undecided at this present time.

Summary of Consultation Responses

The following responses were received in response to the statutory consultation period which ended on 19/12/2025.

Northumbria Police

Northumbria Police have no objection to the application with regard to crime prevention.

Community Safety

No crime and disorder concerns with this proposal.

South Tyneside Council - Food Safety

There are no material features that have not already been addressed as part of the application other than the two points below:

1. The application form states No to the following questions- Do the plans incorporate areas to store and aid the collection of waste? and Have arrangements been made for the separate storage and collection of recyclable waste? There appears to be waste storage to the rear of plots A1 on the site plan. Are these waste storage facilities specifically for use by another plot or are they a shared facility? There will need to be suitable provision for commercial waste storage for this unit and therefore this point requires clarification.
2. Toilets are required for any café/restaurant, where seating is provided as specified under The Local Government (Miscellaneous Provisions) Act 1976. This sets the standard for toilet provision in Restaurants, Public Houses, Licensed Clubs, Cafes, Snack Bars etc required, namely 1 wc for up to 100 males and 2 for up to 100 females with scope for sharing. A local policy was agreed through cabinet to reduce the number required for small catering establishments in South Tyneside who cater for seated customers of less than 20 and again for less than 10 patrons. Therefore, as a minimum if 10 or less seats are to be provided for customers, a single unisex toilet/wash basin would suffice. This must not be accessible via the kitchen for food safety reasons and should be suitable for disabled access.

The local policy does state that

In exceptional circumstances where;

- *the physical dimensions make it impracticable to house the toilets and provide space for customers, and*
 - *the main use of the premises is predominantly retail, or takeaway with the provision of ancillary seating not of the sort likely to encourage anyone to stay for any period of time, e.g. sandwich bar or coffee bar, then;*
- 2.3.4. it will be acceptable for no toilet provision for customers to be made.*

The above would need to be considered on a case by case basis.

The requirement for toilet provision even in a food business which is claiming to be a takeaway, if offering seats and encouraging patrons to stay and consume their food on site, should comply with the statutory provision to provide customer toilets. This has been challenged and overruled in previous cases where takeaways/sandwich bars seek to claim that their business is not within scope of these requirements. The Greggs' Case - the exception not the rule? | Ashfords As the High Court has ruled takeaways are a 'relevant place' for adherence to the Misc Provisions and requirement for toilets, where a customer

chose to eat their food is irrelevant. Where a requirement for toilet provision has been made by a Local Authority, taking into consideration the local plan exceptional circumstances above, it will be for the local Authority to enforce this by service of a Notice.

Given the size of the seating area and the likely time a customer may chose to stay and eat at the premises if they so choose, it is my considered opinion that a separate single unisex toilet and wash basin should be provided for patrons. Otherwise, I would encourage the removal of all seating.

South Tyneside Council – Public Health

With reference to the above planning application, we would like to formally object and submit this comment to outline our reasons for doing so.

It is well known that obesity is a complex issue, influenced by a multifaceted system of determinants, including the food environment. The Chief Medical Officers 'Time to Solve Childhood Obesity report' stated that "the evidence is increasingly clear, genes and inheritance do affect individual risk, but it is the profound changes in the living environment that are shaping everybody's behaviour and making it much harder for us all to be a healthy weight".

One example of this is the fast-food landscape in England, where a quarter of places to buy food in England are fast food-outlets, a figure which has remained unchanged for six years. We know that the convenience of fast food, coupled with its widespread availability, often makes it the default "choice" for busy families with limited time and resources. This is concerning as the relationship between food outlets and obesity is well evidenced, with a recent meta-analysis of 103 studies reporting that food outlets which sell mostly unhealthy and ultra-processed foods were associated with higher levels of obesity. Fast food has also been directly linked to rising rates of food-related ill-health, including diabetes and cardiovascular disease .

National context

The government have set a national ambition 'to halve childhood obesity and significantly reduce the gap in obesity between children from the most and least deprived areas by 2030'. Working with our internal and external partners we are playing our part in achieving this bold ambition which includes making healthier decisions, providing healthier options and creating healthier environments.

The revised National Planning Policy Framework was published in December 2024. Paragraph 96 (c) states that planning policies and decisions need to:

"enable and support healthy lives, through both promoting good health and preventing ill-health, especially where this would address identified local health and well-being needs and reduce health inequalities between the most and least deprived communities – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling"

Paragraph 97 states that local planning authorities should refuse applications for hot food takeaways and fast-food outlets:

- a) Within walking distance to schools and other places where children and young people congregate, unless the location is within a designated town centre; or

- b) In locations where there is evidence that a concentration of such uses is having an adverse impact on local health, pollution or anti-social behaviour.

Research has shown that the introduction of exclusion zones to address the proliferation of hot food takeaway establishments was the single most adopted planning policy approach to promote health in England between 2017 and 2018. Research has demonstrated the introduction of these zones can lead to reductions in number of establishments, contributing positively to reductions in outlet exposure, obesity prevalence, and incidence of diseases, and savings in healthcare costs.

Local context

Reducing obesity is a key priority within South Tyneside; highlighted through the South Tyneside vision which commits to making South Tyneside an outstanding place to live, invest and bring up families, with one of our key objectives being 'healthier people'. This is in addition to South Tyneside's 'Joint Health and Wellbeing Strategy' and South Tyneside's Sustainable Food Action plan which have identified 'reducing childhood excess weight' and 'diet-related ill health' as priorities within them. This matters because South Tyneside has the second highest rate of Year 6 children who are living with overweight or obesity in the North East region.

Encouraging people to make positive decisions about the things that impact on their health is a key part of helping people in South Tyneside to live healthier and longer lives, but it is important to recognise that we cannot simply focus our efforts on changing individual behaviour, but must take a whole systems approach, which also considers the 'obesogenic' environment that residents are living in. A whole systems approach enables different parts of the system to move forward together, maximising synergies and creating a more impactful approach.

With this in mind, Public Health, Planning and Environmental Health have worked together and are seeking to promote healthier living and tackle obesity by managing the proliferation of hot food takeaways. A collaborative evidence-based document was produced which helped to inform and shape the Supplementary Planning Document 22 (SPD22): Hot Food Takeaways and Health (2017) which includes specific considerations regarding childhood obesity.

In the Beacon and Bents ward, there are lots of fast-food outlets and restaurants which makes it increasingly difficult for people to make healthier food choices. There is evidence to suggest that people who live and work near a high number of takeaway food outlets tend to eat more takeaway food and are more likely to be living with obesity than those less exposed. A UK population-based study reported a strong and significant association between the density of takeaway food outlets, takeaway food consumption and body mass index. It is therefore important to restrict the number of hot food takeaways in wards where there is a high density of fast-food outlets.

Fast food is often a popular choice with children and younger people and can be considered a contributing factor to the increasing levels of obesity. The proposed location for the outlet is within the Beacon and Bents ward. According to our National Child Measurement Programme (NCMP), which tracks the height and weight of children in England, 33.7% of Year 6 children in this area were living with obesity in 2023/24. The proposed outlet would also be less than 400 meters from St Bede's Catholic Primary & Nursery School.

We must also consider the strong relationship between deprivation and obesity. Analysis of data NCMP shows that obesity prevalence among children in both Reception and Year 6 increases with increased socioeconomic deprivation (measured by the Index of Multiple

Deprivation (IMD) score). The Cost-of-Living crisis is known to have exacerbated deprivation, and we know that there are more fast-food outlets in deprived areas than in more affluent areas. It is noteworthy that Beacon and Bents is within the top 5% of most deprived wards when compared on a national scale, making it a priority for us.

Based on the information above, we feel that the application should be refused.

Local Highway Authority

Material consideration: an important issue that the local planning authority is advised to consider in determining the application.

Amended plans and/or additional information required: Concerns could be overcome by submission and approval of amended plans or additional information before any permission is granted.

Assessment of proposal:

Whilst the proposal considered acceptable in principle due to the user identified having different peak periods of operation from some other users and school operation times, and with available parking on Claypath Lane, it is recommended that certain matters will require confirmation/inclusion before planning permission is issued, including:

- The red line application boundary extended to include car parking provision associated with the scheme rather than just covering the building.
- Confirmation that a restriction can be placed on the plot for that applicant/owner/specific use only and that any subsequent user of the site would need to seek their own planning permission in order that traffic considerations can be adequately assessed at that time to ensure that adverse impacts on the nearby school are avoided.

Environmental Health

I have considered the application in terms of noise and odour impact of this proposed use on existing residential amenity, and the neighbouring uses.

With regards to noise, I am aware that the nearest residents are some distance away, likely to be the caretakers residence at the nearby school. I do not therefore believe that this use will bring any adverse impact to residential amenity, ambient noise levels in the area will likely mask any noise arising from comings and goings to the unit.

I would ask that a standard condition is added to require the exact ventilation details are provided to the Local Authority to ensure that the system is in compliance with the appropriate guidelines and will not cause nuisance or adverse impact at surrounding uses.

I note that there has been no restrictions requested in terms of opening times. Given the distance to residential amenity, established late night uses and additional screening provided by existing buildings, I am satisfied that no restrictions are required in terms of the impact on residential amenity as a result of noise.

Summary of Representations

2no. representations have been received in objection to the proposal. The issues raised are summarised as follows

- There are more than enough pizza take away, and hot food take away in South Tyneside area and specially in South Shields.
- The obesity rate at South Tyneside has increased due to hot food takeaway and we cannot ignore this.
- I would like to ask the council to put stop on this application and do not pass it through.
- South Tyneside continues to face some of the highest obesity in the UK. Increasing the availability of hot food takeaway in the area directly conflicts with local and national public health strategies aimed at improving diet and reducing obesity.
- Allowing yet another takeaway / Pizza shop, undermines efforts to create a healthier food environment for residents.
- There is already a significant number of hot food takeaway and similar fast fast-food outlets operating in the immediate area.
- Adding a further Large-Scale chain will:
 - a) Exacerbate the existing clustering of takeaway.
 - b) Offer no meaningful variety or economic diversification.
 - c) Potentially impact existing independent food businesses.
 - d) Create a cumulative impact that is against the town centre Planning.
- The Proposal Conflict with South Tyneside's local plan aims to promote healthy, sustainable communities.
- For the reasons of Public Health Concerns, existing over concentration of takeaway, negative impact on residential amenity, and Conflict with Planning Policy, request that South Tyneside Council Refuse this application.

Relevant planning policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise.

The statutory development plan comprises the Council's adopted Local Development Framework (LDF) development plan documents. Those LDF documents of relevance to this application comprise of the Core Strategy 2007, a Development Management Policies Development Plan Document (DPD) 2011 and the South Shields Town Centre & Waterfront Area Action Plan (AAP) 2008.

The following policies of the South Tyneside Local Development Framework are relevant to this planning application:

- SC2 Reviving our Town Centres and other Shopping Centres (LDF Core Strategy)
- DM1 (G) Management of Development (LDF Development Management Policies)
- DM3 Hot Food Uses in Shopping Centres (LDF Development Management Policies)
- SS2 Mixed Use Development Opportunities in South Shields (LDF South Shields Town Centre & Waterfront Area Action Plan)
- SS7 Retailing Opportunities in South Shields Town Centre (LDF South Shields Town Centre & Waterfront Area Action Plan)
- SS8 Evening and Night-time Economy in South Shields (LDF South Shields Town Centre & Waterfront Area Action Plan)

The following guidance is also relevant to this planning application:

- *SPD6 Parking Standards sets out the parking standards used in assessing proposals for new development.*
- *SPD22 Hot Food Takeaways and Health sets out additional guidance for the planning control and assessment of planning applications which relate to hot food takeaways.*

On 4 March 2025, the Council was directed by the Secretary of State for the Ministry of Housing, Communities & Local Government to submit the South Tyneside Local Plan for examination by 12 March 2025 in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Plan has now been submitted and is at the examination stage. Paragraph 49 of the National Planning Policy Framework (2024) states that local planning authorities may give weight to relevant policies in emerging plans according to:

- i the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- ii the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and,
- iii the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Whilst the draft Local Plan is now at a more advanced stage of preparation, the weight that can be given to individual Policies in the Plan varies dependent upon the extent and nature of objections to those Policies. In this regard, it is considered that certain Policies can only be afforded very limited or limited weight whilst others can be afforded significant weight in assessing planning applications.

Policy SP1: Presumption in favour of Sustainable Development
Policy SP3: Spatial Strategy for sustainable development
Policy SP12: Fowler Street Improvement Area
Policy 1: Promoting healthy communities
Policy 3: Pollution
Policy 26: Ensuring Vitality and Viability in Town, District and Local Centres
Policy 31: Evening and Night-time Economy in South Shields Town Centre
Policy 32: Hot Food Takeaways
Policy 47: Design Principles
Policy 48: Shopfronts
Policy 50: Social and community infrastructure
Policy SP26: Delivering sustainable transport

National planning policy is also a material consideration in determining this planning application. Relevant national policy comprises the National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG), the National Design Guide and the National Model Design Code.

Assessment

Background

The planning history demonstrates that planning permission ST/0746/22/FUL granted consent for the construction of a coffee shop with drive-thru and 3 commercial units (Use Class E). As such the lawful use of the units A1-A3 are for commercial / retail use (Use Class E).

Use Class E relates to Class E. Commercial, Business and Service uses for all or any of the following purposes —

- a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,
- b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,
- c) for the provision of the following kinds of services principally to visiting members of the public—
 - i) financial services,
 - (ii) professional services (other than health or medical services), or
 - (iii) any other services which it is appropriate to provide in a commercial, business or service locality,
- d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,
- e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,
- f) for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,
- g) for—
 - (i) an office to carry out any operational or administrative functions,
 - (ii) the research and development of products or processes, or
 - (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

The officer report to application ST/0746/22/FUL stated that, *'It should be noted that from 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 amended the Town and Country Planning (Use Classes) Order 1987, with the recalibration of the classification of uses of property. Classes A, B1 and D1, applicable to retail, office and non-residential institutions and assembly and leisure uses respectively, were removed and new use classes introduced in their place. The new Class E now encompasses the former B1 use class - commercial, business and service under class E sub-paragraph (g), with sub category E, g.i relating to offices, and the former use class A1 retail and use class A3 – café and restaurants under class E sub-paragraph (a) and (b) respectively.'*

Following the coming into force of the Use Classes (Amendment)(England) Regulations 2020, hot food takeaways are defined as a *sui generis* use. Since the 2020 changes in England a distinction has therefore been drawn between hot food takeaways and other food and drink uses. As described above, the main category for food and drink uses is now Class E(b) which is defined as *'for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises'*. Whereas the definition of the *sui generis* hot food takeaway use is now defined as *'for the sale of hot food where consumption of that food is mostly undertaken off the premises'*. In addition, use Class E (a) also encompasses premises that sell cold food for predominantly off premises consumption. Class E(a) retail, is defined as *'for the display or retail sale of goods, other than hot food, principally to visiting members of the public'*. Class E uses can alter and switch between uses without the need for planning permission, however, planning permission is required to change between a *sui generis* use and a use falling within Class E.

For clarity, and as set out above, a hot food takeaway is defined in The Town and Country Planning (Use Classes) Order 1987 [as amended] as;

Sui generis (hot food takeaways) – hot food takeaway for the sale of hot food where consumption of that food is mostly undertaken off the premises.

The applicant has stated in their submitted Planning Statement that *‘the proposed operation will be predominantly delivery-led, with the majority of orders fulfilled through home delivery supported by online and telephone ordering systems. National operating data from Domino’s indicates that typically in excess of 70% of all transactions are delivery-based, with the remainder comprising short, pre-arranged customer collections.’ It proceeds to state at paragraph 5.3 that ‘In addition, the internal layout will now include a small number of seats within the customer area to allow customers to consume food on the premises.’*

In respect of the submitted proposals, the details and plans to accompany the application identify the proposed internal layout for Plot A3. The submitted internal layout would provide and include an area of seating and tables as an identified ‘customer seating area’ with an area of 20.3m². This area also provides a means of access to a counter area. The submitted internal layout plan details that within the ‘customer seating area’ of 20.3m², two tables with 4 no. seats to each table and 4 no. higher (bar style) seats/stools running along a length of higher table affixed to an internal partition wall would be provided. As such, at any one time 12 customers could be seated to consume food and drink on the premises or be used by customers waiting for food orders.

The applicant’s Planning Statement states at paragraph 5.4 that *‘This limited seating provision replicates the type of activity already permitted under Class E, where cafés, restaurants and food outlets may prepare and serve hot meals for consumption on site without the need for planning permission. The inclusion of this small seating area does not materially intensify the use and, in practice, reinforces the strong Class E fallback position by mirroring the lawful operational characteristics already permitted within the existing use class.’*

As set out above, the LPA acknowledge that Use Class E allows within class E(b) and E (a) for the sale of hot food for consumption on the premises and the retail sale of cold food (for consumption off the premises) and therefore a café and restaurant use (or similar) could operate from the application site. However, a distinction has been made within the Use Classes Order between hot food takeaways and other food and drink uses, acknowledging the differences between these uses, including operational activities, intensification of use and health and well-being (healthier food production and consumption choices).

The key issues in the assessment of this planning application are as follows:

- The impact of the development on health and obesity levels
- Impact on the vitality and viability of South Shields Town Centre
- The impact of the development on parking and highway safety
- Residential Amenity Issues
- Visual Amenity Issues
- Other Matters

The impact of the development on health and obesity levels

The link between planning and health has been established in both the NPPF and PPG. Section 8 of the NPPF deals with “promoting healthy and safe communities”. Paragraph 96 states that *“Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:*

c) Enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of...access to healthier food...”

The PPG (Health and Wellbeing section) states that:

“Local planning authorities should ensure that health and wellbeing, and health infrastructure are considered in local and neighbourhood plans and in planning decision making.

The range of issues that could be considered through the plan-making and decision making processes, in respect of health and healthcare infrastructure, include how:

Opportunities for healthy lifestyles have been considered e.g. planning for an environment that supports people of all ages in making healthy choices, and promotes access to healthier food”

The PPG further states:

“Planning can influence the built environment to improve health and reduce obesity and excess weight in local communities. Local planning authorities can have a role in enabling a healthier environment by supporting opportunities for communities to access a wide range of healthier food production and consumption choices.”

“Local planning authorities and planning applicants could have particular regard to the ...proximity to locations where children and young people congregate such as schools, community centres and playgrounds, evidence indicating high levels of obesity, deprivation and general poor health in specific locations, and over-concentration and clustering of certain use classes within a specified area.”

South Shields Town Centre Area Action Plan (SSTCAAP) Policy SS2 (Mixed-Use Development Opportunities in South Shields) provides allocations for a mix of uses, including for hot food takeaways (A5) within a defined area of the Town Centre. SSTCAAP Policy SS8 (Evening and Night-time economy in South Shields), also sets out support for hot food takeaways in accordance with the Licensing Authority’s designated Special Policy Area in the Ocean Road and Mile End Road area of the town centre. However, neither of the above defined areas for such uses include the application site and, as such, these policies are not relevant to the assessment of this application.

The site is located just outside the South Shields town centre boundary as defined within the South Shields Town Centre and Waterfront Area Action Plan and is not located within a main district shopping centre or a local neighbourhood shopping centre.

Supplementary Planning Document 22: Hot Food Takeaways & Health (November 2017) provides additional guidance for the assessment of planning applications for Hot Food Takeaways and supports the strategic aims of South Tyneside Council in tackling unhealthy lifestyles and obesity.

This guidance explains that one of South Tyneside Council’s top priorities is to encourage people to make positive decisions about their health and a key measure of success is reduced obesity.

Many people find it difficult to eat healthy, and exposure to high energy dense food where healthy choices are limited encourages excess weight and obesity. It is recognised that Hot Food Takeaways generally provide energy dense food which is low in nutrient levels and high in saturated fats and salt. Regular consumption of this type of food and low levels of physical activity can lead to excess weight and obesity. Increasing numbers of hot food takeaways make this type of food more readily accessible and can contribute to creating obesogenic environments; where unhealthy lifestyle choices are easily made.

Obesity in childhood can have significant impacts on the long-term health of children, and can lead to a range of health problems such as diabetes, high blood pressure and heart disease. Restricting such uses in wards where there is a high level of childhood obesity will limit the number of hot food takeaways increasing and contributing to the obesogenic environment. As such, this is a material planning consideration.

Policy HFT1 of the SPD22 guidance states:

“Planning permission will not be granted for A5 Uses in areas where the levels of obesity in Year 6 pupils is over 10%.”

The site is situated within the Beacon and Bents ward of the Borough where childhood obesity levels for Year 6 children exceeds 10% threshold as set out in SPD22, Policy HFT1. Policy HFT1 of SPD22 states that planning permission will not be granted for hot food takeaways where this 10% threshold is exceeded, (using most up to date National Child Measurement Programme data). The published data for 2023/2024 shows that 33.74% of Year 6 children from this ward are very overweight (obese). As such, the proposal for a hot food takeaway would conflict with Policy HFT1 of SPD22, which seeks to promote healthier communities, and the policies of the NPPF in respect of health and well-being. SPD22 aligns with Paragraph 97 of the National Planning Policy Framework (the Framework) which sets out that applications for HFTAs should be refused in locations where there is evidence that a concentration of such uses is having an adverse impact on local health. It also says that unless the location is within a designated town centre, HFTAs should be refused that are within walking distance of schools.

Policy HFT2 of SPD22 states that outside of our designated town centres, proposals for new hot food takeaway uses will only be permitted where the premises are not within 400m of a secondary school boundary. The site is not located within the 400m exclusion zone of a secondary school (HFT2 of SPD22), however it is directly opposite and less than 400 meters from St Bede’s Catholic Primary & Nursery School, a primary school.

The planning application proposes a hot food takeaway use. An objection to the proposal has been received from the Council’s Public Health Section on health grounds, particularly with regard to the impact of fast food on children and younger people. Due weight has been given to the Public Health objection.

It is considered that the proposed hot food takeaway would be contrary to the Council’s strategic policies which seek to promote healthier communities and tackle unhealthy lifestyles and obesity. The proposed change of use would also conflict with the guidance contained within SPD22 and the policies within the NPPF (and associated PPG) with regard to health and well-being.

In terms of the emerging local plan (and commentary with regards to that and that weighting that can currently be given as set out above), the relevant policies are Policy 1 and Policy 32.

Policy 1: Promoting Healthy Communities, states that *'The Council and its partners, including the NHS, will seek to improve the health, wellbeing and quality of life of South Tyneside residents, reduce health inequalities and to help people live longer and healthier lives. This will be achieved by: 5. Managing the provision of hot food takeaway outlets and promote and encourage healthy food choices to reduce levels of excess weight'*.

Furthermore, policy 32: Hot Food Takeaways states that, *'1. To encourage positive health related behaviours and minimise adverse amenity impacts associated with Hot Food Takeaways, the Council will not permit Hot Food Takeaways, where:*

- i. The premises is in a ward area where levels of obesity in Year 6 pupils is over 10%**
- ii. The application site is outside of the town, district and local shopping centres and falls within a 400m radius of entry points to all secondary school.'*

Whilst limited weight can be currently afforded Policy 1, significant weight can be afforded to policy 32. Based on the latest published National Child Measurement Programme data (per ward) for 2023/2024, which shows that 33.74% of Year 6 children within the Beacon and Bents ward are very overweight (obese) that the proposal would be contrary to Policy 32 (Hot Food Takeaways), with levels of obesity in Year 6 pupils being significantly over 10%.

Impact on the vitality and viability of South Shields Town Centre

As set out above, the application site is located just outside the South Shields town centre boundary as defined within the South Shields Town Centre and Waterfront Area Action Plan.

Core Strategy Policy SC2 (Reviving our Town Centres and other Shopping Centres) states that development proposals for retailing will be focused and promoted within the three town centres where they; a) protect and enhance the retail character and function of ground floor premises within the defined primary shopping areas and primary retail frontages, and b) encourage retail growth and an appropriate mix of uses within the secondary shopping streets.

Policy DM3 (Hot Food Uses in Shopping Centres) states that the Council will assess all planning applications for hot food takeaways in established shopping centres with regard to their impact upon the vitality and viability of the shopping centre and the borough's hierarchy.

South Shields Town Centre Area Action Plan Policy SS7 (Retailing Opportunities in South Shields Town Centre) promotes proposals to broaden the range of shopping opportunities and improve the vitality and viability of the town centre by concentrating retail development within the designated Primary Shopping Area.

The proposed hot food takeaway would occupy a lawful Class E premises, which has been recently constructed, but has not been occupied. It should be noted that in granting planning permission for the overall commercial development, for which the application site forms part (reference: ST/0746/22/FUL), a detailed assessment of vitality and viability, including the submission and assessment of a sequential test was undertaken. It is considered that the proposed use of the premises for a hot food takeaway would not give rise to any material harm to the vitality and viability of the South Shields town centre and where this is also a material consideration in assessing this planning application. However, for the reasons set out above, the planning assessment and balance set out above has given greater weight to the material planning considerations relating to healthy lifestyles and levels of obesity.

The impact of the development on parking and highway safety

The site is in a sustainable location due to its good connectivity to the highway network and also to public transport including the bus and Metro.

The application site is located adjacent to and served by car parking, with 32 spaces, including disabled bays and bays with vehicle charging points provided. The car parking is available for both the application site and the adjacent commercial units approved under application ST/0746/22/FUL. In addition to car parking provision within the wider site, cycle stands have also been provided. In granting planning permission for the commercial development, a condition was attached to the grant of permission, requiring the submission and approval of the car and cycle parking layout, its delivery prior to first use and retention thereafter.

The car parking provision and on street availability and capacity (specifically acknowledging the adjacent Primary School) were assessed in detail through application ST/0746/22/FUL (and subsequent discharge of condition request and NMA applications, as referenced and set out above). SPD6 sets out the Council's maximum parking standards. Located in an urban area, this allows for 75% of the car parking standards to be accommodated as a maximum. The standards required for the approved drive-thru and retail units proposed were assessed and the proposals were deemed acceptable against SPD6 standards. It was identified that the three retail units required a maximum of 12 spaces in accordance with SPD6 (calculated on 1 space per 30m²).

In considering the proposed use as a hot food takeaway, SPD6 identifies that 1 space should be provided per 25m² (75% for urban areas). As such, in terms of the SPD guidance and the resultant spaces required based on calculations, there is no difference between the existing lawful and proposed use in terms of these maximum parking standards.

In respect of servicing and deliveries, again through the assessment of application ST/0746/22/FUL (and subsequent discharge of condition request and NMA applications, as set out above), the servicing arrangements and details have been assessed. A condition was also attached to the grant of permission (ST/0746/22/FUL) in respect of operations being in accordance with the approved servicing details. It is considered that the proposed use could operate in accordance with these previously approved details.

The Council's Transport Development Officer, as Local Highway Authority has been consulted on the application and no objections have been received in relation to parking and highway safety. However, as detailed above, the Council's Transport Development Officer has advised that whilst the proposed change of use is considered acceptable in principle due to the user identified having different peak periods of operation from some other users and school operation times, and with available parking on Claypath Lane, it is recommended that certain matters will require confirmation/inclusion. The matters raised relate to amendments to the red line boundary and inclusion of the adjacent car parking and confirmation that a restriction can be placed on the application site for that applicant/owner/specific use only and that any subsequent user of the site would need to seek their own planning permission in order that traffic considerations can be adequately assessed at that time to ensure that adverse impacts on the nearby school are avoided.

It is considered that based on the nature of the application, a change of use to the building, that the red line plan submitted with the application, outlining unit A3 only and the immediately adjacent parking spaces is acceptable. The submitted site location plan includes a blue line around the perimeter of the site, which includes the car park as a whole. As set out above this car park is available for customer and staff use for the site as a whole and not individual users (units) within this and a condition to the original grant of permission (as detailed above) requires the retention of the car parking.

In respect of placing restrictions on the application site to the applicant/owner/specific use only and that any subsequent user of the site would need to seek their own planning permission in order that traffic considerations can be adequately assessed at that time to ensure that adverse impacts on the nearby school are avoided, it is not considered that a

condition of this nature would be appropriate and reasonable. Paragraph 57 of the NPPF sets out that '*Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.*' The proposal has been assessed in this context, and it is not considered reasonable based on the consideration of available car parking provision adjacent to and in proximity to the site and in considering the maximum car parking standards as set out in SPD6, where there is no increase in the maximum parking provision recommended for the lawful use and that required for the proposed use.

The Agent has also advised as follows re this matter:

Imposing a condition tying the permission to a specific operator or requiring automatic re-application by any subsequent occupier would be unreasonable, unnecessary, and unenforceable, and would not reflect established planning practice for permanent changes of use where the impacts have been found acceptable. Furthermore, the Highway Authority itself confirms that the proposal is acceptable in principle, having regard to differing peak periods, available parking on Claypath Lane, and the relationship with school operation times. In this context, a restrictive or personal condition is not required to ensure highway safety or prevent severe residual cumulative impacts

For the reasons set out above it is considered that the proposed development is in accordance with Policy DM1 (G) and SPD6 of the South Tyneside Local Development Framework.

Residential Amenity Issues

The application, whilst not providing specific details identifies within the Planning Statement at paragraph 5.6 states that '*to ensure the operation does not give rise to odour or noise impacts, the proposal incorporates a high-quality, professionally specified extraction and ventilation system designed in full accordance with DEFRA's "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems."*' It proceeds to state at paragraph 5.7 that '*The system will include appropriate filtration, attenuation and discharge arrangements to control emissions to an acceptable level. All equipment will be positioned sensitively to avoid visual harm, will operate within recognised acoustic thresholds, and will be installed to ensure there is no adverse effect upon the building's appearance, the streetscene or neighbouring occupiers.*'

The Council's Environmental Health Section has given consideration to the application noting the distance to the closest residential properties (over 75m) and nature of the area as predominantly commercial, and no objections have been raised. At the time of assessing application ST/0746/22/FUL it was identified that no details had been included for any commercial kitchen odour extraction. It was concluded that due to the nature of the uses proposed, including a coffee shop / drive-thru, and that it is not located in close proximity to residential properties (the closest are over 75m away and segregated from the site by other buildings and highway), it is not considered to be necessary or reasonable to require kitchen extraction details to be submitted and agreed by condition. Notwithstanding this Environmental Health have their own separate legislative provisions both in relation to the inspecting food premises (and that would include the adequacy and efficiency of any extraction system) or with regards to potentially dealing with odour complaints (if any subsequently arose).

However, based on the nature of the proposed use, which proposes the preparation of hot food (specifically pizzas), it is considered that further details for kitchen extraction details be submitted for approval to ensure that they are both sited appropriately and meet with relevant requirements (including operation / maintenance). Whilst not specifically in respect of residential amenity to residential receptors, this is deemed necessary to ensure no loss of

amenity to neighbouring commercial units and for the benefit of the wider public environment alongside visual amenity (the suitable siting of any external equipment on the existing building). As such it is considered that appropriate planning conditions to require the submission and approval of details and maintenance / operation could be attached to any grant of permission to approve details prior to first use and the equipment's installation.

In respect of noise, it is not considered that the proposed use would generate any additional noise to that previously considered and assessed under application ST/0746/22/FUL where it was identified that the site is over 75m from the nearest residential property, the caretaker's house at Percy Street, which is also partially screened by the existing school building. The application site is located to the northeast of the overall commercial site and the end terrace furthest away from Claypath Lane. The Council's Environmental Health Officer has raised no objections in respect of noise, with residential receptors being a significant distance away and advising that ambient noise levels in the area will likely mask any noise arising from comings and goings to the unit.

The application form does not specify proposed opening hours. Furthermore, it should be noted that no opening hours restrictions were placed on the original grant of planning permission ST/0746/22/FUL, acknowledging the sites location, adjacent land uses, existing late night activity and the nearest residential receptors. Based on the same considerations, it is not considered appropriate or reasonable to control the hours of opening for the current proposal. Additionally, it is noted that opening hours after 11pm would also be controlled under the Licensing Act 2003 and where a premises licence would be needed (by virtue of that Act).

Notwithstanding the above, the Licensing objectives (against which licensing applications are considered) are not one and the same thing as the Local Planning Authority's (LPA) consideration of residential amenity as a material planning consideration. However, as detailed above, it is considered that the proposed use of the premises for a hot food takeaway would not give rise to any material harm to residential amenity and consequently it is not considered that a planning condition would be appropriate and reasonable to control the proposals opening hours.

In respect of potential anti-social behaviour and crime, no objections have been received from the Council's Community Safety Team or Northumbria Police, and the development is considered acceptable in this regard.

For the reasons set out above it is considered, on balance, that the proposed hot food takeaway would not have an unacceptable impact on residential amenity, subject to the inclusion of condition(s) to any permission granted requiring the submission and approval of details for an extraction system (and being operated / maintained). The proposal would therefore not be contrary to Policy DM1 (B) and the guidance contained within SPD22 in relation to Policy HFT3.

Visual Amenity Issues

Guidance contained within SPD22: Hot Food Takeaways & Health states that hot food takeaways must provide appropriate extraction systems which must have minimal impact on visual amenity, including location and external finish. As set out above, the proposed development whilst referencing the installation of kitchen extraction equipment does not provide specific details. As detailed above, conditions are recommended to require the submission and approval of details.

Subject to the inclusion of condition(s) to any permission granted requiring the submission and approval of details for an extraction system (and being operated / maintained) it is considered

that the proposal accords with the South Tyneside Local Development Framework Policy DM1(A), the design guidance contained within SPD22 and the identified design policies within the NPPF in respect of design and visual amenity considerations.

Other Matters

In respect of waste storage there are waste storage containers to the rear of the application site (serving the three commercial units) which have been approved through application ST/0746/22/FUL (and the subsequent discharge of condition). It is considered that these facilities would be adequate to serve the proposed use. In respect of the disposal of litter at the site by any visiting customer, it is a customer's responsibility to dispose of waste correctly when leaving the site.

In addition to the above matters raised in respect of layout and the provision of customer seating, the plans do not provide separate customer and staff toilets. The location of the WC, as detailed on the submitted layout plan, is provided within the staff area, adjacent to the kitchen and washing up area and not accessible internally from the designated and identified customer area.

Based on the Council's Food Safety Team comments, changes to the internal layout of the property may be required to address matters raised, however these requirements are separate from the planning application and any subsequent internal layout changes will not impact upon the change of use application.

Conclusion

For the reasons set out in the assessment above, the proposed hot food takeaway use would be contrary to Policy HFT1 of SPD22 and the National Planning Policy Framework and associated Planning Practice Guidance, with regards to health and well being, tackling unhealthy lifestyles and obesity. The proposal would also be contrary to Policy 32 of the Local Plan (noting the weight that can be afforded this policy).

Overall, in terms of the relevant LDF policies, the guidance contained within SPD22 and the National Planning Policy Framework and associated Planning Practice Guidance, it is considered that planning permission should not be granted as the proposal conflicts with the relevant planning policies and guidance and would not be overcome through the use of planning conditions. Consequently, this application is recommended for refusal.

In deciding whether to grant planning permission the Council must have due regard to the 3 equality aims contained in Section 149 of the Equality Act 2010 (the public sector equality duty). A preliminary assessment of the potential equality impacts of any grant of planning permission in this case has been undertaken. There are no apparent equality impacts of the proposed development which give rise to the need to undertake a more detailed equality impact assessment.

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Recommendation

Refuse Permission

Reasons for Refusal

- 1 The Local Planning Authority considers that the proposed hot food takeaway would introduce a further such use in an area where Year 6 obesity levels (National Child Measurement Programme) significantly exceed the 10% threshold set out in HFT1 of the Council's Local Development Framework Supplementary Planning Document 22: 'Hot Food Takeaways and Health'. Furthermore, the application site lies in close proximity to a school. As such, the proposed hot food takeaway would be contrary to the National Planning Policy Framework and associated National Planning Practice Guidance with regard to health and well-being and it would also fail to accord with policy contained within the Council's Local Development Framework Supplementary Planning Document 22: 'Hot Food Takeaways and Health' HFT1 which supports the Council's strategic aims in tackling unhealthy lifestyles and obesity.

List of plans etc. for standard note on decision

Location Plan Drg. no. 22402-IMA-ST-00-DR-A-61006 Rev C06 received 19/01/2026
Proposed Site Plan Drg. no. 224020-IMA-ST-00-DR-A-61006 Rev C 06 received 19/11/2025
Proposed Floor Layout Drg. no. C5452-FS2A received 19/11/2025

Case officer: Helen Lynch

Signed: *Helen Lynch*

Date: 16/01/2026

Authorised Signatory: G.Horsman

Date: 20/01/2026