

**Planware Ltd on behalf of McDonald's Restaurants Ltd****Objection Response to Nuneaton and Bedworth Borough Plan MM October 2018****Policy HS7 – Creating a Healthier food environment**

## 1 Introduction

- 1.1 We have considered proposed HS7 - Creating a Healthier food environment with regard to the principles set out within the Framework. We fully support the policy's aim of promoting healthier living and tackling obesity. However, the proposed policy approach is unsound and fails to provide an evidence-based way of achieving the policy's objective. It has also been found unsound by several planning inspectors. It is too restrictive and prevents local planning authorities from pursuing more positive policy approaches. The London Borough of Waltham Forest has had such a policy in place for over a decade and its application has proven ineffective in tackling obesity to date.
- 1.2 Within these broad points we have the following policy objections to draft Policy HS7:
  - A. The 400m exclusion zone is inconsistent with national planning policy
  - B. The policy is inconsistent, discriminatory and disproportionate.
  - C. Examination of other plans have found similar policy approaches to be unsound.
  - D. There needs to be further exploration into policies that are more positive, have a reputable evidence base and that comply with the Framework.
- 1.3 In summary, Planware Ltd consider there is no sound justification for a policy such as Policy HS7, the first bullet point, which imposes a blanket ban on restaurants that include an element of A5 use "*within a 400 m radius of an existing secondary school or sixth form college.*" This point is unsound it should be deleted from the plan.
- 1.4 However, as stated in the opening paragraph, Planware Ltd supports the aim of promoting healthier living and tackling the obesity crisis. We acknowledge that planning can have a role in furthering these objectives. We would therefore welcome and support any studies between obesity and their relationship with development proposals, including examination of how new development can best support healthier lifestyles and tackling the obesity crisis. When a cogent evidence base has been assembled, this can then inform any appropriate policy response. This has still not emerged.
- 1.5 Given the lack of any clear agreement between experts on the indices of obesity or poor health, analysing the evidence is a necessary part of this objection by way of background. This will all be highlighted in the below text.

## 2 Contribution of McDonald's UK to the United Kingdom

- 2.1 This section of the objection sets out some background context relating to McDonald's own business, its contribution to United Kingdom, and information on the nutritional value and healthy options of the food that it offers in its restaurants. This evidence is relevant to understanding the adverse and unjustified impacts of the blanket ban approach proposed under draft Policy HS7.

### ***Economic and Environmental Benefits***

- 2.2 The first store in the United Kingdom was first opened in 1974 in Woolwich, London. The store is still opened and was interestingly the 3,000<sup>th</sup> store across the world.
- 2.3 With over 36,000 McDonald's worldwide, it operates in over 100 countries and territories. Approximately 120,000 people are employed by McDonald's UK, compared to just over 1 million employees worldwide.
- 2.4 McDonald's and its franchisees have become important members of communities in the United Kingdom: investing in skills and developing our people, supporting local causes and getting kids into football.
- 2.5 Nationally, the company operates from over 1,300 restaurants in the UK. Over 80% of restaurants are operated as local businesses by franchisees, that's around 1,100 franchised restaurants.
- 2.6 McDonald's is one of few global businesses that continues to anchor itself in high streets and town centres across the United Kingdom. Not just serving the general public but creating jobs and seeking to improve the communities around them.
- 2.7 All McDonald's restaurants conduct litter picks covering an area of at least 100 metres around the site, at least three times a day, picking up all litter, not just McDonald's packaging.
- 2.8 McDonald's is a founding member of the anti-littering campaign, Love Where You Live. As part of this, our restaurants regularly organise local community litter picks. The campaign has grown and in 2017, 430 events took place across the UK with around 10,000 volunteers involved. Since the campaign started, 2,600 events have taken place with around 80,000 volunteers involved.
- 2.9 McDonald's restaurants are operated sustainably. For example, their non-franchised restaurants use 100% renewable energy, combining wind and solar and use 100% LED lighting which means we use 50% less energy than fluorescent lighting. All of their used cooking oil is converted into biodiesel for use by delivery lorries. Their entire fleet of lorries runs on biodiesel, 40% of which comes from McDonald's cooking oil. This creates over 7,500 tonnes fewer CO2 emissions than ultra-low sulphur diesel.
- 2.10 All new McDonald's restaurants in the United Kingdom are fully accessible and we are working toward delivering this same standard for all existing restaurants.
- 2.11 McDonald's restaurants provide a safe, warm and brightly lit space for people, especially those who may feel vulnerable or threatened waiting for a taxi or outside.

- 2.12 Many of their toilets are open to all members of the public. They are one of few night time premises that offer this service and given the fact restaurants are located in some of the busiest parts of the country, McDonald's are helping to keep the United Kingdom cleaner.

***Nutritional Value of Food and Healthy Options***

- 2.13 McDonald's offers a wide range of different food at its restaurants.
- 2.14 Nutritional information is easy to access and made available online, and at the point of sale on advertising boards, as well as in tray inserts. Information is given on calorie content and key nutritional aspects such as salt, fat and sugar content. This enables an individual is able to identify and purchase food items and combinations that fit in with their individualised calorie or nutritional requirements.
- 2.15 The menu offer includes a range of lower calorie options, some of which are set out on the next page.
- 2.16 The restaurants now suggest meal bundles to assist customers in making informed, healthier choices. McDonald's have suggested "favourites" meal bundles, across the breakfast and main menu that enable the choice of low-calorie options to be made even more easily. These 3-piece meal combinations will all be under 400kcal on the breakfast menu, and all under 600kcal on the main menu (with many options under 400kcal on the main menu also), and all individual items on these menu bundles will be either green (low) or amber (medium) on the Food Standards Agency traffic light system for food labelling.
- 2.17 Examples of low calorie (less than 400kcal) breakfast options (where no single item is red for FSA) include any combination of the following:
- Egg & Cheese McMuffin / Egg & cheese snack wrap / bagel with Philadelphia / porridge; with fruit bag; and a medium black coffee, or espresso or regular tea or water.
- 2.18 Examples of low calorie (less than 600kcal) main menu options (where no single item is red for FSA) are included in the table below. Some 90% of our standard menu is under 500 calories.

<b>Main</b>	<b>Side Options</b>	<b>Drinks Options</b>	<b>Total Calories *varies depending on side &amp; drink choice</b>
The Garlic Mayo Chicken One – grilled wrap	Fruit Bag – Pineapple Stick Carrot Sticks Side Salad with Fajita Dressing	Diet Drink Water Medium Black Coffee Regular Tea	Between 379-390kcal
The Sweet Chilli Chicken One – grilled wrap	Fruit Bag – Pineapple Stick Carrot Sticks Side Salad with Fajita Dressing	Diet Drink Water Regular Tea Medium Black Coffee	Between 374-383kcal
Grilled Chicken & Bacon Salad with Fajita Dressing	Fruit Bag – Pineapple Stick Carrot Sticks	Diet Drink Water Regular Tea Medium Black Coffee	Between 238-247kcal

2.19 Those specifically wanting a meal low in either fat, salt, or sugar, can tailor their choices accordingly. Any combination of menu items sold at McDonald's can be eaten as part of a calorie controlled nutritionally balanced diet. Customers alternatively eat anything from the menu allowing for this within their overall daily, or weekly nutritional requirements.

***Quality of Ingredients and Cooking Methods***

2.20 McDonald's are always transparent about both their ingredients and their processes and strive to achieve quality. Their chicken nuggets are made from 100% chicken breast meat, burgers are made from whole cuts of British and Irish beef. Coffee is fair trade and their milk is organic. McDonald's want their customers to be assured about what they are consuming. The 'Good to Know' section on our website - <https://www.mcdonalds.com/gb/en-gb/good-to-know/about-our-food.html> - provides a range of information about their processes and where produce is sourced from.

**Menu Improvement and Reformulation**

- 2.21 McDonald's is actively and continuously engaged in menu reformulation to give customers a range of healthier options. Louise Hickmott, Head of Nutrition, at McDonald's UK, has provided a letter giving examples of the steps that have been taken in recent years. The information is summarised below.
- 2.22 In recent years McDonald's has made great efforts to reduce fat, salt and sugar content across their menu.
- 89% of their core food and drink menu now contains less than 500 kcals.
  - Supersize options were removed from their menu in 2004;
  - 72% of the Happy Meal menus are classified as not high in fat, salt or sugar according to the Government's nutrient profile model;
  - Since October 2015, 50% of the options on the drinks fountain have been no added sugar (Diet Coke, Coke Zero and Sprite Z);
  - Recent years have seen the introduction of new items, offering more choice that has included porridge, salads, grilled chicken wraps, carrot sticks, fruit bags including apple and grape, pineapple sticks, and melon chunks, as well as orange juice, mineral water and organic semi-skimmed milk;
  - Customers can swap fries for fruit bags, carrot sticks or shake salad on the main menu, or the hashbrown for a fruit bag or carrot sticks on the breakfast menu, at no additional cost;
  - In 2014, McDonald's introduced "Free Fruit Fridays" resulting in 3.7 million portions of fruit being handed out. Since then, discounted fruit is now available with every Happy Meal.

**Fat**

- 2.23 A recent meta-analysis and systematic review of 72 studies (45 cohort studies and 27 controlled trials) demonstrated that with the exception of Trans Fatty Acids (TFA), which are associated with increased coronary disease risk, there was no evidence to suggest that saturated fat increases the risk of coronary disease, or that polyunsaturated fats have a cardio-protective effect, which is in contrast to current dietary recommendations (Chowdrey et al, 2014).
- 2.24 However, UK guidelines currently remain unchanged; men should consume no more than 30g of saturated fat per day, and women no more than 20g per day (NHS Choices, 2013). It should be remembered that all fats are calorie dense (9kcal/g) and that eating too much of it will increase the likelihood of weight gain and therefore obesity, indirectly increasing the risk of coronary heart disease, among other co-morbidities.
- 2.25 What have McDonald's done?
- Reduced the saturated fat content of the cooking oil by 83%;
  - Signed up to the Trans Fats pledge as part of the Government's "Responsibility Deal";
  - The cooking oil has been formulated to form a blend of rapeseed and sunflower oils to reduce levels of TFA to the lowest level possible;
  - They have completely removed hydrogenated fats from the vegetable oils;
  - Reduced the total fat in the milkshakes by 32% per serving since 2010;
  - Organic semi-skimmed milk is used in tea/coffee beverages and in Happy Meal milk bottles, with lower saturated fat levels compared with full fat variants.

**Sugar**

- 2.26 Dietary carbohydrates include sugars, starches and fibre, and each has approximately 4kcal/g.
- 2.27 The Scientific Advisory Commission on Nutrition (SACN) currently recommends that approximately 50% of total dietary energy intake should be from carbohydrates (SACN Report, 2015). In 2015 SACN recommended that the dietary reference value for fibre intake in adults be increased to 30g/day (proportionally lower in children) and that the average intake of "free sugars" (what used to be referred to as non-milk extrinsic sugars) should not exceed 5% of total dietary energy, which was in keeping with the World Health Organisation (WHO) recommendations.
- 2.28 Current average intake of free sugars far exceeds current recommendations, and excess intake is associated with dental issues and excess calorie intake which can lead to weight gain and obesity.
- 2.29 Over the last 10 years our reformulation work has resulted in 787 tonnes less sugar across our menu in 2017 versus 2007. What have McDonald's done?
- Reducing the sugar in our promotional buns, this removed 0.6 tonnes of sugar
  - Their Sweet Chilli Sauce has been reformulated to reduce sugar by 14% this equates to 155 tonnes of sugar removed
  - Their Festive Dip has removed 4 tonnes of sugar
  - Their famous McChicken Sandwich Sauce has reduced in sugar 45%
  - Their Tomato Ketchup has reduced in sugar by 20% which equates to 544 tonnes of sugar removed from the system
  - Their Chucky Salsa has reduced in sugar by 28%
  - Since 2016 they have reduced the sugar content of Fanta by 54%
  - The Toffee Syrup in their Toffee Latte has been reformulated to remove 20% of the sugar
  - McDonald's have also reformulated their Frozen Strawberry Lemonade this has led to 8% sugar reduction per drink

**Salt**

- 2.30 A number of health-related conditions are caused by, or exacerbated by, a high salt diet. The strongest evidence links high salt intake to hypertension, stroke and heart disease, although it is also linked with kidney disease, obesity and stomach cancer (Action on Salt website).
- 2.31 Salt is often added to food for either taste or as a preservative, and in small quantities it can be useful. Adults in the UK are advised not to exceed 6g of salt per day, but the average intake at a population level is consistently higher than this.
- 2.32 Salt does not directly lead to obesity; however, it does lead to increased thirst, and not everyone drinks water or calorie-free "diet" beverages. If our thirst increases and leads to increased consumption of calories from extra fluid intake, then this may lead to increased weight and obesity. 31% of fluid drunk by 4-18-year-old children is sugary soft drinks (He FJ et al, 2008), which has been shown to be related to childhood obesity (Ludwig DS et al, 2001).

## 2.33 What have McDonald's done?

- The salt content across the UK menu has been reduced by nearly 35% since 2005;
- Customers can ask for their fries to be unsalted;
- The salt added to a medium portion of fries has been reduced by 17% since 2003;
- The average Happy Meal now contains 19% less salt than in 2006
- Chicken McNuggets contain 52% less salt than in 2003.

## 2.34 The process continues. McDonald's have recently made the following changes to further improve their menu

- Making water the default drink in the Happy Meals;
- Making it easier for people to understand the existence of a wide range of under 400 and 600 calorie meal options that are available.

***Third Party Opinions of McDonald's***

## 2.35 McDonald's regularly receive supportive comments from independent third parties.

## 2.36 Professor Chris Elliott, of the Department for Environment, Food &amp; Rural Affairs' independent Elliott Review into the integrity and assurance of food supply networks: interim report, December 2013:

*"Each supply chain is unique, showing that there is no single approach to assuring supply chain integrity. The review has seen many examples of good industry practice that give cause for optimism. There is not space within this final report to reference all the good industry practices but those that have stood out include McDonald's and Morrisons."*

## 2.37 Jamie Oliver, the TV chef, food writer and campaigner speaking in January 2016 at the Andre Simon Food &amp; Drink Book Awards to the Press Association:

*"Everyone always liked to poke at McDonald's. McDonald's has been doing more than most mid and small-sized businesses for the last 10 years. Fact. But no one wants to talk about it. And I don't work for them. I'm just saying they've been doing it - 100% organic milk, free range eggs, looking at their British and Irish beef."*

## 2.38 Raymond Blanc, the TV chef and food writer, speaking in 2014, after having presented McDonald's UK with the Sustainable Restaurant Association's Sustainability Hero award:

*"I was amazed. All their eggs are free-range; all their pork is free-range; all their beef is free-range."*

*"[They show that] the fast-food business could change for the better. They're supporting thousands of British farms and saving energy and waste by doing so."*

*"I was as excited as if you had told me there were 20 new three-star Michelin restaurants in London or Manchester."*

## 2.39 Marco Pierre White, TV chef and food writer, speaking in 2007:

*"McDonald's offers better food than most restaurants and the general criticism of the company is very unfair."*

*"Their eggs are free range and the beef is from Ireland, but you never hear about that. You have to look at whether restaurants offer value for money, and they offer excellent value."*

These comments below represent independent opinions

### ***Supporting Active and Healthy Lifestyles among Employees and Local Communities***

2.40 McDonald's is focused on its people and is proud to have been recognised for being a great employer. For example:

Great Place to Work 2017 'Best Workplaces' – McDonald's are ranked 4th on the Great Place to Work 2017 'Best Workplaces' list (large organisation). This is our 11th year on the list.

- The Sunday Times Best Company to Work for List 2017 - we have made The Sunday Times 30 Best Big Companies to Work for list for the seventh consecutive year, achieving 6th position.
- Workingmums.co.uk Employer Awards 2017- Innovation in Flexible Working - in November 2017, we were awarded the Top Employer for Innovation in Flexible Working by workingmums.co.uk. The judges specifically recognised our approach to Guaranteed Hours contracts.
- The Times Top 100 Graduate Employers - the Times Top 100 Graduate Employers is the definitive annual guide to Britain's most sought after employers of graduates.
- Investors in People Gold - Investors in People accreditation means we join a community of over 15,000 organisations across 75 countries worldwide and it is recognised as the sign of a great employer.
- School leavers Top 100 Employees - McDonald's UK has been certified as one of Britain's most popular employers for school leavers in 2017, for the third consecutive year. An award voted for by 15-18 year olds in the UK.

2.41 In April 2017, McDonald's began to offer employees the choice between flexible or fixed contracts with minimum guaranteed hours. This followed trials in 23 restaurants across the country in a combination of company owned and franchised restaurants. All of their employees have been offered this choice and around 80% have selected to stay on flexible contracts.

2.42 Over the past 15 years, McDonald's has been proud partners with the four UK football associations: The English Football Association; The Scottish Football Association; The Football Association of Wales; and The Irish Football Association.

2.43 This partnership has seen them support over one million players and volunteers. In London since 2014, more than 1,000 people have attended their Community Football Days and have distributed 3,328 kits to accredited teams in the Capital. Of the 171 McDonald's restaurants within the M25, approximately 88 are twinned and actively supporting a local football club. This serves as an example of the company's willingness to confront the obesity crisis by a multitude of different approaches.

2.44 McDonald's do this work because increasing standards will ultimately create a better experience for young footballers, leading to increased participation and retention of children and young people in sport.

- 2.45 Their Community Football programme helps to increase participation at all levels. McDonald's remain absolutely committed to it and are in the final stages of planning a new programme for future years.

***Marketing***

- 2.46 As a business, McDonald's are committed to ensuring their marketing will continue to be responsible and will be used as a positive influence to help our customers make more informed choices.
- 2.47 McDonald's recognise that marketing has a part to play in influencing customers' choices. They comply, and go beyond, the UK's stringent regulations on marketing to children and use their marketing to help families understand more about the range of food options they have to offer.
- 2.48 McDonald's never market products classified as high in fat, salt or sugar to children in any media channel, at any time of the day. They are committed to ensuring that marketing is always responsible as well as informative, and that it reinforces positive food messages.
- 2.49 In addition, they go beyond the regulations in a lot of cases. For example, when advertising a Happy Meal, they only ever do so with items such as carrot sticks, a fruit bag, milk or water to ensure McDonald's are not marketing HFSS food to children. This has been done voluntarily since 2007.

***Summary***

- 2.50 In light of the above it is clear that McDonald's restaurants offer the district considerable and substantial economic benefits are supportive of active and healthy lifestyles. They also enable customers to make informed, healthy decisions from the wide-ranging menu options available. It is important that this is acknowledged, given the assumption in proposed Policy HS7 that all A5 uses should fall under a blanket ban if within a 400 m radius of an existing secondary school or sixth form college. Given the policy aim – which McDonald's supports – of promoting healthier lifestyles and tackling obesity, other alternatives would be more effective than allowing blanket bans in school areas, which in turn will have negative land use consequences.
- 2.51 We turn now to the main points of the objection.

### 3 The 400m Exclusion Zone is Inconsistent with National Policy

#### **Introduction**

- 3.1 This section of the objection considers the proposed policy against national policy. The lack of evidence to support the policy is also discussed in the next section.
- 3.2 National policy contains no support for a policy approach containing a blanket ban or exclusion zone for A5 (or indeed any other) uses. Such an approach conflicts sharply with central planks of Government policy such as the need to plan positively and support economic development, and the sequential approach that seeks to steer town centre uses – which include A5 uses - to town centres.
- 3.3 Planware Ltd feel that restricting hot food takeaways within a 400 m radius of an existing secondary school or sixth form college is in direct conflict with the framework as the approach is not positive, justified, effective or consistent.

#### **Practical Impacts**

- 3.4 The practical impacts on a 400m exclusion zone around the radius of an existing secondary school or sixth form college would have unacceptable negative land use consequences.
- 3.5 Consideration should be given to school rules in terms of allowing children outside of the school grounds at lunch times. This is overly restrictive on secondary schools and colleges, where some of the pupils will be legally classed as an adult. Additionally, some college and sixth form pupils will have access to a car, making such a restriction unsound.
- 3.6 No consideration is given to how the 400m is measured from the radius of an existing secondary school or sixth form college. Guidance should be provided as to whether this is a straight line or walking distance, as this can vary greatly.
- 3.7 The Framework does not support the use of planning as a tool to limit people's dietary choices. In addition to this, other A class uses can provide unhealthy products, therefore, there is limited justification for the proposed Policy HS7 to focus exclusively upon hot food takeaways (A5).

#### **Conflict with National Policy**

- 3.8 The local policy team do not appear to have fully assessed the potential impact of the policy. It essentially creates a moratorium against A5 uses leaving limited reasonable space for them to locate. This goes against national planning policy in that it contradicts paragraph 80 of the framework, which states:

*“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”*

- 3.9 Restricting the location of new A5 proposals through a radius of an existing secondary school or sixth form college within the boroughs of Nuneaton and Bedworth is not a positive approach to planning, thus failing to comply with the Framework.
- 3.10 The suggested restriction within proposed Policy HS7, takes an ambiguous view of A5 uses in relation to the proximity to all secondary schools and sixth form colleges. The policy would apply an over-generic approach to restrict A5 development with little sound planning reasoning or planning justification. This is contrary to paragraph 11 of the Framework that advises authorities to positively seek opportunities to meet development needs of their area.
- 3.11 Thus, is consistent with paragraph 80-81 of the Framework.
- 3.12 Para 80 states:
- “Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.”*
- 3.13 Para 81 states:
- Planning policies should:*
- a) set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration;*
- b) set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;*
- c) seek to address potential barriers to investment, such as inadequate infrastructure, services or housing, or a poor environment; and*
- d) be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.”*
- 3.14 As explained in this objection, there is a lack of evidence to demonstrate the link between fast food, school proximity and obesity. The need for evidence is emphasised in paragraph 31 of the Framework that states that each local plan should be based on adequate, up-to-date and relevant evidence. Neither the policy nor the supporting text address this point. Policy needs to be based on evidence and the lack of evidence should highlight a red flag concerning the draft policy.
- 3.16 The policy is likely to be damaging to the district's economy due to the fact that it is restricting hot food takeaways to an unprecedented level without regard to the local area or the economy.
- 3.17 The Framework cannot be interpreted to provide generic restrictions on a particular use class. There is no basis for such a blanket ban approach in the Framework or Planning Practice Guidance. In fact, the Planning Practice Guidance emphasises that planning authorities should look at the specifics of a particular proposal and seek to promote opportunity rather than impose blanket restrictions on particular kinds of development. In the section on “Health and Wellbeing”:

- 3.18 Paragraph: 002 (Reference ID: 53-002-20140306) states that in making plans local planning authorities should ensure that:

*“opportunities for healthy lifestyles have been considered (eg. planning for an environment that supports people of all ages in making healthy choices, helps to promote active travel and physical activity, and promotes access to healthier food, high quality open spaces, green infrastructure and opportunities for play, sport and recreation);”*

- 3.19 Paragraph: 006 (Reference ID: 53-006-20170728) says that a range of criteria should be considered, including not just proximity to schools but also wider impacts. It does not support a blanket exclusion zone. Importantly, the criteria listed are introduced by the earlier text which states:

*“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.”*

- 3.19 The above guidance serves to emphasise why it is important to look at particular proposals as a whole, rather than adopting a blunt approach that treats all proposals that include an A5 use as being identical.

## 4 The Policy is Inconsistent, Discriminatory and Disproportionate

- 4.1 The policy aims to address obesity and unhealthy eating but instead simply restricts new development that comprises an element of A5 use. Yet A1 retail outlets and A3 food and drink uses can also sell food that is high in calories, fat, salt and sugar, and low in fibre, fruit and vegetables, and hot food from an A3 unit can be delivered to a wide range of locations, including schools. This means that the policy takes an inconsistent approach towards new development that sells food and discriminates against operations with an A5 use. It also means that the policy has a disproportionate effect on operations with an A5 use.
- 4.2 The test of soundness requires that the policy approach is “justified”, which in turn means that it should be the most appropriate strategy when considered against the reasonable alternatives and based on proportionate evidence (paragraph 35 of the Framework).
- 4.3 Given the objectives of the policy, it ought to apply equally to all relevant food retailers. It is unclear how the policy would be implemented and work in a real life scenario.
- 4.4 The table below shows the kind of high calorie, low nutritional value food that can be purchased from a typical A1 high street retailer at relatively low cost. It is contrasted with the kind of purchase that could be made at a McDonald's. The evidence provided at **Appendix 1** confirms that 70% of purchases by students in the school fringe are purchased in non-A5 shop.<sup>1</sup>

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<sup>1</sup> The School Fringe: What Pupils Buy and Eat From Shops Surrounding Secondary Schools, July 2008, Sarah Sinclair and Professor J T Winkler, Nutrition Policy Unit of London Metropolitan University.

Company	Snack or meal	Salt (g)	Fat (g)	Calories (kcal)	Price (£)
McDonald's	Apple and Grape fruit bag	0.0	0.1	46	49p
McDonald's	Garlic Mayo chicken wrap	1.3	11.0	345	2.99
Greggs	Sausage roll	1.6	22.0	317	90p
Greggs	Cheese and Onion bake	1.6	30.0	436	1.35
Costa Coffee	Nutty flapjack	0.1	23.2	425	1.70
Costa Coffee	Ham and Cheese panini	2.5	13.5	427	3.95

- 4.5 If the policy is to be based on Use Classes, then the proposed policy should place restrictions on other use classes in addition to class A5. In fact, by restricting A5 uses only, the policy would encourage food purchases at other locations and allow for the overarching objectives to be compromised.
- 4.6 Finally, it is important that for the majority of days in the year (weekends and school holidays combined) schools are not open at all. Research by Professor Peter Dolton of Royal Holloway College states that "At least 50% of the days in a year kids don't go to school if we count weekends and holidays and absence. They are only there for 6 hours and all but 1 are lessons. So only around 2-3% of the time can [children] get fast food at school."<sup>2</sup>
- 4.7 For the minority of the year when schools are open, it is important to recognise that many schools have rules preventing children from leaving the school grounds during the school day, and in any event proximity to schools has no conceivable relevance outside of the particular times when children are travelling to or from school in circumstances where their route takes them past the development proposal.
- 4.8 The policy's blanket approach fails to acknowledge that the opportunity for children to access A5 development, as part of a school day, is extremely limited. The complete ban is wholly disproportionate to the circumstances when the concern underlying the policy might become a more prominent matter. Only limited purchases of food are made at A5 restaurants on journeys to and from school. Further details are set out in **Appendix 2**.

<sup>2</sup> Peter Dolton, Royal Holloway College, University of London & Centre for Economic Performance, London School of Economics, Childhood Obesity in the UK: Is Fast Food a Factor? [http://www.made.org.uk/images/uploads/2\\_Prof\\_P\\_Dolton\\_presentation.ppt](http://www.made.org.uk/images/uploads/2_Prof_P_Dolton_presentation.ppt)

## 5 The Policy is not Justified because of a Lack of an Evidence Base

- 5.1 The test of soundness requires policy to be evidence based. There is no evidence of any causal link between the presence of A5 uses within 400m of an access point to a local secondary school and college. Also, with no basis to indicate over-concentrated areas gives rise to obesity or poor health outcomes, justification is evidently incomplete. In fact, the studies that have considered whether such a causal connection exists [between proximity of a hot food takeaway and poor health outcomes], have found none.
- 5.2 Public Health England (PHE), which is part of the Department of Health and Social Care, expressly accept that the argument for the value of restricting the growth in fast food outlets is only “theoretical” based on the “unavoidable lack of evidence that can demonstrate a causal link between actions and outcomes.”<sup>3</sup>
- 5.3 A systematic review of the existing evidence base by Oxford University (December 2013), funded by the NHS and the British Heart Foundation ‘did not find strong evidence at this time to justify policies related to regulating the food environments around schools.’ It instead highlighted the need to ‘develop a higher quality evidence base’.<sup>4</sup>
- 5.4 The range of US and UK studies used to support many beliefs about obesity, including the belief that the availability of fast food outlets increased obesity, was comprehensively reviewed in papers co-written by 19 leading scientists in the field of nutrition, public health, obesity and medicine. Their paper “Weighing the Evidence of Common Beliefs in Obesity Research” (published in the Critical Review of Food, Science and Nutrition (Crit Rev Food Sci Nutr. 2015 December 6; 55(14) 2014-2053) found that the current scientific evidence did not support the contention that the lack of fresh food outlets or the increased number of takeaway outlets caused increased obesity (see pp16-17 of the report).
- 5.5 There appears to have been no critical assessment of whether the underlying evidence supports the proposed policy approach.
- 5.6 In this context, it is important to consider the evidence from the Borough of Waltham Forest, which introduced a school proximity policy in 2008 – about a decade ago. Over that period, the Public Health England data for the borough shows that there has been no discernible impact on childhood obesity rates – with these worsening in recent years. The borough’s Health Profile for 2017 records childhood obesity (year 6) at 26.1% up from 20.3% in 2012, the year London hosted the Olympic Games.
- 5.7 While it is accepted that the causes of obesity are complex, it is clear that the school exclusion zone policy had no discernible effect in Waltham Forest. More research and investigation is needed before such a policy approach can be justified by evidence.
- 5.8 The policy clause (bullet point #3) about not permitting A5 in an area of ‘over-concentration’ must be supported statistically to determine such an area, as it will become a significant part of Policy HS7. Failure to adopt over-concentration parameters outside defined centres does not

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<sup>3</sup> Public Health England & LGA, Healthy people, healthy places briefing: Obesity and the environment: regulating the growth of fast food outlets, page 5, November 2013

<sup>4</sup> J Williams, P Scarborough, A Matthews, G Cowburn, C Foster, N Roberts and M Rayner, Nuffield Department of Population Health, University of Oxford, page 13, 11th December 2013. A systematic review of the influence of the retail food environment around schools on obesity-related outcomes.

meet the four tests of the Framework. There is no justification and the draft policy is inconsistent and will likely cause negative land use implications.

## 6 Similar Policies Have Been Found Unsound When Promoted in Other Plans

- 6.1 The lack of evidence between proximity of takeaways to local schools and its impact on obesity has been confirmed in a number of planning decisions.
- 6.2 In South Ribble the Planning Inspectorate raised concerns about a similar 400m school proximity restriction on fast food, stating 'the evidence base does not adequately justify the need for such a policy', and due to the lack of information, it is impossible to 'assess their likely impact on the town, district or local centres'.<sup>5</sup>
- 6.3 Similarly, research by Brighton & Hove concluded that 'the greatest influence over whether students choose to access unhealthy food is the policy of the individual schools regarding allowing students to leave school premises during the day'.<sup>6</sup>
- 6.4 The recent Inspectors response to the London Borough of Croydon (January 2018) regarding a similar prohibition on A5 uses, (where a similar campaign to persuade takeaway proprietors to adopt healthy food options existed) confirmed that the councils own 'healthy' plans would be stymied by the proposed policy, as would purveyors of less healthy food. The policy failed to distinguish between healthy and unhealthy takeaway food, and "confounds its own efforts to improve healthiness of the food provided by takeaway outlets" and failed to "address the demand for the provision of convenience food". The Inspector concluded that because the reasons for the policy do not withstand scrutiny, they must be regarded as unsound.
- 6.5 The proposed 400m school exclusion zone and restriction of A5 developments in 'over-concentrated areas are two policies that we cannot agree to. The proposed approach is in direct conflict with the Framework. As mentioned in the above text, there is enough reputable information to demonstrate a current evidence base that fails to demonstrate the link between fast food and school proximity. There is also a clear absence of evidence to suggest restricting A5 use in 'over-concentrated' outside of town and district centres will lead to healthier lifestyles or influence an individual's dietary choice.

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<sup>5</sup> Letter to South Ribble Borough Council, 29th April 2013, from Susan Heywood, Senior Housing & Planning Inspector, The Planning Inspectorate.

<sup>6</sup> Brighton & Hove City Council & NHS Sussex, Hot-food takeaways near schools; An impact study on takeaways near secondary schools in Brighton and Hove, page 30, September 2011

## 7 Alternative Approaches

- 7.1 Planware Ltd considers there is no sound justification for bullet point #1 of the proposed new Policy HS7 which imposes commercial restrictions on restaurants that include an element of A5 use within a 400m radius of an existing secondary school or sixth form college. Bullet point #1 should therefore be removed to provide consistency and to abide by the Framework. No detail is given as to how regularly the obesity figures will be reviewed.
- 7.2 Planware Ltd would welcome and support proposals for a wider study of the causes of obesity and their relationship with development proposals, including examination of how new development can best support healthy lifestyles and the tackling of obesity. When a cogent evidence base has been assembled, this can then inform an appropriate policy response. That time has not yet been reached.
- 7.3 It is considered until such a time has been reached, bullet point #1 should be removed.

## 8 Conclusion

- 8.1 McDonald's supports the policy objective of promoting healthier lifestyles and tackling obesity. It does not consider that the proposed Policy HS7 is a sound way of achieving those objectives. The underlying assumption in the policy is that all A5 uses (and any restaurants with an element of A5 use) are inherently harmful to health. In fact, this is not supported by evidence. McDonald's own business is an example of a restaurant operation which includes A5 use but which offers healthy meal options, transparent nutritional information to allow healthy choices, and quality food and food preparation. The business itself supports healthy life styles through the support given to its staff and support given to football in the communities which the restaurants serve.
- 8.2 In addition, the policy fails to acknowledge the wider benefits that restaurants can have, including benefits relevant to community health and wellbeing. McDonald's own business is an example of a restaurant operation that supports sustainable development through the use of renewable energy, the promotion of recycling, the use of energy and water saving devices. The economic benefits of its restaurants in supporting town centres and providing employment opportunities and training are substantial, and important given that improved economic circumstances can support improved health.
- 8.3 The policy fails to acknowledge that food choices which are high in calories and low in nutritional value are made at premises trading with A1 and A3 consents and can be delivered from the latter. The policy makes no attempt to control these uses.
- 8.4 For the reasons given in this objection the proposed policy is very clearly inconsistent with government policy on positive planning, on supporting economic development and the needs of businesses. There is no justification in national policy for such restrictions to be applied to A5 uses. The effect of the policy had it existed in the past would have been to exclude restaurants such as McDonald's from major commercial and tourist areas.
- 8.5 For the reasons given in this objection the proposed policy lacks a credible evidence base, and similar policies have been found to be unsound by inspectors who have examined other plans. In the one London Borough that has had a similar policy, concerning a school exclusion zone, for around a decade (LB Waltham Forest). It has had no discernible effect on obesity levels, which have in fact increased since its introduction.
- 8.6 Given the overall objective of improving lifestyles and lowering obesity levels, restrictive policy regarding A5 development is a narrow-sighted approach. There is no mention of other possible reasons behind the national high levels of obesity. To discriminate against hot food takeaways alone is worrying and using the planning system to influence people's daily lifestyle choices is not acceptable.

## Appendix 1 – Food in the School Fringe Tends to be Purchased in Non-A5 Properties

1. Research by Professor Jack Winkler (London Metropolitan University) into the 'school fringe' – found just 3/10 purchases by students in a 400m school fringe were made in A5 properties.<sup>7</sup>
2. 70% of purchases in the school fringe were made in non-fast food outlets, and the same research concluded 'the most popular shop near Urban was the supermarket, with more visits than all takeaways put together'.
3. Professor Winkler's findings are not an isolated case. A report by Public Health England and the LGA states that fast food school proximity restrictions do 'not address sweets and other high-calorie food that children can buy in shops near schools.'<sup>8</sup>
4. Research by Brighton and Hove found that 'Newsagents were the most popular premises [in the school fringe], with more pupils visiting newsagents than any A5 premises'.<sup>9</sup>
5. Likewise, research for the Food Standards Agency on purchasing habits in Scotland found that 'Supermarkets were the place that children reported they most frequently bought food or drinks from at lunchtime'.<sup>10</sup>
6. Indeed, there are several more researchers who have found no evidence to support the hypothesis that less exposure to fast food, or better access to supermarkets are related to higher diet quality or lower BMI in children. <sup>111213</sup>

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<sup>7</sup> The School Fringe: What Pupils Buy and Eat From Shops Surrounding Secondary Schools, July 2008, Sarah Sinclair and Professor J T Winkler, Nutrition Policy Unit of London Metropolitan University

<sup>8</sup> Public Health England & LGA, Healthy people, healthy places briefing: Obesity and the environment: regulating the growth of fast food outlets, page 5, November 2013

<sup>9</sup> Brighton & Hove City Council & NHS Sussex, Hot-food takeaways near schools; An impact study on takeaways near secondary schools in Brighton and Hove, page 28, September 2011

<sup>10</sup> Jennie Macdiarmid et al. Food Standards Agency. Survey of Diet Among Children in Scotland (2010) - [http://www.esds.ac.uk/doc/7200/mrdoc/pdf/7200\\_final\\_report\\_part\\_2.pdf](http://www.esds.ac.uk/doc/7200/mrdoc/pdf/7200_final_report_part_2.pdf)

<sup>11</sup> Forsyth, A., et al., Do adolescents who live or go to school near fast-food restaurants eat more frequently from fast-food restaurants? Health and Place,, 2012. 18(6): p. 1261-9.

<sup>12</sup> An, R. and R. Sturm, School and residential neighborhood food environment and diet among California youth. American Journal of Preventative Medicine, 2012. 42(2): p. 129-35.

<sup>13</sup> Timperio, A.F., et al., Children's takeaway and fast-food intakes: associations with the neighbourhood food environment. Public Health Nutrition,, 2009. 12(10): p. 1960-4.

## Appendix 2 – Food Purchases made on School Journeys

**Only a limited number of journeys to and from school involve a purchase at a food outlet.**

1. This has been confirmed in research by the Children's Food Trust, which found that only 8% of all journeys to and from school included a purchasing visit to a food outlet.<sup>14</sup>

	<i>n</i>	Number of journeys to school	Number of journeys from school	Total number of journeys	Percentage (%) of all journeys
Journeys including a visit to a food outlet		86	87	173	
Journeys including a purchase from a food outlet		11	6	17	10
		8	6	14	8

2. Of the food purchases made on school journeys, confectionary was the most popular item sold – which McDonald's does not offer on its menu.

3. Likewise, research by Ashelsha Datar concluded that children 'may not purchase significant amounts of junk food in school' – partly due to 'fewer discretionary resources to purchase them'.<sup>15</sup>

4. Indeed, even where purchases were made, 'children may not change their overall consumption of junk food because junk food purchased in school simply substitutes for junk food brought from home.'

5. Similarly, research by Fleischhacker highlighted the need for future school-based studies to 'gather information on whether or not the students attending the studied schools actually eat at the restaurants near their schools.'<sup>16</sup>

6. This was also highlighted in the systematic review by Oxford University, which states 'future work should also incorporate a child's usual mode of travel to and from school into decisions about appropriate buffer distances.' The review added that age should also be taken into consideration, as this can impact on travel time and the availability of pocket change.<sup>17</sup>

<sup>14</sup> Children's Food Trust – November 2011, page 1 [http://www.childrensfoodtrust.org.uk/assets/research-reports/journey\\_to\\_school\\_final\\_findings.pdf](http://www.childrensfoodtrust.org.uk/assets/research-reports/journey_to_school_final_findings.pdf)

<sup>15</sup> Ashelsha Datar & Nancy Nicosia, Junk Food in Schools and Childhood Obesity, page 12, May 2013

<sup>16</sup> S Fleischhacker et al. A systematic review of fast food access studies, page 9, 17th December 2009

<sup>17</sup> J Williams, P Scarborough, A Matthews, G Cowburn, C Foster, N Roberts and M Rayner, Nuffield Department of Population Health, University of Oxford, page 13-14, 11th December 2013. A systematic review of the influence of the retail food environment around schools on obesity-related outcomes.