

Report of: **Executive Member for Housing and Development**

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## **SUBJECT: Adoption of Location and Concentration of Uses Supplementary Planning Document**

### **1. Synopsis**

- 1.1 The purpose of this report is to outline the proposed final content of the Location and Concentration of Uses Supplementary Planning Document (SPD). The SPD has been amended following the completion of a public consultation process over summer 2015, undertaken in line with the statutory consultation requirements.
- 1.2 Development of the SPD was prompted by the growing concern that certain uses – hot food takeaways, betting shops and payday loan shops - have adverse impacts (health impacts and amenity impacts), particularly where they are located near to sensitive facilities and/or are over-concentrated in a particular area. In Islington, there are significant concentrations of some of these uses relative to other local authorities. This is therefore a matter of concern given the wider challenges that the borough faces in terms of poverty and health inequality.
- 1.3 The SPD provides further guidance on the implementation of Council's Local Plan policies in relation to Development Management Policy DM4.3 (the Location and Concentration of Uses Policy). Once adopted, the SPD will be a material consideration in determining future planning applications to which it applies.

### **2. Recommendations**

- 2.1 To note the Consultation Statement and the proposed amendments to the Location and Concentration of Uses SPD (see Appendix 2).
- 2.2 To adopt the Location and Concentration of Uses SPD (at Appendix 1).

### 3. Background

- 3.1 Planning policy objectives at local, London-wide and national levels are all concerned to some degree with the protection of amenity, character and function. Planning policy is also increasingly important in improving health and wellbeing.
- 3.2 Islington's Development Management Policies DPD (Development Plan Document) is an integral part of Islington's Local Plan and has a number of policies which aim to ensure that Islington maintains and promotes development in a sustainable manner. Policy DM4.3 of the Development Management Policies DPD is a key part of achieving this aim.
- 3.3 The policy objectives are to protect and enhance the amenity of residents and businesses; and avoid development which could negatively impact the character and function of specific areas, particularly through over-concentration of a particular use or similar uses, or the location of a particular use near to sensitive facilities or infrastructure. Because of the borough's densely developed, mixed-use nature, uses which can affect amenity and public health are often in close proximity to residential uses and other sensitive uses such as schools.

#### **Purpose and content of the SPD**

- 3.4 The main objective of the SPD is to provide guidance on how to identify those areas where certain uses create concern, assess applications with a view to preventing over-concentration and put in place measures to minimise the impact of those proposals which might be acceptable. The SPD gives general advice with additional focus on three specific uses – hot food takeaways, betting shops and payday loan shops - which evidence suggests have the potential to cause adverse impacts where they are over-concentrated. Recent changes to the planning use classes mean that all new betting shops and payday loan shops will require planning permission, and no longer benefit from permitted development rights. This creates a need for robust guidance and assessment criteria with which to fully assess these applications. This Council lobbied hard for the above change to the Use Classes Order.
- 3.5 The SPD first sets out the broad planning policy framework, particularly relevant sections of the National Planning Policy Framework and Guidance (NPPF and NPPG) and the London Plan.
- 3.6 Relevant research and statistics are referenced throughout the SPD, particularly for the use-specific sections. The SPD also provides a self-assessment template, adapted from Heath Impact Assessment (HIA) screening guidance, which applicants should complete in order to identify whether certain proposals will have adverse impacts.
- 3.7 The location of existing hot food takeaways, betting shops and payday loan shops in Islington are mapped in relevant sections. These maps are a snapshot in time to give an idea of the current location and concentration of these uses. Updated survey and mapping may be produced on a case-by-case basis in future to ascertain an accurate picture to assist with determination of planning applications.
- 3.8 Section 5 of the SPD gives general guidance on how to assess over-concentration and sensitive locations. This section identifies key stakeholders who should be consulted for relevant applications and references a scenario assessment table which is included to help identify potential issues associated with over-concentration and sensitive locations.
- 3.9 Section 6 focuses on hot food takeaways. A5 hot food takeaway uses and non-A5 takeaway uses are mapped in relation to retail areas, schools and deprived areas. Seven Sisters Road, Blackstock Road, Holloway Road, Hornsey Road, Caledonian Road and Junction Road are identified as areas of concern with regard to the current concentration of A5 uses. Nearly 50% of A5 uses in the borough are along these roads. Overall, Islington has the second highest number of hot food takeaways per hectare of all London local authorities (behind only Tower Hamlets) and has nearly three times the England average amount of fast food outlets (based on Public Health England data). While this high rate may partly be a feature of the borough's relatively small size, it is nevertheless a factor (given that Islington has the highest population density of all UK local authorities) in individual's access to hot food takeaways. The SPD sets out how applications for new hot food takeaways will be assessed in order to prevent over-

concentration

- 3.10 The SPD also has a requirement that all new hot food takeaway premises will be 'conditioned' to require the operator to achieve the Healthy Catering Commitment (HCC) standard, an accredited scheme which promotes healthier eating. Applicants should also provide a detailed Hot Food Takeaway Management and Operating Strategy to demonstrate that potential adverse impacts have been fully considered and measures have been put in place to prevent and/or mitigate impacts. The SPD also reinforces policy DM4.3 with regard to new hot food takeaways in close proximity to schools.
- 3.11 Section 7 focuses on betting shops. The SPD maps all betting shops in the borough, with the Nag's Head identified as an area of concern. Islington has the second largest number of betting shops per hectare of all local authorities in Great Britain (behind the City of Westminster). While this high rate may partly be a feature of the borough's relatively small size, it is nevertheless a factor (given that Islington has the highest population density of all UK local authorities) in individual's access to betting shops.
- 3.12 The SPD guidance states that applicants should provide a detailed Betting Shop Management and Operating Strategy to demonstrate that potential adverse impacts have been fully considered and measures have been put in place to prevent and/or mitigate impacts. The SPD also proposes conditions to require display of information about debt advice services and gambling addiction charities, as well as sign-up to any scheme(s) which promote community safety and/or other good practice.
- 3.13 Section 8 focuses on payday loan shops and all known shops which offer payday loans are mapped. Islington has the fourth highest number of payday loan shops per hectare of all local authorities in Great Britain (behind the London Boroughs of Hammersmith & Fulham, Lewisham and Southwark). While this high per hectare rate may partly be a feature of the borough's relatively small size, it is nevertheless a factor in individual's access to payday loan shops. The SPD proposes conditions to require display of information about debt advice services and local credit unions, display of information about interest rates, fees and charges, as well as sign-up to any scheme(s) which promote good practice.
- 3.14 Betting shops and pay day loan companies often operate in close proximity to each other and the SPD indicates that the proximity of a proposed betting shop or pay day loan business to existing pay day loan businesses and betting shops will also be considered during the assessment of planning applications.

### **Consultation**

- 3.15 A discussion paper and questionnaire was released for public consultation between 10 March and 7 April 2014. In total, 51 responses were received and 76% of all respondents supported the intention to produce the SPD. These comments informed the development of the draft SPD. Each response is summarised and responded to in the Consultation Statement attached at Appendix 2.
- 3.16 A draft version of the SPD was published and the public consultation ran between 10 July and 4 September 2015. A total of 20 responses were received. Each response is summarised and responded to in the Consultation Statement attached at Appendix 2.
- 3.17 A quarter of these latter respondents were supportive of the measures proposed in the draft SPD. These respondents included the Greater London Authority, the London Healthier High Streets group and local community groups. Almost half the responses objected to the draft SPD. These objections were exclusively from the betting shop, payday loan and hot food takeaway industries. The remaining responses were neutral responses from statutory consultees.
- 3.18 The objections to the draft SPD can be broadly summarised as follows:

#### **Hot food takeaways (HFT)**

- The SPD is inconsistent with national planning policy; no reasoned justification is provided as required by planning regulations.
- SPD may prevent benefits of HFT including new jobs and training.
- Council's evidence base questioned. Responses claim that evidence shows that most unhealthy

food purchased by schoolchildren is purchased in non-A5 uses such as newsagents; that HFT are no more unhealthy than such uses; and that most trips to and from schools do not involve food purchases.

- There is a lack of evidence to justify links between HFT proximity to schools and obesity. Planning documents in other local authorities have been found unsound because of this.
- SPD is a generalised approach to HFT with no reflection of individual operators.
- Policy should set maximum allowable proportion of HFT in retail areas, rather than a distance radius. A distance radius does not take account of real barriers, e.g. busy roads.
- Claim that there are three times as many HFT than other local authority areas is not relevant as there may be three times as many retail outlets in total and therefore the proportion would not be unusual.
- The restriction of HFT near primary schools is problematic as primary school children do not travel to and from school unaccompanied. Reference to a planning appeal provided to support this view.

### Betting shops (BS)

- SPD conflates/duplicates planning and licensing regime; and may be susceptible to legal challenge as a result.
- SPD puts in place several onerous requirements.
- SPD is inconsistent with the National Planning Policy Framework (NPPF); no reasoned justification is provided as required by planning regulations.
- SPD does not have due regard to the Regulator's Code.
- SPD circumvents Gambling Act.
- No evidence of BS proliferation in Islington; the number of BS has decreased in recent years.
- No evidence that BS lead to demonstrable harm.
- No evidence that BS linked to increases in problem gambling; or that BS target deprived areas.
- Betting industry is already highly regulated; therefore SPD is unnecessary and unjustified.
- SPD may prevent benefits of BS including economic benefits; and increase in footfall and spin-off trade in local centres.
- Betting industry already operates schemes to ensure safety of staff and customers; SPD requirement is unnecessary.
- Changes to planning law in April 2015 have already increased the ability of local authorities to review betting shop applications.
- No evidence of harm from Fixed Odds Betting Terminals (FOBTs).
- Over-reliance on one appeal decision to justify certain measures outlined in the SPD.
- Use of data from the Campaign for Fairer Gambling is not credible.
- Proposed condition to compel participation in voluntary scheme is potentially unlawful.
- No justification is provided for the 500m radius to assess overconcentration.
- No evidence that a collection of different uses including BS cause adverse impacts on the vitality and viability of certain areas.
- Concern that the SPD claims that the entire borough is currently at a medium risk of overconcentration of BS; respondents noted that 2+ BS cannot be considered a cluster.
- SPD does not include any borough specific assessment of impacts.
- Claim that there are a high number of betting shops is misleading, as there may be a high number of retail uses generally and the proportion of BS may actually be small.
- Concern over use of inflammatory term 'double whammy' in relation to the combined impacts of BS and FOBT.

### Payday loan shops (PDL)

- The payday lending industry has changed; the number of PDL has reduced; therefore the proposed measures in the SPD are therefore unnecessary.
- The SPD duplicates FCA requirements.
- Concerns about the quality of the council's evidence base.
- The current absolute level of PDL cannot be considered clustering.
- The majority of payday lending is done online; therefore measures to tackle high street payday

lending will not be particularly effective.

- Measures which reduce PDL could force people to use unlicensed lenders.
- Specific consideration of BS location is unnecessary, as there is no evidence that people borrow to gamble.
- Requirement to provide information about credit unions risks raising expectations which cannot be met.
- SPD requirements should allow for positive impacts to be demonstrated, as well as negative impacts.

3.19 We have carefully considered all representations received, and provided detailed responses to these in the Consultation Statement (at Appendix 2).

3.20 Where necessary, minor amendments (largely points of clarification) have been made to the draft SPD in response to comments received during public consultation. There are no significant changes to the Council's overall approach to implementing policy DM4.3.

3.21 The final SPD incorporating these amendments is attached at Appendix 1. Executive are asked to:

- consider the comments received during public consultation;
- consider the Council's response to these comments and any related amendments to the drafting; and
- to adopt the SPD.

## 4. Implications

### Financial implications:

4.1 The cost of producing the SPD and consultation costs have been met through existing budgets within the Planning and Development division.

### Legal Implications:

4.2 The SPD has been prepared in line with the relevant planning regulations. The principal statutory policy basis for the SPD is policy DM4.3 of the Council's Development Management Policies DPD.

4.3 The SPD has been subject to consultation in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). Following adoption, the SPD will be a material consideration in the determination of all relevant planning applications.

### Environmental Implications

4.4 A Screening Statement to determine the need for a Strategic Environmental Assessment (SEA) has been prepared, in accordance with the *Environmental Assessment of Plans and Programmes Regulations 2004* and *European Directive 2001/42/EC*. The screening has concluded that an SEA does not need to be prepared as the SPD does not introduce new policies, but provides further guidance on adopted Local Plan policy that relates to location and overconcentration of uses and associated issues. This policy has been sufficiently appraised in the Sustainability Appraisals of the Local Plan documents adopted by Islington Council. It is considered that the Location and Concentration of Uses SPD will not result in any additional significant effects to those already identified through the higher level Sustainability Appraisals.

4.5 The guidance in the SPD will help to assess applications and may help to mitigate potential adverse environmental impacts of proposed developments. For example, requiring applications involving A5 uses to provide a Hot Food Takeaway Management and Operating Strategy could reduce associated environmental impacts such as noise, odour, congestion and litter.

## Resident Impact Assessment:

- 4.6 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.
- 4.7 The assessment of equality impacts is an iterative process and has been considered throughout the development of the SPD. The initial screening for a Resident Impact Assessment (RIA) was completed on 15 April 2015 in respect of the draft SPD, which was then consulted on. This screening did not identify any negative equality impacts for any protected characteristic or any human rights or safeguarding risks.
- 4.8 The final SPD at Appendix 1 includes amendments following consultation. The RIA has been revisited in March 2016, in respect of the amendments. No negative equality impacts for any protected characteristic or any human rights or safeguarding risks were identified. Adoption of the SPD is likely to have positive impacts on health inequalities and poverty.

## 5. Reasons for the recommendations

- 5.1 Once adopted, the SPD will be used by the Council to assess planning applications for hot food takeaways, betting shops and payday loan shops, as well as any other planning application where there is a potential risk of adverse impacts by virtue of the location of the proposed use, and/or a potential overconcentration. It will be a material consideration in the determination of such planning applications.
- 5.2 Adoption of the SPD by the Council will provide additional guidance as to the factors that the Council will take into account in determining planning applications, and put in place measures to minimise the possible negative impact of those proposals.

### Signed by:



6 April 2016

**Executive Member for Housing and  
Development**

Date

### Appendices:

1. Location and Concentration of Uses SPD – Final Version
2. Location and Concentration of Uses SPD – Regulation 12(a) Consultation Statement

### Background papers:

None

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