

Turning to your Policy and Public Health comments and your suggested reason for refusal (i.e. based on distance to Oakhill Primary Academy). I have had an opportunity to review these. I can see that these accept that the Council's PAN focuses on secondary schools and acknowledges that this site is not within walking distance of any secondary schools or other places where children and young people congregate. I understand the objection is based on the new NPPF (2024), which restricts hot food takeaways that are: "*within walking distance of schools and other places where children and young people congregate*".

The Council's suggestion appears to be that this expands the Council's test to now include "primary schools"; however, the NPPF does not expressly state this.

Notwithstanding this, the thrust of the Council's guidance is focused on secondary-aged children, who often travel to and from school without a responsible adult, and often exit school grounds at lunchtime. This is evident in the drafting of the PAN.

As we flagged in our submission, the proposals are simply adding a drive thru lane to the restaurant unit that has already been approved by the Council. The proposed scheme is no closer to the identified primary school than the consented development (ref: 2024/0741), which enables Burger King to occupy the site.

The Council has provided no evidence to suggest that the addition of the drive-thru lane would directly result in any negative health outcomes when compared to the extant permission. By its very nature, primary school children would not be using the drive-through lane without the presence of a responsible adult. The PAN's focus on facilities near secondary schools or places where secondary school-aged children gather makes it clear the concern is children making uninformed decisions without a responsible adult present, when going to and from school, and at lunchtime. The drive-thru lane would have no effect in this regard.

Furthermore, the PAN and the NPPF both refer to "walking distance". Again, the proposed development is no closer in walking distance than the existing permission for Burger King.

Notwithstanding this, the Council's suggestion that the 400m should be a "radius" is not considered appropriate. This is contrary to Public Health England's guidance for 'Using the planning system to promote healthy weight environments'. This makes it clear that 400m should be considered as a "walking distance", stating:

*"The evidence and publications suggests that limiting the availability of takeaways within walking distance of schools can contribute to tackling the rising levels of obesity and other health impacts such as cardiovascular disease. **400 metres has been considered a reasonable walking distance** and is outlined within the Urban Design Compendium 2 and CIHT*

Guidelines for providing journeys on foot. The 400-metre zone is an accepted standard across many planning policies.

It goes on to state that:

“Each application will be considered on its own merits and the 400m zone must be considered in the context of the local topography and context of the individual application. There are mitigating factors that can be considered, for example the potential for natural or man-made barriers that limit accessibility from schools, even within the 400m direct line exclusion zone”.

The accepted metric for distance is 400m as a walking distance, and this has been established at appeal as needing to be measured from the door of an establishment to the school gate, which is only logical, as a linear distance doesn't account for natural and man-made barriers.

I have measured this using satellite mapping, following pedestrian routes, and this comes to **over 675m** door to gate, which is also considered to be over a 10-minute walk. It is also pertinent that children of primary school age are likely to walk more slowly, and the walking times would therefore be greater than mapping estimates. Similarly, when measured from entrance to entrance 'as the crow flies', this is also over 400m.

There is no justification for a metric of measuring from the centre of the school. However, even in this scenario, the measurement from the school is practically 400m in any case, which doesn't account for the obvious natural and man-made barriers between the two sites that would prevent such a journey.

Accordingly, the Council's intended reason for refusal based on PAN paragraph 5.7 and NPPF 97 is misguided for the following reasons:

- The Council's PAN is focused on secondary schools only, as justified by the explanatory text contained within it.
- Notwithstanding whether primary schools should be considered, the walking distance between the nearest primary school is well above 400m, at 675m.
- The proposals simply add a drive thru lane to a consented Burger King restaurant (ref: 2024/0741). The drive thru lane would not make the site more likely to be visited by primary school-age children.
- The proposed development is no closer to the primary school than the extant planning permission.

We would therefore be grateful if you could reconsider this point and would be happy to discuss this further.

Transport Comments

In reply to the Transportation Comments, our transport consultant provides the below reply:

Ultimately, for the wider car park, the layout is no different than the consented scheme (ref: 2024/0741). The area of change is in and around the drive-through lane and its interaction with the delivery bay and so it is this area we have reviewed (which we also understand to be the area of main concern of highways). Starting with kerbing, the vehicle tracking of a mini-bus (the worst-case vehicle) shows the body of a vehicle does not pass outside of the kerb in any location in the drive-through. Vehicles need to pass close to buildings and the ordering points in places to adequately collect food, etc. Speeds will be low. Bollards are located to reinforce building clearances in places (such as on the approach to DT Window 1).

With regards to possible conflict with vehicles entering and exiting the lane and its relationship with the service bay, we have reduced the area for the servicing bay (but is still able to adequately accommodate service vehicles, as per a revised GA-003). This reduction in bay size allows vehicles to have more space to turn out of the drive-through lane, as is shown on a revised GA-002. Whilst highways have requested a 0.5m clearance, this is now shown to be circa 0.8m. It is also reminded this is in the scenario a minibus is exiting the lane at the exact same time a minibus is seeking to enter the lane, a scenario not expected to be frequent.

Updated plans provided for Transport purposes.

Yorkshire Water Comments

I can confirm that our engineers have spoken with Yorkshire Water and confirm all points should be resolvable. They have already prepared an updated drainage statement, layout, and flow control details with revised calculations to reflect a 1 in 1 year storm event. I attach these to this email.

Furthermore, clarification has been provided regarding the tree of concern, and YW has provided guidance regarding planting that could be appropriate in the identified location. YW noted that they would not be concerned with *“shallow rooting shrubs, as well as requiring a 5m minimum easement from the existing 600mm dia. Sewer”*. We can update the Landscape Scheme accordingly, or access this by planning condition.

Overall, we're keen to work with the Council to address these points so that Burger King can come forward at the site, making use of this underutilised part of the site and generating local job opportunities. I would be happy to offer an extension of time to cover this discussion.