

BUSINESS SUPPORT OVERVIEW AND SCRUTINY COMMITTEE

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HOT FOOD TAKEAWAYS IN MEDWAY: A GUIDANCE NOTE

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Summary

This report and an accompanying guidance note (Appendix A), addresses the link between obesity and planning in Medway and specifically regarding hot food takeaways.

The guidance proposes a restriction on the hours of operation of hot food takeaways within 400m of schools and other measures to control numbers and location. Following consultation, the intention is to implement a final guidance note that can form a material consideration in the determination of planning applications for hot food takeaways.

1. Budget and Policy Framework

- 1.1 The guidance note builds on a 'saved' local plan policy and so is in accordance with the policy framework. It is therefore a matter for the Cabinet. It does not have any significant budget implications but it is recognised that there is the possibility of appeals against refusals of planning applications, and their associated costs. However it is considered that the guidance note will assist in defending costs against the Council.
- 1.2 The guidance also proposes that a levy be imposed upon new hot-food takeaways locating in Medway through section 106 agreements. Monies generated would be used to tackle unhealthy eating habits in Medway by educating people on healthier food options.

2. Background

- 2.1 In 2010, a Task Group of the Children and Young People Overview and Scrutiny Committee recommended that the Council investigate the possibility

of developing a Supplementary Planning Document restricting fast food outlets from operating near schools, parks and leisure centres or at areas that are already highly concentrated with fast food outlets. This was agreed by Cabinet on 28 September 2010. This matter was also identified as a priority action for 2013/14 in the Health and Wellbeing Strategy for Medway 2012-2017, in promoting healthy eating. The National Planning Policy Framework (2012) has made explicit the role planning should play in creating healthier environments.

- 2.2 The Joint Health and Wellbeing Strategy has identified the need to reduce health inequalities in developing new local policy in tackling obesity in defined neighbourhoods. It further indicates that planning has a role in restricting access to unhealthy fast food. An integrated approach should be taken to tackle the issue.
- 2.3 Ambitions set out in the Sustainable Community Strategy for Medway states that every child should have a good start in life, and that Medway residents should enjoy good health, wellbeing and care.
- 2.4 Given this a guidance note has been developed by the Planning and Public Health teams that builds on a workshop held with Members and officers on this topic in January 2013. Following this meeting, a cross departmental project group of planning and public health officers was set up to review existing planning policy and examine the scope for new guidance to manage the location of hot food takeaways. This is seen to be a starting point for further work on embedding health considerations in planning Medway's environment.

National and Local Context

- 2.5 Currently one in four adults in England are obese. There is a clear link between increased body fat (obesity) and risk of medical conditions including type 2 diabetes, cancer, heart and liver disease. The UK-wide NHS costs attributable to overweight and obesity are projected to reach £9.7 billion by 2050, with wider costs to society estimated to reach £49.9 billion per year.
- 2.6 The Medway Joint Strategic Needs Assessment, 2012 shows that an estimated 30 per cent of Medway's adult population and over 20 per cent of children (at the age of ten) are classified as obese.
- 2.7 The National Planning Policy Framework has made explicit the relationship between health and planning. Paragraph 171 states that local planning authorities should work with public health leads and health organisations to understand and take account of the health status and needs of the local population (such as for sports, recreation and places of worship), including expected future changes, and any information about relevant barriers to improving health and wellbeing.
- 2.8 Within the Medway Local Plan 2003, policy R18 sets out the Council's approach to development of restaurants and hot food takeaways. It states that there should not be a proliferation of a single use in an area that would have a negative impact on the environment or highway safety.

- 2.9 The approach put forward in the proposed guidance note follows best practice that is supported by appeal decisions. Guidance similar to that proposed is used to refuse planning permission for hot food takeaways in unsuitable locations, or to impose restriction on the hours of operation of such businesses.
- 2.10 It is proposed that development of a new hot food takeaway within 400m of a school should be subject to a condition restricting the hours of operation during the school day, unless within a defined centre. The aim is to establish appropriate healthy eating habits and reduce the rate of childhood obesity in the local population.
- 2.11 The guidance also addresses concentration and clustering, the location of outlets and their effect on retail viability and vitality.

3. Options

- 3.1 The issue of obesity has been highlighted in a number of forums, and the National Planning Policy Framework has made this issue one which planning can address.
- 3.2 Options to progress work to tackle the issue of obesity include:
- Produce a guidance note to inform decision-making when determining planning applications for hot food takeaways,
 - Await further applications for hot food takeaways, relying on extant policy and officers' independent assessment of applications. This has the risk of an increase of hot food takeaways in unsuitable locations.
- 3.3 An increase in the number of takeaways is likely to have a negative effect on the residents of Medway, giving rise to further obesity and failing to take account of the initiatives and strategies implemented by the Public Health Directorate.
- 3.4 An over-concentration of such uses contributes to a lack of vitality and viability in neighbourhood and town centres, contrary to the National Planning Policy Framework.

4. Advice and analysis

- 4.1 An estimated 30 per cent of Medway's adult population and over 20 per cent of children (at the age of ten) are classified as obese. In 2012, 23.8% of 4-5 year olds and 34% of 10-11 year olds were classified as overweight or obese in Medway, higher than the national average of 22.6% and 33.0% respectively.
- 4.2 Estimates of the costs of overweight and obesity to NHS Medway by 2015 are £77.4 million; £45 million attributed to obesity alone.
- 4.3 The proposed guidance expands on policy R18 in the Medway Local Plan 2003. It aims to restrict the proliferation of hot food takeaways, in particular in relation to schools.

- 4.4 Once the guidance has been published, it will become a material consideration in the assessment of planning applications for hot food takeaways. A material consideration is a matter that should be taken into account in deciding a planning application or an appeal against a planning decision.
- 4.5 It is intended that the information gathered to produce the guidance note will be used to inform policy in a new local plan.
- 4.6 A Diversity Impact Assessment Screening form (Appendix B) has been carried out which identifies the main stakeholders; the population of Medway, fast food businesses, schools and planning agents. It further highlights that implementation of the guidance note may have a differential impact upon BME groups as there is the potential that hot food takeaways may have a higher representation of businesses from this group.
- 4.7 Consultation on the proposed guidance will include representatives of BME and faith groups, and small business associations. This will seek to gather information on any differential impact and promote understanding of the guidance.
- 4.8 The Health and Wellbeing Board considered the draft guidance note on 9 January 2014. Board Members welcomed the guidance and the point was made that now Public Health were embedded into the local authority more guidance should follow to create an environment which supports people to make healthy lifestyle choices. Following questions it was agreed that consultation should be undertaken with schools and faith communities and that the research, which supports the view that preventing such outlets close to schools actually improves healthy eating, should be shared with the Board. Board Members felt that the co-operation of schools would be important in getting the messages about healthy eating across and reference was made to the Member Task Group on Healthy Eating and its impact. One Board Member expressed caution at the guidance on the basis that the Planning Inspectorate may not be supportive of it and would be likely to overturn any decision made by the local authority following any appeal.
- 4.9 The Health and Wellbeing Board gave their support to the consultation process and suggested that schools are invited to be involved in the application of the guidance.

5. Risk management

Risk	Description	Action to avoid or mitigate risk
Decision not to implement the guidance note	Medway Council would not be taking into consideration paragraph 171 of the National Planning Policy Framework and would fail to adopt an integrated approach to tackling obesity in Medway. An increase in levels of obesity would act as a trigger. Should this materialise, the health of Medway's residents would deteriorate. Risk is considered significant and critical - C2.	The guidance note will set out the objectives of planning in tackling obesity through the built environment in accordance with the National Planning Policy Framework.
Possibility of there being more appeals	Appeals against the local authorities decision to refuse hot food takeaways. Risk is considered high and critical – B2	Consultation on the guidance note will ensure its robustness. The guidance is informed by best practice and case law in other planning authorities. Using the guidance note will help build a case for refusing a planning application for a hot food takeaway in inappropriate locations.

6. Consultation

- 6.1 Consultation will be carried out in accordance with the Statement of Community Involvement that is used to guide all planning policy documents in order to effectively gather the views of stakeholders and the wider public.
- 6.2 It is intended that there is early engagement with the relevant internal and external stakeholders. Internal consultation will be undertaken with those dealing with frontline services and environmental health among others. External consultation will include the public and specifically members of the minority and ethnic communities, parish councils and small businesses.
- 6.3 It is proposed that the guidance note return to Cabinet for approval in June.

7. Financial implications

- 7.1 Costs of developing the guidance can be met from existing budgets. It is recognised that there is the possibility of appeals against refusals of planning applications, and their associated costs. However it is considered that the guidance note will assist in defending costs against the council.

8. Legal implications

- 8.1 Preparation of the Council's guidance note including the process of public consultation and consideration of representation, is regulated in accordance with the Town and Country Planning (Local Planning) Regulations 2012.
- 8.2 Once the guidance note is published, it will be a material consideration to be used alongside other planning considerations when determining planning applications for hot food takeaways. A material consideration is a matter that should be taken into account in deciding a planning application or on an appeal against a planning application.

9. Recommendation

- 9.1 That the Committee consider the draft Guidance Note (attached at Appendix A) and whether it wishes to submit views on it for subsequent consideration by the Cabinet.

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Background papers

Medway Local Plan (2003). Available at:

<http://www.medway.gov.uk/environmentandplanning/developmentplan/localplan.aspx>

Medway Joint Health and Wellbeing Strategy (2012-2017). Available at:

<http://www.medway.gov.uk/pdf/health%20and%20Well-being%20StrategyFINAL.pdf>

The Medway Joint Strategic Needs Assessment, 2012. Available at:

<http://www.medway.gov.uk/pdf/health%20and%20Well-being%20StrategyFINAL.pdf>

Sustainable Community Strategy (2010-26). Available at:

http://www.medway.gov.uk/pdf/sustainable_com_strategy_web.pdf

Medway Statement of Community Involvement, January 2012

<http://www.medway.gov.uk/pdf/Statement%20of%20Community%20Involvement%202012.pdf>

National Planning Policy Framework (2012). Available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60772/116950.pdf