

BUSINESS SUPPORT OVERVIEW AND SCRUTINY COMMITTEE

3 JULY 2014

HOT FOOD TAKEAWAYS IN MEDWAY: A GUIDANCE NOTE

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Summary

This report outlines the process and results of consultation carried out on the draft proposal for a planning guidance note on Hot Food Takeaways in Medway attached as Appendix 1.

This report is for the Committee's consideration prior to the submission of a report to Cabinet on 15 July 2014. Should Cabinet decide to adopt the guidance note, it will form a material consideration that will be used in determining planning applications for new hot food takeaways in Medway.

1. Budget and Policy Framework

- 1.1 The guidance note builds on a 'saved' policy R18 within the Medway Local Plan 2003 and so it is in accordance with the policy framework.
- 1.2 The costs of the work have been met within existing budgets, and the consultation methodology sought to engage people through the use of existing meetings where possible to minimise costs and reach wider audiences.

2. Background

- 2.1 Work on the preparation of a "Hot Food Takeaways in Medway Guidance Note" has emerged as part of a holistic package of measures to promote better health in Medway. It seeks to manage the siting and opening hours of new hot food takeaways particularly in locations in close proximity to schools. The guidance note was presented to Cabinet in draft form on 11 March 2014. Cabinet approved the publication of the guidance note for public consultation.
- 2.2 The draft guidance note was brought before Business Support Overview and Scrutiny Committee on 19 March 2014. At that meeting, members provided comments on the draft guidance note, advised on community groups and organisations to be consulted, and requested that the results of the public

consultation be submitted for consideration by the Committee at its meeting on 3 July 2014 before the matter being reported to Cabinet.

- 2.3 Public consultation was carried out over a 6-week period from 20 March to 2 May 2014.

3. Options

- 3.1 The council considered a range of options in designing the consultation methodology on the draft Hot Food Takeaway guidance note attached at Appendix 1.
- 3.2 Following analysis of the responses to the consultation, officers will consider options in progressing guidance in this area. This includes not progressing with the guidance note; presenting an amended guidance note for consideration by Cabinet; or seeking Cabinet approval of the guidance as set out in the consultation draft. This assessment will form the basis of the report to Cabinet on 15 July 2014.

4. Advice and analysis

- 4.1 The Council sought the views of the local community, businesses and organisations on the proposals in the draft Hot Food Takeaway guidance note to seek to manage the location and opening hours of new takeaways. The consultation process is outlined in Section 5 below. There were 20 formal written responses received.
- 4.2 It was decided to seek the support of the Medway Young Inspectors to directly get the views of young people on the proposals in the draft guidance note. 147 young people responded to surveys conducted by the Medway Young Inspectors.
- 4.3 Of the 20 formal responses received, 14 were in support of the proposal, 5 were opposed and 1 response was neither in support or opposed to the proposal. 75% of the respondents indicated they were residents. The remainder were a mix of business interests, both residents and business owners, or did not identify their interests in responding. A detailed analysis of the responses is attached as Appendix 2.
- 4.4 The responses received from the schools varied in their opinion. The sole response from a primary school was in opposition to the proposal, stating that new hot food takeaways within the borough and located within 400 metres of a school should not have their opening hours restricted. This particular school was not within 400 metres of an existing hot food takeaway.
- 4.5 Two secondary/grammar schools responded to the consultation and were supportive of the proposals.
- 4.6 Of the 147 respondents to the Young Inspectors surveys, 56.4% agreed that hot food takeaways should have restricted opening hours during school lunch times if they are located within 400 metres of schools. Further details of the results of this survey of young people are attached at Appendix 3.

- 4.7 Views raised by the Business Support Overview & Scrutiny Committee in March 2014 were also considered. The majority of the Members were in favour of implementing some measures to tackle the issue of obesity in Medway particularly among children. However concern was raised as to how the proposals would be measured and the effectiveness of the document in bringing about the desired changes.
- 4.8 One Member of this committee was wholly opposed to the proposals as set out in the guidance note, and has responded to the consultation. This response has been considered in Appendix 2.
- 4.9 There was a general consensus amongst most groups who were consulted through targeted meetings that there is a high concentration of hot food takeaways in Medway, and restrictions on opening hours and measures to reduce the prevalence of these uses in Medway were considered favourable.
- 4.10 A Diversity Impact Assessment Screening Form (Appendix 4) has been carried out on the guidance note document.
- 4.11 The draft guidance note proposes the restriction on the opening hours of new hot food takeaways in Medway during the school day. This would apply to new hot food takeaways locating within 400 metres of schools, but not if located in a defined retail, local or neighbourhood centre. Following consultation, it is suggested that the guidance note be amended to restrict opening hours of new hot food takeaways during school lunchtime hours and for a period after school. It would only apply to new hot food takeaways locating within 400 metres of secondary schools, but not if located in a defined retail, local or neighbourhood centre.
- 4.12 Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects.
- 4.13 Areas of high footfall such as town centres would not be affected by a restriction on hours of operation. In town, neighbourhood and local centres there would be consideration of a threshold permitting new hot food takeaways where there is not an existing over provision (as set out in paragraph 5.12 of the draft guidance note), or where it would not undermine the primary retail function of that area. The majority of hot food takeaways within Medway are located in defined centres.
- 4.14 Hot food takeaways that are given planning permission will be required to pay a levy through the use of a Section 106 agreement. This has been reflected in the proposed changes to the Developers Contribution Guide which will be reported to Cabinet on 15 July. None of the comments received as part of the consultation have been opposed to this element of the proposal.
- 4.15 Planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in kind and scale to the development.

- 4.16 Officers have considered the comments made to the consultation, and how the council should respond. This information is set out in Appendix 2. The assessment will inform the report to Cabinet on 15 July to determine the Council's position on the guidance note.

5. Risk Management

Risk	Description	Action to avoid or mitigate risk	Risk Rating
Ineffective consultation methods employed	Inadequate consultation methods employed. Not receiving comments from the public or business interests in the area.	Consultation designed to targeting a wide audience, particularly young people.	D3

6. Consultation

Methods of Consultation

- 6.1 The Council sought to widely publicise the draft guidance proposals. The Council's website was updated to make people aware of the draft guidance note. This was posted on the front page of the website to encourage responses to the consultation. Both the guidance note and accompanying response form were uploaded together with some introductory text.
- 6.2 A document with frequently asked questions was also uploaded to further explain the guidance note, and to help people understand the proposal and encourage a greater response rate.
- 6.3 It was considered that by attending existing community meetings where possible, this would appropriately target specific groups, in environments they are comfortable in, and therefore generate a wider response. Where it was not possible or practicable to attend a scheduled meeting, offers were made to facilitate meetings in Gun Wharf.

Consultees

- 6.4 Various stakeholders were consulted as part of this public consultation. These included internal stakeholders within the Council and other public entities that were considered likely to have an opinion on this matter and/or may be affected by it. Officers noted the advice of the Business Support Overview and Scrutiny Committee given at the meeting in March 2014, on the need to contact specific community groups and organisations during the consultation process.
- 6.5 Particular contacts were made to the Universities at Kent, schools in Medway, the Federation of Small Businesses, Kent Invicta Chamber of Commerce, the Clinical Commissioning Groups (CCG), Public Health England (PHE), Medway Ethnic Minority Forum, AIR Football, and residents and young people within the area.
- 6.6 As part of the consultation, officers met with resident groups, attended a youth club to obtain the views of young people, spoke to members of the

Medway Ethnic Minority Forum, collaborated with colleagues and stakeholders at a Public Health event and contacted members of the CCG and PHE directly. The schedule of responses to the consultation is appended to this document as Appendix 2.

- 6.7 Every endeavour was taken to liaise with as wide a range of people as possible. Where a meeting was not practicable, it was encouraged that people respond to the consultation using the online response form.
- 6.8 The Medway Young Inspectors were used to survey young people in various locations in Medway, and to report back on the findings. A presentation of the survey results is set out at Appendix 3.

7. Financial implications

- 7.1 The costs of the consultation have been met within existing budgets. The consultation methodology made effective use of established community organisations, groups and settings to reach a range of people at minimal costs.

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 If the guidance note is approved by Cabinet, 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 decision.
- 8.3 Members' attention is drawn to the public sector equality duty which is set out in page 1 of the Diversity Impact Assessment at Appendix 4. Members will also see the potential risks of failing to comply at the foot of page 1.

9. Recommendations

- 9.1 That the Committee note the responses received on the consultation on the draft Hot Food Takeaway guidance note and forwards any comments to Cabinet.

Lead officer contact

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Background papers

Hot Food Takeaways in Medway: A Guidance Note (Consultation Draft, 2014).

Available at:

[http://www.medway.gov.uk/pdf/Hot%20Food%20Takeaways%20in%20Medway%20-%20A%20Guidance%20Note%20\(2\).pdf](http://www.medway.gov.uk/pdf/Hot%20Food%20Takeaways%20in%20Medway%20-%20A%20Guidance%20Note%20(2).pdf)