



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE CABINET

WEDNESDAY 2ND DECEMBER 2009, AT 6.00 P.M.

THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

SUPPLEMENTARY DOCUMENTATION

The attached papers were specified as "to follow" on the Agenda previously distributed relating to the above mentioned meeting.

9. Scrutiny Board Report on Hot Food Takeaways (Pages 1 - 58)
13. Corporate Safeguarding Policy (Children, Young People and Vulnerable Adults) (Replacement Report) (Pages 59 - 64)

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

26th November 2009

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Agenda Item 9

THE ENCLOSURES FOR THIS ITEM WILL FOLLOW ON A
SUPPLEMENTARY AGENDA

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BROMSGROVE DISTRICT COUNCIL

CABINET

2ND DECEMBER 2009

SCRUTINY INVESTIGATION INTO IMPACT OF HOT FOOD TAKEAWAYS ON COMMUNITIES AND THE ENVIRONMENT

Responsible Portfolio Holders	Councillor R. Hollingworth – Leader of the Council Councillor Mrs J. Dyer M. B. E.
Responsible Head of Service For Overview and Scrutiny	Mrs. C. Felton – Head of Legal, Equalities and Democratic Services

1. SUMMARY

- 1.1 To consider the findings and recommendations contained within the attached Scrutiny Board report on Hot Food Takeaways (Appendix 1).

2. RECOMMENDATION

- 2.1 The Cabinet is requested to:
- (a) consider the attached Scrutiny Board report and recommendations contained within it;
 - (b) to either agree, amend or reject each of the Scrutiny Board recommendations contained in the report;
 - (c) provide an Executive Response to the Scrutiny Board report and recommendations, which includes an Action Plan to summarise how and when each of the agreed scrutiny recommendations will be implemented.

3. BACKGROUND

- 3.1 The topic of hot food takeaways was first considered by the Scrutiny Board at its meeting on 19th May 2009. This was in response to a scrutiny proposal form which had been submitted by Councillor David Pardoe.
- 3.2 Subsequently a meeting of the Joint Overview and Scrutiny Board was held to consider a petition which had been received by the Council from local residents in Rubery. The April 2009 changes to the Constitution assigned the function of receiving petitions to the Joint Overview and Scrutiny Board. The signatories to the petition were concerned about the increase in number of hot food takeaways in Rubery High Street and the effect late night opening was having in terms of problems with litter, crime and disorder and antisocial behaviour. The Joint Overview and Scrutiny Board met on 9th

June 2009 when the petition was presented by Sarah Campkin, a local retailer who had organised it.

3.3 The terms of reference for investigation were to find out more information about the following aspects of hot food takeaways:-

- The approach of other local authorities to the regulation of hot food outlets
- The content and selection of food offered and the contribution to healthy eating
- The effect of hot food takeaways on commercial activity
- The effect hot food takeaway stores on street cleanliness and litter
- Use of licensing conditions
- Enforcement of planning conditions
- Crime and Disorder issues.

3.4 Further details can be found on the Terms of Reference and Membership of the Scrutiny Board investigation in the attached report.

4. OVERVIEW AND SCRUTINY RECOMMENDATIONS

4.1 Overview and Scrutiny committees do not have decision making powers but make recommendations to the Cabinet and other decision makers. Scrutiny recommendations are published and presented to the Cabinet in accordance with Part 14.1 of the Council Constitution.

4.2 Upon consideration of the recommendations of the Scrutiny Board the Cabinet is requested to provide an Executive Response and executive decision in respect of each recommendation.

4.3 The recommendations of the Scrutiny Board are summarised on page 30 of the Scrutiny Board report attached.

5. THE EXECUTIVE RESPONSE

5.1 The Cabinet is asked to provide an Executive Response to the Scrutiny Board report and recommendations and to either agree, reject or amend each of the recommendations set out in the report. The relevant portfolio holder(s) are also requested to present the Executive Response to the next meeting of the Scrutiny Board on 26th January 2010.

5.2 The Executive Response should provide clarity about what executive decisions are being made by Cabinet in respect of each recommendation. The Executive Response should also provide a target implementation date or timetable to clarify when each agreed scrutiny recommendation will be implemented.

5.3 The Executive Response presented to the Scrutiny Board should include an Action Plan to summarise:

- the Cabinet decision,
- the service(s) responsible for implementation,
- any key stages of the implementation process with key dates, and
- the target implementation date.

This will enable the Scrutiny Board to monitor the implementation of agreed recommendations effectively.

5.4 The Cabinet Decisions made in respect of Overview and Scrutiny recommendations will be monitored and reviewed by the Scrutiny Board to check on how they are being implemented, until each of the recommendations have been fully implemented.

6. FINANCIAL IMPLICATIONS

6.1 For the majority of recommendations there are either no financial implications or minimal financial implications as outlined in the attached report. All of these costs can be met within the existing budget.

7. LEGAL IMPLICATIONS

7.1 There are no legal implications relating to this report.

8. COUNCIL OBJECTIVES

8.1 This report links to Council Objectives Sense of Community Well Being.

9. RISK MANAGEMENT

9.1 The risk of not implementing the recommendations contained within the attached scrutiny report is that this Council does not address an issue of significant public concern.

10. CUSTOMER IMPLICATIONS

10.1 The anticipated implications of implementing the recommendations of the Scrutiny Board would be to enhance community well being for residents of Bromsgrove District by encouraging a more socially sustainable development of the fast food sector and the promotions of healthier lifestyles.

11. EQUALITIES AND DIVERSITY IMPLICATIONS

11.1 There are no implications directly relating to this report for the Council's Equalities and Diversity Policies.

12. VALUE FOR MONEY IMPLICATIONS

12.1 There are no value for money implications for the purpose of this report.

13. OTHER IMPLICATIONS

Procurement Issues – None.
Personnel Implications – None.
Governance/Performance Management – None
Community Safety including Section 17 of Crime and Disorder Act 1998 – None
Policy Implementation of the recommendations contained in the report may result in the development of Council planning policy through the introduction of a Supplementary Planning Document.
Environmental – None.

14. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	No.
Chief Executive	No.
Executive Director (Partnerships and Projects)	No.
Executive Director (Services)	No.
Assistant Chief Executive	No.
Head of Service	Yes
Head of Financial Services	No.
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No.
Corporate Procurement Team	No.

15. WARDS AFFECTED

All Wards.

16. APPENDICES

Appendix 1 – Scrutiny Board Investigation into the Impact of Hot Food Takeaways on Communities and the Environment

17. BACKGROUND PAPERS

None.

CONTACT OFFICER

Name: Michael Carr – Scrutiny Officer
E Mail: m.carr@bromsgrove.gov.uk
Tel: (01527) 881407



Takeaways on Communities and the Environment

Scrutiny Board Investigation into the Impact of Hot Food Takeaways on Communities and the Environment



November 2009



Bromsgrove
District Council
www.bromsgrove.gov.uk

INTRODUCTION

The purpose of the investigation was to examine the impact of takeaway hot food stores on communities and the environment.

Members explored this subject and heard evidence over a series of meetings of the Scrutiny Board. In addition Members were assisted by colleagues from the London Borough of Waltham Forest who passed on their experiences of issues regarding hot food outlets through a fact finding visit by BDC members to Waltham Forest.

SUMMARY OF RECOMMENDATIONS

Recommendation 1

Introduction of Supplementary Planning Document on Hot Food Takeaways

1. That the Cabinet task the Strategic Planning Department to scope the extent to which the issues identified in this report contribute to the negative impact on sense of community and well being and the environment and how these issues can be addressed by the adoption of a Supplementary Planning Document on hot food takeaways and present a report detailing their findings and draft policy to the Cabinet.

(Cost: Nil)

Recommendation 2

Referral to LDF working party

2. That the Cabinet refer consideration of the adoption of a draft Supplementary Planning Document on hot food takeaways to the LDF working party to be included as an agenda item and considered at the next scheduled meeting of the LDF.

(Cost: Nil)

Recommendation 3

Healthy eating – how the Council can work with partners to encourage healthy eating and healthy lifestyles

3. That the Cabinet direct officers to carry out further research into healthy eating/ healthy lifestyles and the means by which through working with partners in the LSP the Council could contribute to delivering services to address the LAA targets on obesity in children, mortality rate from circulatory diseases for under 75s, adult participation in sport and children and young people's participation in high-quality PE and sport. The Board further recommends that a report detailing the findings of the research is presented to Cabinet by June 2010.

(Cost: Nil)

MEMBERS

List of Members who participated in the investigation:

Name	Position
Cllr D. Pardoe	Chair of Scrutiny Board
Cllr S. Colella	Chair of Overview Board
Cllr C.B.Taylor	Vice Chair of Scrutiny Board
Cllr A.N. Blagg	Scrutiny Board
Cllr R.J.Deeming	Scrutiny Board
Cllr S.R. Peters	Scrutiny Board (from October 2009)
Cllr C.R.Scurrrell	Scrutiny Board
Cllr C.J.Tidmarsh	Scrutiny Board

TERMS OF REFERENCE

The investigation sought to find out more information about the following aspects of hot food takeaways:-

- The approach of other local authorities to the regulation of hot food outlets
- The content and selection of food offered and the contribution to healthy eating
- The effect of hot food takeaways on commercial activity
- The effect hot food takeaway stores on street cleanliness and litter
- Use of licensing conditions
- Enforcement of planning conditions
- Crime and Disorder issues.

MEETINGS AND WITNESSES

The topic of hot food takeaways was first considered by the Scrutiny Board at its meeting on 19th May 2009. This was in response to a scrutiny proposal form which had been submitted by Councillor David Pardoe. In summary the subject areas for investigation were as follows:-

- The approach other local authorities have taken in the regulation of hot food outlets
- The content and selection of food offered and the contribution to healthy eating
- The effect of hot food takeaway stores on commercial activity
- The effect of hot food takeaway stores on street cleanliness and litter

Members debated the issues and tasked officers to provide further information on the policies and consultation exercises of other authorities with reference to hot food

takeaways, together with information from licensing on imposing conditions on premises licences. Officers were also asked to try and arrange for a guest speaker from another authority operating a policy on hot food takeaways to attend at a future meeting of the Board.

Prior to the next scheduled meeting of the Scrutiny Board due to take place on 30th June 2009 it was necessary to hold a meeting of the Joint Overview and Scrutiny Board to consider a petition which had been received by the Council from local residents in Rubery. Under April 2009 changes to the Constitution the function of receiving petitions had been assigned to the Joint Overview and Scrutiny Board. The signatories to the petition were concerned about the increase in number of hot food takeaways in Rubery High Street and the effect late night opening were having in terms of problems with litter, crime and disorder and antisocial behaviour. The Joint Overview and Scrutiny Board met on 9th June 2009 and the petition was presented to the Board by Sarah Campkin a local retailer who had organised it.

Issues raised by Sarah Campkin included the increase in the number of hot food takeaways in comparison with other types of retail outlets and late night opening leading to problems with litter, street cleanliness and anti social behaviour. Taking into consideration the matters which had been raised by the petition, the Joint Overview and Scrutiny Board decided to widen the remit of the inquiries on hot food takeaways to be considered by the Scrutiny Board on 30th June 2009 to include:-

- Litter
- Enforcement
- Crime and Disorder
- Members resolved that the Portfolio Holder for Economic Development be invited to attend the meeting on 30th June 2009 on the issue of encouraging a wider range of retail shops in Rubery and throughout the District.

The Scrutiny Board met on 30th June 2009 and heard evidence as follows:-

- from Councillor Duddy relating to economic re-generation.
- from Mike Bell Head of Street Scene and Waste Management in relation to litter and street cleanliness.

The Scrutiny Board met on 27th July 2009 and heard evidence as follows:-

- From John Godwin Deputy Head of Street Scene in relation to crime and disorder issues
- Members resolved to go ahead with the planned fact finding visit to Waltham Forest and that Cllr Pardoe Chairman of Scrutiny Board and Cllr Colella Chairman of Overview Board should attend as representatives for the Scrutiny Board.

The fact finding visit to Waltham Forest took place on Friday 11th September 2009. Cllr Pardoe and Cllr Colella were accompanied by Phil Street, Executive Director and by

Rosemary Williams from the Council's Strategic Planning Team. The representatives from Waltham Forest were Gordon Glenday, Head of Spatial Planning and Cllr Terry Wheeler, portfolio holder for Economic Regeneration. The aims of the visit were to find out more information about issues linked to hot food takeaways in Waltham Forest and the introduction and effectiveness of Waltham Forest's Supplementary Planning Document "Hot Food Takeaway Shops" adopted by the Council in 2009. There was a presentation on the work Waltham Forest has done to adopt a planning policy on hot food outlets together with a chance to discuss the relevant issues and visit some local sites within the borough.

The Scrutiny Board met on 29th September 2009 and heard evidence as follows:-

- From PC Stan Baker from West Mercia Police in relation to crime and disorder issues
- From Liz Altay from the Worcestershire PCT in relation to the health issues linked to hot food takeaways.
- Phil Street, Executive Director took Members through the slides provided by Waltham Forest (from the Member visit) and outlined the process followed to set up the policy, the key components of the policy and feedback on whether it's use to date has been successful.

The Scrutiny Board met on 27th October 2009 and heard evidence as follows:-

- From Michael Dunphy, manager of the Strategic Planning Team in relation to the process and timescale for BDC to adopt a supplementary planning document on hot food takeaways.

Others contacted to provide evidence were: Sharon Smith, Licensing Officer at BDC regarding the use of conditions on premises licence and Dale Birch, Development Control Manager at BDC regarding planning enforcement who submitted written information.

A full list of those contacted is set out in Appendix 1

RESEARCH

The main background information considered by Members included:-

- Waltham Forest Supplementary Planning Document March 2009
- Waltham Forest Sustainability Appraisal Report
- The planning policies of other Councils on hot food takeaways including Dudley MBC and the London Borough of Newham.
- Government publication "Health weight, healthy lives: A cross government strategy for England"
- Statutory guidance on the process for introducing an SPD – the Town and Country Planning (Local Development) (England) Regulations 2004.

PUBLIC INVOLVEMENT

A press release was issued on 18th August 2009 informing the public of the investigation into hot food takeaways by the Scrutiny Board. Members of the public were encouraged to submit their views, comments and suggestions.

A summary of the comments received is set out in Appendix 2

A number of members of the public and ward members attended the meeting of the Scrutiny Board as observers.

FINDINGS

Based on the evidence presented to the Scrutiny Board the main themes which emerged can be categorised as follows:-

1. Perceptions - impact of hot food takeaways within the District
2. Crime and disorder/ policing issues
3. Town Centre/ use of retail outlets
4. Litter/ street cleanliness
5. Regulatory enforcement by Licensing/ Planning Enforcement
6. The role of planning policy in regulating the granting of A5 uses
7. Health issues linked to poor diet and obesity

1. Perceptions – impact on communities of hot food takeaways
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The Board heard conflicting evidence on the extent to which hot food takeaways may or may not be affecting the district.

In planning terms there is a distinction between a shop (Class a1), a restaurant or café (Class A3), a drinking establishment (Class A4) and a hot food takeaway (Class A5). Statistically the overall percentage of retail units used as hot food takeaways (defined in planning terms as use class A5) within Bromsgrove town centre is not high. This is calculated by looking at the total number of retail outlets and the number of those which have an A5 use.

Taking the town centre as a whole the percentage of A5 uses is 5%. This breaks down as 1% in the main High Street area (Primary Shopping Area) and 13% in the Secondary Shopping Area which includes part of Worcester Road.

When the public consultation exercise on the Council's new core strategy was undertaken in early 2009 the issue of hot food takeaways did not appear to be a major problem. Analysis of the results did not highlight this as an area of concern for members of the public.

As against this the investigation found that within the District as a whole there are a number of areas of concentration of A5 use including Worcester Road in the town centre, Rubery High Street and Golden Cross Lane in Catshill. Evidence from the presenter of the Rubery petition, ward Members and the police supported the view that in these locations the number and concentration of hot food outlets is having a negative impact. Reported problems included takeaway customers dropping litter and vomiting; takeaway customers congregating in groups often after having consumed alcohol; minor vandalism such as smashed windows and more serious crime and disorder incidents involving a police response.

Although not captured by any official statistics the feedback received from ward members appears to be that the issue of hot food takeaways is one that is being raised with them by members of the public.

With reference to the Rubery petition, the original copy submitted to the board had 201 signatures but Members were informed that by 9th June 2009 this had increased to over 1000 signatures.

2. Health issues linked to poor diet and obesity

Liz Altay from the Worcestershire NHS PCT provided information on the health impact of takeaways including issues of poor diet and obesity and referred Members to the government publication “Healthy weight, healthy lives”. This document was published in January 2008 and sets out the government strategy for tackling the issues of obesity through positively influencing diet and levels of activity to help people to maintain healthy weights and lead healthier lives. Liz Altay also provided statistics relating specifically to the population of Bromsgrove. The main points have been summarised in the table below.

Key statistics

Percentage of UK population forecast by the government to be obese by 2050 *	Men 60% Women 50% Children 25%
Percentage of children in Bromsgrove who are obese or overweight at school reception age (2009) **	23%
Percentage of children in Bromsgrove who are obese or overweight at age 11 (2009) **	30%
Number of meals eaten outside the home	One in six
Percentage of all cancer deaths among non-smokers related to obesity *	10 %
Percentage of Type 2 diabetes attributable to obesity *	58%

Percentage of heart disease attributable to obesity *	21%
Average reduction in life expectancy of individuals affected by obesity linked diseases *	9 years

* Healthy Weight, Healthy Lives: A Cross-Government Strategy For England

** Worcestershire Childhood Obesity Strategy and Action Plan

In terms of impact on diet typically food from takeaways is high in calories, high in saturated fats and high in sugar. These nutritional aspects in turn contribute to the UK's growing problem with obesity. As one in six meals is now eaten outside the home there is a need to improve the nutritional content of meals. Figures for the UK show a clear rise in obesity rates probably accelerating in the late 1980s and early 1990s. The same trends can be seen in figures from developed nations worldwide. As the population ages, this can create a time bomb effect. For example the impact of this is already starting to be felt in the US. The UK is following a similar pattern although the levels of obesity in the population are lower at this time. As set out in the table above government predictions for obesity levels in 2050 are that obesity will rise to 60% in men, 50% in women and 25% in children.

Obesity is important in health terms because being obese or overweight can increase the risk of serious diseases including heart disease, type 2 diabetes and cancer deaths in non smokers. This impacts both on an individual level to those affected who will have a lower life expectancy and at a wider level to society through the financial burden of funding the NHS to provide more healthcare services.

The Bromsgrove statistics for obesity are broadly similar to the national average figures. For example the level of reception age children (4 to 5 years) in England who are obese and overweight is 25%. This compares to a figure of 24% for Bromsgrove. There is a link between obesity and deprivation, based on which you might expect the figures for Bromsgrove to be lower as the area generally has lower than average levels of deprivation. Research has not established a proven link between density of hot food takeaways and levels of obesity.

Based on current figures children entering school in reception year in Bromsgrove are made up of 8% obese and 23 % obese and overweight. At age 11 the figure for obese and overweight in Bromsgrove is 30% as compared to 33% nationally. These statistics are compiled based on children being monitored and measured at school.

The challenge for government and local authorities is to promote healthy food options and more activity. "Healthy weight, healthy lives" specifically advocates that measures should be targeted primarily at children and young people. Initiatives suggested by the government include promoting more cycling/walking, working with the food and drink industry to reduce consumption of fat, sugar and salt and giving better information about healthy food choices. The document also makes reference to plans to:

“promote the flexibilities contained within planning regulations, so that local authorities are able to manage the proliferation of fast food outlets in particular areas e.g. near parks or schools”.

Under the Worcestershire Local Area Agreement there is a target for partners within the County to work together to reduce levels of obesity in children. This is under indicator N156 – “Obesity in primary age children in Year 6”. This indicator measures the percentage of children in Year 6 who are obese as shown by the National Child Measurement Programme.

There is further detail of how the Worcestershire Partnership will address obesity in children contained in the Worcestershire Childhood Obesity Strategy and Action Plan.

There are also 3 other LAA targets linked to health issues (but not directly relating to obesity) as follows:-

NI121 – Mortality rate from circulatory diseases for under 75s

N18 – Adult participation in sport

NI57 – Children and young people’s participation in high-quality PE and sport.

3. Crime and disorder/ policing issues
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The general picture presented to the Board was that whilst there have been no documented studies which have proved conclusive links between hot food takeaways and crime and disorder, based on local police experience and data there are issues for the police. In particular, incidents late at night in the Worcester Road area of the town centre. Statistics show that between July 2008 and July 2009 there were 17 incidents recorded in the town centre relating to takeaways. The same period showed 25 criminal offences although this category included restaurants as well as takeaways.

Anecdotal evidence is that the problem is made worse due to the effect of customers at takeaways late at night who have been drinking. The typical situation is that when licensed premises close for the evening the clientele move on to the nearest takeaways. The shops themselves are often small. This leads to groups of customers who are intoxicated being squeezed into confined areas. Under these conditions arguments can quickly escalate into incidents of crime and disorder. The police felt incidents such as these were bad for the reputation of Bromsgrove and contributed to fear of crime and the feeling amongst some in the community that they were too scared to go out at night.

Practical options suggested to the Board for combating this included looking carefully at lay out and size of establishments, co-ordination of operating hours between takeaways and licensed premises, location of taxi ranks and avoiding clustering of takeaways in specific areas. This would have to be balanced against the importance of economic activity.

In terms of the part played by licensed premises it was noted that it is often not possible to link an incident to an actual premises as the incidents usually take place at a later time and in a different location. In any event the police have existing powers under the Licensing Act 2003 to request that if there are issues of crime and disorder that a pub or bar can have its premises licence reviewed.

The police favour strengthening of the planning regime through a supplementary planning document for takeaways. They cited examples of having objected to planning applications in the past but their objections being over turned on appeal by the Planning Inspectorate. The police believe a supplementary planning document could strengthen their ability to raise issues of crime and disorder as objections to planning applications.

4. Economic activity/ use of retail outlets

The issue of empty retail units being converted to takeaways and the loss of a more mixed retail base was considered by the Board. This problem appears to be acute in Rubery and was highlighted by the presenter of the petition on 9th June 2009. Whether or not it is linked to the current down turn in the economy is not clear. The perceived danger is that empty retail units will be converted to takeaways but that when the economy improves that particular unit will have been lost and will no longer be available for a different use. There is also the issue of an area becoming “unattractive” to other types of retailer if there is an over predominance of takeaways which may be closed during the day leading to loss of passing trade.

The Board was informed by the portfolio holder for Economic Development, Town Centre Regeneration and Revenue Generation, Cllr James Duddy, of the work the Council is doing to support small businesses. This includes:-

- Offering start up grants for small businesses
- A scheme for giving business rate relief for small businesses
- Publishing a quarterly industrial and commercial property guide detailing vacant shops and properties in the District

5. Litter/ street cleanliness

Problems with litter and cleanliness were highlighted by the presenter of the Rubery petition and referred to by ward members for the town centre on 29 September. The board was informed by the Head of Street Scene and Community, Mike Bell, that all business premises are required to have an appropriate waste disposal contract and the Council would act on any evidence received or concerns raised about litter. There are Council services in place to regularly empty public bins and keep streets clean. These teams can, if required, be deployed urgently in response to a specific report of a problem although generally levels of street cleanliness in the District have improved.

Persistent problems with commercial premises would be dealt with in the first instance under the DEFRA (Department of Environment Food and Rural Affairs) voluntary code of practice for reducing litter called “food on the go”. If the problem continued the second stage would be to use legislation and enforcement through legal action.

6. Regulatory enforcement by Licensing/ Planning Enforcement

The Board received written submissions on enforcement and licensing issues which are attached at Appendix 3.

The Licensing Act 2003 makes it clear that Planning is seen as separate from Licensing. All decisions taken under the Licensing Act must be based on the four licensing objectives which are:-

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

There is a role for the Licensing Authority to consult the Planning Authority when new applications are received, and the Planning Authority can submit representations as a responsible authority. However as decisions on licensing must accord with the licensing objectives listed above, it is not open to the licensing committee to refuse an application based on a material planning consideration or planning policy. In this respect there are issues which may be relevant to planning decisions which do not carry the same weight when considered from a licensing perspective.

Members noted the apparent inconsistencies between the systems. However given the constraints imposed by the separate legislation for each regime there is a limit to what steps can be taken to bring about any harmonisation.

Licensing conditions can be used to help promote the licensing objectives. These have to be considered on a case by case basis and dependent on the evidence before relating to each particular application. The conditions must be proportionate and tailored to the individual premises they apply to. It is not possible to introduce “standard conditions”.

There is no standardisation of closing times of takeaways in Bromsgrove. The explanation for this is that many existing pubs, bars and restaurants have no planning conditions at all having been in existence prior to the current planning regime. Other businesses do have planning conditions that clearly set out the opening hours of the premises. The law requires that any hot food takeaway operating after 11 pm (regardless of any planning conditions on opening hours) has to apply for a late night refreshment licence to sell hot food after 11 pm.

As stated above, such application cannot be decided on the basis of planning policy; each application has to be treated individually based on any objections which are received from interested parties or the responsible authorities. The objections must link to one of the four planning objectives.

The practice of the Licensing Officer is to remind new licensing applicants that they also need to check with the Planning Department to make sure that there are no restrictions on their opening hours. Of the two regimes, for enforcement purposes it is the planning conditions that take precedence. The Council routinely responds to reports that takeaways are opening in breach of planning conditions. The enforcement team is currently fully staffed (one principal planning officer and two investigators) and will if appropriate and expedient to do so take formal enforcement action to control persistent and evidenced breaches.

Where members of the public or responsible authorities have evidence that a takeaway licensed for late night refreshment is not complying with the terms of its licence or breaching any of the licensing objectives, then it is possible to ask for a review of the licence under the Licensing Act. This will enable the Licensing Sub-Committee to call a hearing for the evidence to be considered and a decision made as to whether the licence should continue, be amended (including the addition of conditions) or be revoked.

7. The role of planning policy in regulating the granting of A5 uses
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Bromsgrove District Council does not currently have any local planning policies which relate specifically to hot food takeaways. The Council's approach to local planning is currently set out in the Bromsgrove District Local Plan which was adopted in 2004. Due to changes in planning legislation local plans are being replaced with a different system of local policies known as the Local Development Framework. The Council has started work on preparing the Core Strategy and other documents that will make up the Local Development Framework and this process is expected to be finalised in 2010.

Members were interested to learn from the experience of other local authorities that had introduced planning policies relating to hot food takeaways. The number of authorities involved in this area is relatively small. The mechanism that is available in planning terms is to adopt a policy known as a supplementary planning document (SPD).

The statutory procedure that has to be followed is set out in the Town and Country Planning (Local Development)(England) Regulations 2004. Regulations 17 and 18 prescribe the type of information that should accompany the SPD, and details of who should be consulted and the manner of public participation. The Council as the local planning authority must consider any representations made under the consultation in accordance with section 18(4).

The SPD must also be prepared by taking into account certain DCLG guidance. Once adopted, the SPD will become a material planning consideration. In practice this will mean that in addition to the normal planning considerations that are taken into account the Local Planning Authority will have the ability to rely on the SPD as a material planning consideration. This would be relevant where parts of a scheme conflict with the policy.

It should be noted that it is important from a legal perspective that any policy which is adopted under the regulations needs to be supported by a body of evidence demonstrating the need for the policy and that its contents have been subject to a thorough public consultation exercise. The results of the public consultation exercise are required to be published. If the policy is not thoroughly researched and supported by the outcome of the public consultation it will be open to challenge. This would most likely be in the form of an appeal to the planning inspectorate against a decision to refuse planning permission based on the policy. If an appeal were successful the implications for the Council would

be that the policy would be undermined and be more likely to be challenged in the future by other developers. The Council would also be required to pay the costs of the appeal.

Members found the fact finding visit to the London Borough of Waltham Forest very helpful to their enquiries. Waltham Forest adopted a detailed SPD on hot food takeaways in March 2009. Members were able to discuss the process followed and whether the policy has been successful, with the Waltham Forest Head of Spatial Planning Gordon Glenday and with the relevant portfolio holder at Waltham Forest Councillor Terry Wheeler. The findings of the visit are summarised at Appendix 4.

Whilst it is acknowledged that there are many differences between Bromsgrove and Waltham Forest, clearly Waltham Forest have been able to use the planning regime to produce a policy on which they are now able to rely in terms of being able to control and restrict the opening of new A5 outlets.

The Waltham Forest SPD explains the Council's overall approach to hot food takeaway development and sets out considerations relating to:-

- Appropriate concentrations of hot food outlets
- Measures to protect amenity of surrounding residential occupiers
- Measures to address community health
- The impact of proposals on the street scene and public realm
- Appropriate extraction systems
- Highway safety
- Disposal of waste products and litter
- Access

The policy enables the Council to raise objections to planning applications under a broader range of reasons than previously. Although only in operation for 5 months at the date of the visit at that time 7 applications had been presented all of which had been refused. The policy has not yet been subject to an appeal to the Planning Inspectorate.

It should be noted that the SPD forms only one part of a wider approach to addressing the issues of obesity and healthy lifestyles being pursued by Waltham Forest. Other elements include working with partners and the private sector to promote healthy food choices, improve the quality of food served, maintain a mix of retail uses and encourage good street cleanliness.

Waltham Forest Council has also established a Hot Food Takeaway Corporate Steering Group, the membership of which is drawn from officers of the Council and the LSP. The aims of the group are:

- To investigate how collectively the different agencies can ensure the hot food takeaway businesses operate as responsibly as possible.
- To develop strategies for tackling the wider environmental and economic issues associated with the proliferation of hot food takeaway shops.

CONCLUSIONS AND RECOMMENDATIONS

The investigation has highlighted a number of key issues surrounding the increasing trend for consumption of meals out side the home and the growing numbers of hot food takeaway stores which are opening to meet this demand.

Members involved in the investigation are of the view that the Council has a role to play in tackling the issue of obesity in adults and particularly children. This links to the Council’s responsibilities as a partner in the Local Area Agreement, and specifically to the Local Area Agreement target N156 – Obesity in primary school age children in Year 6. The statistical evidence of the health problems linked to obesity provides a strong argument in favour of taking action to support healthier eating options.

Members also feel strongly that the Council should use it’s ability to influence other aspects of hot food takeaways which are being reported as having a negative impact on communities. In particular, crime and disorder issues, street cleanliness and litter. The evidence has demonstrated that this can be achieved through the planning system by the adoption of a supplementary planning document. Accordingly, Members are recommending that the Council introduces of a Supplementary Planning Document.

In considering what should be included in a policy Members of the Scrutiny Board have taken into consideration a number of issues which have been raised through the investigation together with ideas arising from the visit to Waltham Forest. These are set out in the table below:

Issue		Reason
Clustering of takeaways	Measures to ensure that groups of hot food outlets are not concentrated in particular locations.	This links to preserving a good mix of retail uses and ensuring that problems associated with takeaways such as litter and crime and disorder are not concentrated in specific areas.
Highway Safety	Consideration of impact on safety of pedestrians and road users including parking for customers, safe and legal loading areas and proximity to traffic features such as public crossing and bus bays.	To protect safety of other road users and prevent traffic congestion.
Areas where children congregate	Measures to control the ability of takeaways to open in streets/ locations where children	Obesity issues/ healthy food choices for children

	congregate.	
Residential amenity	Measures to control the granting of permission for new A5 uses in locations which are predominantly residential.	To protect the residents in such areas from disturbance by noise, traffic, late opening etc.
Ventilation and Extraction/ Disposal of Waste Products	Measures to ensure that new premises have adequate ventilation/ extraction units installed together with suitable storage for waste products and use of grease traps where appropriate	To disperse cooking odours and smells
Litter	Measures to ensure that new businesses act responsibly with regard to the collection and disposal of litter outside their premises.	To ensure that the streets are maintained in as clean a condition as possible and to deter vermin.
Crime and Disorder	Measures to allow the police to be consulted on new applications as to internal design and impact of location on any local issues of crime and anti social behaviour.	To protect the public from the impact of crime and disorder incidents

Although the above list is not exhaustive, and Members appreciate that there needs to be further work carried by Strategic Planning to draft a policy that would be robust in legal terms, it sets out the type of issues the Members would wish to see included in a supplementary planning document for takeaways in Bromsgrove.

During the course of the report writing phase of this investigation there have been further detailed discussions with Strategic Planning as to the processes required for a Supplementary Planning Document to be adopted. In summary the position is that Strategic Planning will need to carry out some pre-consultation of interested partners such as the PCT and the police. Work will also have to be undertaken to write a draft policy that is suitable to the specific circumstances of Bromsgrove. It would be intended that any policy cover the District as a whole including the town centre and outlying areas. From a planning perspective any policy needs to be individually tailored to account for the geography and characteristics of the location to which it applies. This means that in terms of policy development, different considerations will have to be applied to different areas of the District. It would also be normal practice to include consultation with the LDF (Local Development Framework) Working Party on the proposed policy.

Once a draft policy is ready then the next phase is for the policy to be put out to public consultation. In terms of having a robust policy that can withstand legal challenge then it is vital that the public consultation exercise is carried out properly. The regulations impose a consultation period of 4 to 6 weeks. The regulations also require the Council to publish the outcome of the responses to the consultation and further time needs to be built into the process to allow those responses to be considered.

Once the consultation has closed and the responses have been considered a final report to the Executive on the findings can be compiled and decision taken on whether to adopt the Supplementary Planning Document.

There would be risks attached to not following the process as outlined above in that the policy would then be more vulnerable to legal challenge by developers. This would occur in the form of an appeal to the planning inspectorate if an application was refused based on grounds in the Supplementary Planning Document. This is referred to at paragraph 7 above.

Recommendation 1

Introduction of Supplementary Planning Document on Hot Food Takeaways

Recommendation 1

That the Cabinet task the Strategic Planning Department to scope the extent to which the issues identified in this report contribute to the negative impact on sense of community and well being and the environment and how these issues can be addressed by the adoption of a Supplementary Planning Document on hot food takeaways and present a report detailing their findings and draft policy to the Cabinet.

Financial implications

None. The work involved can be completed out of existing budgets.

Recommendation 2

Referral to LDF working party

Recommendation 2

That the Cabinet refer consideration of adoption of a draft Supplementary Planning Document on hot food takeaways to the LDF working party to be included as an agenda item and considered at the next scheduled meeting of the LDF.

Financial implications

None. The work involved can be completed out of existing budgets.

Recommendation 3

Healthy eating – how the Council can work with partners to encourage healthy

eating and healthy lifestyles

Members have discovered through the course of the investigation that the problems surrounding hot food takeaways are complex and to tackle them effectively will require a range of approaches. Whilst better use of regulatory powers through the planning system is one option, this needs to go hand in hand with raising public awareness of the effects of obesity and educating people about healthy lifestyles. The Council through its own service areas such as “Scores on the Doors” and sports development may be able to make a positive contribution. Another area where the Council and LSP partners may be able to have a positive effect is by working with the private sector to give the public more information about meal content and healthy alternatives.

There are a number of LAA targets relating to obesity and health lifestyles as set out in section 2 of the report. Members are of the view that this is an area where the Council needs to examine what could be achieved through partnership working and how the Council could contribute in practical ways to encouraging the public to exercise and eat more healthily. Members are therefore recommending that this aspect be scoped in more detail by officers and the findings be reported back to Cabinet in 6 months time.

Recommendation 3

That the Cabinet direct officers to carry out further research into healthy eating/ healthy lifestyles and the means by which through working with partners in the LSP the Council could contribute to delivering services to address the LAA targets on obesity in children, mortality rate from circulatory diseases for under 75s, adult participation in sport and children and young people’s participation in high-quality PE and sport. The Board further recommends that a report detailing the findings of the research is presented to Cabinet by June 2010.

Financial Implications

None. The work involved can be completed out of existing budgets.

REVIEW

A review of the investigation will be included in the work programme for the Scrutiny Board for December 2010 when the Board will review the outcome of this report including whether or not recommendations were approved and implemented and the impact of these actions.

Councillor D. Pardoe Chair of Scrutiny Board

Contact Officer

Name: Sarah Sellers

Email: s.sellers@bromsgrove.gov.uk

Tel: 01527 881397

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Scrutiny Board Investigation into the Impact of Hot Food Takeaways on Communities and the Environment



November 2009



Bromsgrove
District Council
www.bromsgrove.gov.uk

INTRODUCTION

The purpose of the investigation was to examine the impact of takeaway hot food stores on communities and the environment.

Members explored this subject and heard evidence over a series of meetings of the Scrutiny Board. In addition Members were assisted by colleagues from the London Borough of Waltham Forest who passed on their experiences of issues regarding hot food outlets through a fact finding visit by BDC members to Waltham Forest.

SUMMARY OF RECOMMENDATIONS

Recommendations 1

Introduction of Supplementary Planning Document on Hot Food Takeaways

1. That the Cabinet task the Strategic Planning Department to scope the extent to which the issues identified in this report contribute to the negative impact on sense of community and well being and the environment and how these issues can be addressed by the adoption of a Supplementary Planning Document on hot food takeaways and present a report detailing their findings and draft policy to the Cabinet.

(Cost: Nil)

Recommendation 2

Referral to LDF working party

2. That the Cabinet refer consideration of the adoption of a draft Supplementary Planning Document on hot food takeaways to the LDF working party to be included as an agenda item and considered at the next scheduled meeting of the LDF.

(Cost: Nil)

Recommendation 3

Healthy eating – how the Council can work with partners to encourage healthy eating and healthy lifestyles

3. That the Cabinet direct officers to carry out further research into healthy eating/ healthy lifestyles and the means by which through working with partners in the LSP the Council could contribute to delivering services to address the LAA targets on obesity in children, mortality rate from circulatory diseases for under 75s, adult participation in sport and children and young people's participation in high-quality PE and sport. The Board further recommends that a report detailing the findings of the research is presented to Cabinet by June 2010.

(Cost: Nil)

MEMBERS

List of Members who participated in the investigation:

Name	Position
Cllr D. Pardoe	Chair of Scrutiny Board
Cllr S. Colella	Chair of Overview Board
Cllr C.B.Taylor	Vice Chair of Scrutiny Board
Cllr A.N. Blagg	Scrutiny Board
Cllr R.J.Deeming	Scrutiny Board
Cllr S.R. Peters	Scrutiny Board (from October 2009)
Cllr C.R.Scurrell	Scrutiny Board
Cllr C.J.Tidmarsh	Scrutiny Board

TERMS OF REFERENCE

The investigation sought to find out more information about the following aspects of hot food takeaways:-

- The approach of other local authorities to the regulation of hot food outlets
- The content and selection of food offered and the contribution to healthy eating
- The effect of hot food takeaways on commercial activity
- The effect hot food takeaway stores on street cleanliness and litter
- Use of licensing conditions
- Enforcement of planning conditions
- Crime and Disorder issues

MEETINGS AND WITNESSES

The topic of hot food takeaways was first considered by the Scrutiny Board at it's meeting on 19th May 2009. This was in response to a scrutiny proposal form which had been submitted by Councillor David Pardoe. In summary the subject areas for investigation were as follows:-

- The approach other local authorities have taken in the regulation of hot food outlets
- The content and selection of food offered and the contribution to healthy eating
- The effect of hot food takeaway stores on commercial activity
- The effect of hot food takeaway stores on street cleanliness and litter

Members debated the issues and tasked officers to provide further information on the policies and consultation exercises of other authorities with reference to hot food takeaways, together with information from licensing on imposing conditions on premises licences. Officers were also asked to try and arrange for a guest speaker

from another authority operating a policy on hot food takeaways to attend at a future meeting of the Board.

Prior to the next scheduled meeting of the Scrutiny Board due to take place on 30th June 2009 it was necessary to hold a meeting of the Joint Overview and Scrutiny Board to consider a petition which had been received by the Council from local residents in Rubery. Under April 2009 changes to the Constitution the function of receiving petitions had been assigned to the Joint Overview and Scrutiny Board. The signatories to the petition were concerned about the increase in number of hot food takeaways in Rubery High Street and the effect late night opening were having in terms of problems with litter, crime and disorder and antisocial behaviour. The Joint Overview and Scrutiny Board met on 9th June 2009 and the petition was presented to the Board by Sarah Campkin a local retailer who had organised it.

Issues raised by Sarah Campkin included the increase in the number of hot food takeaways in comparison with other types of retail outlets and late night opening leading to problems with litter, street cleanliness and anti social behaviour. Taking into consideration the matters which had been raised by the petition, the Joint Overview and Scrutiny Board decided to widen the remit of the inquiries on hot food takeaways to be considered by the Scrutiny Board on 30th June 2009 to include:-

- Litter
- Enforcement
- Crime and Disorder
- Members resolved that the Portfolio Holder for Economic Development be invited to attend the meeting on 30th June 2009 on the issue of encouraging a wider range of retail shops in Rubery and throughout the District.

The Scrutiny Board met on 30th June 2009 and heard evidence as follows:-

- from Councillor Duddy relating to economic re-generation.
- from Mike Bell Head of Street Scene and Waste Management in relation to litter and street cleanliness.

The Scrutiny Board met on 27th July 2009 and heard evidence as follows:-

- From John Godwin Deputy Head of Street Scene in relation to crime and disorder issues
- Members resolved to go ahead with the planned fact finding visit to Waltham Forest and that Cllr Pardoe Chairman of Scrutiny Board and Cllr Colella Chairman of Overview Board should attend as representatives for the Scrutiny Board.

The fact finding visit to Waltham Forest took place on Friday 11th September 2009. Cllr Pardoe and Cllr Colella were accompanied by Phil Street, Executive Director and by Rosemary Williams from the Council's Strategic Planning Team. The representatives from Waltham Forest were Gordon Glenday, Head of Spatial Planning and Cllr Terry Wheeler, portfolio holder for Economic Regeneration. The aims of the visit were to find out more information about issues linked to hot food

takeaways in Waltham Forest and the introduction and effectiveness of Waltham Forest's Supplementary Planning Document "Hot Food Takeaway Shops" adopted by the Council in 2009. There was a presentation on the work Waltham Forest has done to adopt a planning policy on hot food outlets together with a chance to discuss the relevant issues and visit some local sites within the borough.

The Scrutiny Board met on 29th September 2009 and heard evidence as follows:-

- From PC Stan Baker from West Mercia Police in relation to crime and disorder issues
- From Liz Altay from the Worcestershire PCT in relation to the health issues linked to hot food takeaways.
- Phil Street, Executive Director took Members through the slides provided by Waltham Forest (from the Member visit) and outlined the process followed to set up the policy, the key components of the policy and feedback on whether it's use to date has been successful.

The Scrutiny Board met on 27th October 2009 and heard evidence as follows:-

- From Michael Dunphy, manager of the Strategic Planning Team in relation to the process and timescale for BDC to adopt a supplementary planning document on hot food takeaways.

Others contacted to provide evidence were: Sharon Smith, Licensing Officer at BDC regarding the use of conditions on premises licence and Dale Birch, Development Control Manager at BDC regarding planning enforcement who submitted written information.

A full list of those contacted is set out in Appendix 1

RESEARCH

The main background information considered by Members included:-

- Waltham Forest Supplementary Planning Document March 2009
- Waltham Forest Sustainability Appraisal Report
- The planning policies of other Councils on hot food takeaways including Dudley MBC and the London Borough of Newham.
- Government publication "Health weight, healthy lives: A cross government strategy for England"
- Statutory guidance on the process for introducing an SPD – the Town and Country Planning (Local Development) (England) Regulations 2004.

PUBLIC INVOLVEMENT

A press release was issued on 18th August 2009 informing the public of the investigation into hot food takeaways by the Scrutiny Board. Members of the public were encouraged to submit their views, comments and suggestions.

A summary of the comments received is set out in Appendix 2

A number of members of the public and ward members attended the meeting of the Scrutiny Board as observers.

FINDINGS

Based on the evidence presented to the Scrutiny Board the main themes which emerged can be categorised as follows:-

1. Perceptions - impact of hot food takeaways within the District
2. Crime and disorder/ policing issues
3. Town Centre/ use of retail outlets
4. Litter/ street cleanliness
5. Regulatory enforcement by Licensing/ Planning Enforcement
6. The role of planning policy in regulating the granting of A5 uses
7. Health issues linked to poor diet and obesity

1. Perceptions – impact on communities of hot food takeaways
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The Board heard conflicting evidence on the extent to which hot food takeaways may or may not be affecting the district.

In planning terms there is a distinction between a shop (Class a1), a restaurant or café (Class A3), a drinking establishment (Class A4) and a hot food takeaway (Class A5). Statistically the overall percentage of retail units used as hot food takeaways (defined in planning terms as use class A5) within Bromsgrove town centre is not high. This is calculated by looking at the total number of retail outlets and the number of those which have an A5 use.

Taking the town centre as a whole the percentage of A5 uses is 5%. This breaks down as 1% in the main High Street area (Primary Shopping Area) and 13% in the Secondary Shopping Area which includes part of Worcester Road.

When the public consultation exercise on the Council's new core strategy was undertaken in early 2009 the issue of hot food takeaways did not appear to be a major problem. Analysis of the results did not highlight this as an area of concern for members of the public.

As against this the investigation found that within the District as a whole there are a number of areas of concentration of A5 use including Worcester Road in the town centre, Rubery High Street and Golden Cross Lane in Catshill. Evidence from the presenter of the Rubery petition, ward Members and the police supported the view that in these locations the number and concentration of hot food outlets is having a negative impact. Reported problems included takeaway customers dropping litter and vomiting; takeaway customers congregating in groups often after having consumed alcohol; minor vandalism such as smashed windows and more serious crime and disorder incidents involving a police response.

Although not captured by any official statistics the feedback received from ward members appears to be that the issue of hot food takeaways is one that is being raised with them by members of the public.

With reference to the Rubery petition, the original copy submitted to the board had 201 signatures but Members were informed that by 9th June 2009 this had increased to over 1000 signatures.

2. Health issues linked to poor diet and obesity
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Liz Altay from the Worcestershire NHS PCT provided information on the health impact of takeaways including issues of poor diet and obesity and referred Members to the government publication “Healthy weight, healthy lives”. This document was published in January 2008 and sets out the government strategy for tackling the issues of obesity through positively influencing diet and levels of activity to help people to maintain healthy weights and lead healthier lives. Liz Altay also provided statistics relating specifically to the population of Bromsgrove. The main points have been summarised in the table below.

Key statistics

Percentage of UK population forecast by the government to be obese by 2050 *	Men 60% Women 50% Children 25%
Percentage of children in Bromsgrove who are obese or overweight at school reception age (2009) **	23%
Percentage of children in Bromsgrove who are obese or overweight at age 11 (2009) **	30%
Number of meals eaten outside the home	One in six
Percentage of all cancer deaths among non-smokers related to obesity *	10 %
Percentage of Type 2 diabetes attributable to obesity *	58%
Percentage of heart disease attributable to obesity *	21%
Average reduction in life expectancy of individuals affected by obesity linked diseases *	9 years

* Healthy Weight, Healthy Lives: A Cross-Government Strategy For England

** Worcestershire Childhood Obesity Strategy and Action Plan

In terms of impact on diet typically food from takeaways is high in calories, high in saturated fats and high in sugar. These nutritional aspects in turn contribute to the UK’s growing problem with obesity. As one in six meals is now eaten outside the

home there is a need to improve the nutritional content of meals. Figures for the UK show a clear rise in obesity rates probably accelerating in the late 1980s and early 1990s. The same trends can be seen in figures from developed nations worldwide. As the population ages, this can create a time bomb effect. For example the impact of this is already starting to be felt in the US. The UK is following a similar pattern although the levels of obesity in the population are lower at this time. As set out in the table above government predictions for obesity levels in 2050 are that obesity will rise to 60% in men, 50% in women and 25% in children.

Obesity is important in health terms because being obese or overweight can increase the risk of serious diseases including heart disease, type 2 diabetes and cancer deaths in non smokers. This impacts both on an individual level to those affected who will have a lower life expectancy and at a wider level to society through the financial burden of funding the NHS to provide more healthcare services.

The Bromsgrove statistics for obesity are broadly similar to the national average figures. For example the level of reception age children (4 to 5 years) in England who are obese and overweight is 25%. This compares to a figure of 24% for Bromsgrove. There is a link between obesity and deprivation, based on which you might expect the figures for Bromsgrove to be lower as the area generally has lower than average levels of deprivation. Research has not established a proven link between density of hot food takeaways and levels of obesity.

Based on current figures children entering school in reception year in Bromsgrove are made up of 8% obese and 23 % obese and overweight. At age 11 the figure for obese and overweight in Bromsgrove is 30% as compared to 33% nationally. These statistics are compiled based on children being monitored and measured at school.

The challenge for government and local authorities is to promote healthy food options and more activity. “Healthy weight, healthy lives” specifically advocates that measures should be targeted primarily at children and young people. Initiatives suggested by the government include promoting more cycling/walking, working with the food and drink industry to reduce consumption of fat, sugar and salt and giving better information about healthy food choices. The document also makes reference to plans to:

“promote the flexibilities contained within planning regulations, so that local authorities are able to manage the proliferation of fast food outlets in particular areas e.g. near parks or schools”.

Under the Worcestershire Local Area Agreement there is a target for partners within the County to work together to reduce levels of obesity in children. This is under indicator N156 – “Obesity in primary age children in Year 6”. This indicator measures the percentage of children in Year 6 who are obese as shown by the National Child Measurement Programme.

There is further detail of how the Worcestershire Partnership will address obesity in children contained in the Worcestershire Childhood Obesity Strategy and Action Plan.

There are also 3 other LAA targets linked to health issues (but not directly relating to obesity) as follows:-

NI121 – Mortality rate from circulatory diseases for under 75s

N18 – Adult participation in sport

NI57 – Children and young people’s participation in high-quality PE and sport.

3. Crime and disorder/ policing issues
--

The general picture presented to the Board was that whilst there have been no documented studies which have proved conclusive links between hot food takeaways and crime and disorder, based on local police experience and data there are issues for the police. In particular, incidents late at night in the Worcester Road area of the town centre. Statistics show that between July 2008 and July 2009 there were 17 incidents recorded in the town centre relating to takeaways. The same period showed 25 criminal offences although this category included restaurants as well as takeaways.

Anecdotal evidence is that the problem is made worse due to the effect of customers at takeaways late at night who have been drinking. The typical situation is that when licensed premises close for the evening the clientele move on to the nearest takeaways. The shops themselves are often small. This leads to groups of customers who are intoxicated being squeezed into confined areas. Under these conditions arguments can quickly escalate into incidents of crime and disorder. The police felt incidents such as these were bad for the reputation of Bromsgrove and contributed to fear of crime and the feeling amongst some in the community that they were too scared to go out at night.

Practical options suggested to the Board for combating this included looking carefully at lay out and size of establishments, co-ordination of operating hours between takeaways and licensed premises, location of taxi ranks and avoiding clustering of takeaways in specific areas. This would have to be balanced against the importance of economic activity.

In terms of the part played by licensed premises it was noted that it is often not possible to link an incident to an actual premises as the incidents usually take place at a later time and in a different location. In any event the police have existing powers under the Licensing Act 2003 to request that if there are issues of crime and disorder that a pub or bar can have its premises licence reviewed.

The police favour strengthening of the planning regime through a supplementary planning document for takeaways. They cited examples of having objected to planning applications in the past but their objections being over turned on appeal by the Planning Inspectorate. The police believe a supplementary planning document could strengthen their ability to raise issues of crime and disorder as objections to planning applications.

4. Economic activity/ use of retail outlets

The issue of empty retail units being converted to takeaways and the loss of a more mixed retail base was considered by the Board. This problem appears to be acute in Rubery and was highlighted by the presenter of the petition on 9th June 2009. Whether or not it is linked to the current down turn in the economy is not clear. The perceived danger is that empty retail units will be converted to takeaways but that when the economy improves that particular unit will have been lost and will no longer be available for a different use. There is also the issue of an area becoming “unattractive” to other types of retailer if there is an over predominance of takeaways which may be closed during the day leading to loss of passing trade.

The Board was informed by the portfolio holder for Economic Development, Town Centre Regeneration and Revenue Generation, Cllr James Duddy, of the work the Council is doing to support small businesses. This includes:-

- Offering start up grants for small businesses
- A scheme for giving business rate relief for small businesses
- Publishing a quarterly industrial and commercial property guide detailing vacant shops and properties in the District

5. Litter/ street cleanliness

Problems with litter and cleanliness were highlighted by the presenter of the Rubery petition and referred to by ward members for the town centre on 29 September. The board was informed by the Head of Street Scene and Community, Mike Bell, that all business premises are required to have an appropriate waste disposal contract and the Council would act on any evidence received or concerns raised about litter. There are Council services in place to regularly empty public bins and keep streets clean. These teams can, if required, be deployed urgently in response to a specific report of a problem although generally levels of street cleanliness in the District have improved.

Persistent problems with commercial premises would be dealt with in the first instance under the DEFRA (Department of Environment Food and Rural Affairs) voluntary code of practice for reducing litter called “food on the go”. If the problem continued the second stage would be to use legislation and enforcement through legal action.

6. Regulatory enforcement by Licensing/ Planning Enforcement

The Board received written submissions on enforcement and licensing issues which are attached at Appendix 3.

The Licensing Act 2003 makes it clear that Planning is seen as separate from Licensing. All decisions taken under the Licensing Act must be based on the four licensing objectives which are:-

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

There is a role for the Licensing Authority to consult the Planning Authority when new applications are received, and the Planning Authority can submit representations as a responsible authority. However as decisions on licensing must accord with the licensing objectives listed above, it is not open to the licensing committee to refuse an application based on a material planning consideration or planning policy. In this respect there are issues which may be relevant to planning decisions which do not carry the same weight when considered from a licensing perspective.

Members noted the apparent inconsistencies between the systems. However given the constraints imposed by the separate legislation for each regime there is a limit to what steps can be taken to bring about any harmonisation.

Licensing conditions can be used to help promote the licensing objectives. These have to be considered on a case by case basis and dependent on the evidence before relating to each particular application. The conditions must be proportionate and tailored to the individual premises they apply to. It is not possible to introduce "standard conditions".

There is no standardisation of closing times of takeaways in Bromsgrove. The explanation for this is that many existing pubs, bars and restaurants have no planning conditions at all having been in existence prior to the current planning regime. Other businesses do have planning conditions that clearly set out the opening hours of the premises. The law requires that any hot food takeaway operating after 11 pm (regardless of any planning conditions on opening hours) has to apply for a late night refreshment licence to sell hot food after 11 pm.

As stated above, such application cannot be decided on the basis of planning policy; each application has to be treated individually based on any objections which are received from interested parties or the responsible authorities. The objections must link to one of the four planning objectives.

The practice of the Licensing Officer is to remind new licensing applicants that they also need to check with the Planning Department to make sure that there are no restrictions on their opening hours. Of the two regimes, for enforcement purposes it is the planning conditions that take precedence. The Council routinely responds to reports that takeaways are opening in breach of planning conditions. The enforcement team is currently fully staffed (one principal planning officer and two investigators) and will if appropriate and expedient to do so take formal enforcement action to control persistent and evidenced breaches.

Where members of the public or responsible authorities have evidence that a takeaway licensed for late night refreshment is not complying with the terms of its licence or breaching any of the licensing objectives, then it is possible to ask for a review of the licence under the Licensing Act. This will enable the Licensing Sub-Committee to call a hearing for the evidence to be considered and a decision made as to whether the licence should continue, be amended (including the addition of conditions) or be revoked.

7. The role of planning policy in regulating the granting of A5 uses
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Bromsgrove District Council does not currently have any local planning policies which relate specifically to hot food takeaways. The Council's approach to local planning is currently set out in the Bromsgrove District Local Plan which was adopted in 2004. Due to changes in planning legislation local plans are being replaced with a different system of local policies known as the Local Development Framework. The Council has started work on preparing the Core Strategy and other documents that will make up the Local Development Framework and this process is expected to be finalised in 2010.

Members were interested to learn from the experience of other local authorities that had introduced planning policies relating to hot food takeaways. The number of authorities involved in this area is relatively small. The mechanism that is available in planning terms is to adopt a policy known as a supplementary planning document (SPD).

The statutory procedure that has to be followed is set out in the Town and Country Planning (Local Development)(England) Regulations 2004. Regulations 17 and 18 prescribe the type of information that should accompany the SPD, and details of who should be consulted and the manner of public participation. The Council as the local planning authority must consider any representations made under the consultation in accordance with section 18(4).

The SPD must also be prepared by taking into account certain DCLG guidance. Once adopted, the SPD will become a material planning consideration. In practice this will mean that in addition to the normal planning considerations that are taken into account the Local Planning Authority will have the ability to rely on the SPD as a material planning consideration. This would be relevant where parts of a scheme conflict with the policy.

It should be noted that it is important from a legal perspective that any policy which is adopted under the regulations needs to be supported by a body of evidence demonstrating the need for the policy and that its contents have been subject to a thorough public consultation exercise. The results of the public consultation exercise are required to be published. If the policy is not thoroughly researched and supported by the outcome of the public consultation it will be open to challenge. This would most likely be in the form of an appeal to the planning inspectorate against a decision to refuse planning permission based on the policy. If an appeal were successful the implications for the Council would be that the policy would be

undermined and be more likely to be challenged in the future by other developers. The Council would also be required to pay the costs of the appeal.

Members found the fact finding visit to the London Borough of Waltham Forest very helpful to their enquiries. Waltham Forest adopted a detailed SPD on hot food takeaways in March 2009. Members were able to discuss the process followed and whether the policy has been successful, with the Waltham Forest Head of Spatial Planning Gordon Glenday and with the relevant portfolio holder at Waltham Forest Councillor Terry Wheeler. The findings of the visit are summarised at Appendix 4.

Whilst it is acknowledged that there are many differences between Bromsgrove and Waltham Forest, clearly Waltham Forest have been able to use the planning regime to produce a policy on which they are now able to rely in terms of being able to control and restrict the opening of new A5 outlets.

The Waltham Forest SPD explains the Council's overall approach to hot food takeaway development and sets out considerations relating to:-

- Appropriate concentrations of hot food outlets
- Measures to protect amenity of surrounding residential occupiers
- Measures to address community health
- The impact of proposals on the street scene and public realm
- Appropriate extraction systems
- Highway safety
- Disposal of waste products and litter
- Access

The policy enables the Council to raise objections to planning applications under a broader range of reasons than previously. Although only in operation for 5 months at the date of the visit at that time 7 applications had been presented all of which had been refused. The policy has not yet been subject to an appeal to the Planning Inspectorate.

It should be noted that the SPD forms only one part of a wider approach to addressing the issues of obesity and healthy lifestyles being pursued by Waltham Forest. Other elements include working with partners and the private sector to promote healthy food choices, improve the quality of food served, maintain a mix of retail uses and encourage good street cleanliness.

Waltham Forest Council has also established a Hot Food Takeaway Corporate Steering Group, the membership of which is drawn from officers of the Council and the LSP. The aims of the group are:

- To investigate how collectively the different agencies can ensure the hot food takeaway businesses operate as responsibly as possible.
- To develop strategies for tackling the wider environmental and economic issues associated with the proliferation of hot food takeaway shops.

CONCLUSIONS AND RECOMMENDATIONS

The investigation has highlighted a number of key issues surrounding the increasing trend for consumption of meals out side the home and the growing numbers of hot food takeaway stores which are opening to meet this demand.

Members involved in the investigation are of the view that the Council has a role to play in tackling the issue of obesity in adults and particularly children. This links to the Council's responsibilities as a partner in the Local Area Agreement, and specifically to the Local Area Agreement target N156 – Obesity in primary school age children in Year 6. The statistical evidence of the health problems linked to obesity provides a strong argument in favour of taking action to support healthier eating options.

Members also feel strongly that the Council should use it's ability to influence other aspects of hot food takeaways which are being reported as having a negative impact on communities. In particular, crime and disorder issues, street cleanliness and litter. The evidence has demonstrated that this can be achieved through the planning system by the adoption of a supplementary planning document. Accordingly, Members are recommending that the Council introduces of a Supplementary Planning Document.

In considering what should be included in a policy Members of the Scrutiny Board have taken into consideration a number of issues which have been raised through the investigation together with ideas arising from the visit to Waltham Forest. These are set out in the table below:

Issue		Reason
Clustering of takeaways	Measures to ensure that groups of hot food outlets are not concentrated in particular locations.	This links to preserving a good mix of retail uses and ensuring that problems associated with takeaways such as litter and crime and disorder are not concentrated in specific areas.
Highway Safety	Consideration of impact on safety of pedestrians and road users including parking for customers, safe and legal loading areas and proximity to traffic features such as public crossing and bus bays.	To protect safety of other road users and prevent traffic congestion.
Areas where children congregate	Measures to control the ability of takeaways to open in streets/ locations where children congregate.	Obesity issues/ healthy food choices for children
Residential amenity	Measures to control the	To protect the residents

	granting of permission for new A5 uses in locations which are predominantly residential.	in such areas from disturbance by noise, traffic, late opening etc.
Ventilation and Extraction/ Disposal of Waste Products	Measures to ensure that new premises have adequate ventilation/ extraction units installed together with suitable storage for waste products and use of grease traps where appropriate	To disperse cooking odours and smells
Litter	Measures to ensure that new businesses act responsibly with regard to the collection and disposal of litter outside their premises.	To ensure that the streets are maintained in as clean a condition as possible and to deter vermin.
Crime and Disorder	Measures to allow the police to be consulted on new applications as to internal design and impact of location on any local issues of crime and anti social behaviour.	To protect the public from the impact of crime and disorder incidents

Although the above list is not exhaustive, and Members appreciate that there needs to be further work carried by Strategic Planning to draft a policy that would be robust in legal terms, it sets out the type of issues the Members would wish to see included in a supplementary planning document for takeaways in Bromsgrove.

During the course of the report writing phase of this investigation there have been further detailed discussions with Strategic Planning as to the processes required for a Supplementary Planning Document to be adopted. In summary the position is that Strategic Planning will need to carry out some pre-consultation of interested partners such as the PCT and the police. Work will also have to be undertaken to write a draft policy that is suitable to the specific circumstances of Bromsgrove. It would be intended that any policy cover the District as a whole including the town centre and outlying areas. From a planning perspective any policy needs to be individually tailored to account for the geography and characteristics of the location to which it applies. This means that in terms of policy development, different considerations will have to be applied to different areas of the District. It would also be normal practice to include consultation with the LDF (Local Development Framework) Working Party on the proposed policy.

Once a draft policy is ready then the next phase is for the policy to be put out to public consultation. In terms of having a robust policy that can withstand legal challenge then it is vital that the public consultation exercise is carried out properly. The regulations impose a consultation period of 4 to 6 weeks. The regulations also require the Council to publish the outcome of the responses to the consultation and further time needs to be built into the process to allow those responses to be considered.

Once the consultation has closed and the responses have been considered a final report to the Executive on the findings can be compiled and decision taken on whether to adopt the Supplementary Planning Document.

There would be risks attached to not following the process as outlined above in that the policy would then be more vulnerable to legal challenge by developers. This would occur in the form of an appeal to the planning inspectorate if an application was refused based on grounds in the Supplementary Planning Document. This is referred to at paragraph 7 above.

Recommendation 1

Introduction of Supplementary Planning Document on Hot Food Takeaways

Recommendation 1

That the Cabinet task the Strategic Planning Department to scope the extent to which the issues identified in this report contribute to the negative impact on sense of community and well being and the environment and how these issues can be addressed by the adoption of a Supplementary Planning Document on hot food takeaways and present a report detailing their findings and draft policy to the Cabinet.

Financial implications

None. The work involved can be completed out of existing budgets.

Recommendation 2

Referral to LDF working party

Recommendation 2

That the Cabinet refer consideration of adoption of a draft Supplementary Planning Document on hot food takeaways to the LDF working party to be included as an agenda item and considered at the next scheduled meeting of the LDF.

Financial implications

None. The work involved can be completed out of existing budgets.

Recommendation 3

Healthy eating – how the Council can work with partners to encourage healthy eating and healthy lifestyles

Members have discovered through the course of the investigation that the problems surrounding hot food takeaways are complex and to tackle them effectively will require a range of approaches. Whilst better use of regulatory powers through the planning system is one option, this needs to go hand in hand with raising public awareness of the effects of obesity and educating people about healthy lifestyles. The Council through its own service areas such as "Scores on the Doors" and sports development may be able to make a positive contribution. Another area where the Council and LSP partners may be able to have a positive effect is by working with the private sector to give the public more information about meal content and healthy alternatives.

There are a number of LAA targets relating to obesity and health lifestyles as set out in section 2 of the report. Members are of the view that this is an area where the Council needs to examine what could be achieved through partnership working and how the Council could contribute in practical ways to encouraging the public to exercise and eat more healthily. Members are therefore recommending that this aspect be scoped in more detail by officers and the findings be reported back to Cabinet in 6 months time.

Recommendation 3

That the Cabinet direct officers to carry out further research into healthy eating/ healthy lifestyles and the means by which through working with partners in the LSP the Council could contribute to delivering services to address the LAA targets on obesity in children, mortality rate from circulatory diseases for under 75s, adult participation in sport and children and young people's participation in high-quality PE and sport. The Board further recommends that a report detailing the findings of the research is presented to Cabinet by June 2010.

Financial Implications

None. The work involved can be completed out of existing budgets.

REVIEW

A review of the investigation will be included in the work programme for the Scrutiny Board for December 2010 when the Board will review the outcome of this report including whether or not recommendations were approved and implemented and the impact of these actions.

Councillor D. Pardoe Chair of Scrutiny Board

Contact Officer

Name: Sarah Sellers

Email: s.sellers@bromsgrove.gov.uk

Tel: 01527 881397

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**A List of those the Hot Food Takeaway Scrutiny Board Investigation
Consulted**

External Witnesses:

Public:

- Members of the Public via press releases and the Council's website. A total of 5 emails and letters were received.

London Borough of Waltham Forest:

- Mr Gordon Glenday – Head of Spatial Planning
- Cllr Terry Wheeler

West Mercia Constabulary:

- PC Stan Baker – Crime Risk Manager

Worcestershire PCT:

- Ms Liz Altay - Consultant

Internal Witnesses:

- Mr. M. Bell, Head of Street Scene and Community
- Mr. J. Godwin, Deputy Head of Street Scene & Community
- Mr. M. Dunphy, Strategic Planning Manager
- Mr. D. Birch, Development Control Manager
- Ms. S. Smith, Licensing Officer
- Cllr J. Duddy

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Below is a selection of extracts of some of the comments made by local residents in response to the Hot Food Takeaways Scrutiny Board Investigation requesting their views:

“NO more food outlets or coffee shops in Bromsgrove High St or surrounding areas, Wilkinsons, m&s, bhs or the like would be more useful to the up grade of our town.”

“Is it not about time the persons paid to ensure Bromsgrove and its surrounding are woke up to the fact that by increasing takeaways, licensed premises merely drags Bromsgrove deeper into the mire. The instances of anti-social behaviour are fast becoming a problem”.

“Personal opinions should not be considered when raising issues such as hot food takeaways. The outcome of discussions can be influenced in a manner as to suggest personal gain. One man’s dislike of hot food takeaways should not be allowed to deprive others of such amenities for every on person who spreads litter, and every person who creates noise, there are hundreds who use such facilities without causing a problem.”

“I am a long standing Bromsgrove resident and am appalled at the decline of our town whilst I appreciate the current economic difficulties we are losing many of our retail shops which are being replaced with takeaway/fast food outlets and restaurants.
It is hard enough for the existing ones to ride out these difficult times
Not to be driven out because of ridiculous Council policy with regards to more takeaway businesses being allowed to set up.”

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Information for Scrutiny Board re Enforcement

The Licensing Act 2003 makes it clear that Planning is seen as separate from Licensing, with the Act providing the Licensing Authority with direction to promote the four Licensing Objectives. All decisions must be made solely based on these four objectives. These are

1. the prevention of crime and disorder;
2. public safety;
3. the prevention of public nuisance;
4. the protection of children from harm.

The Act is not the primary mechanism for the general control of anti-social behaviour and nuisance by individuals once they are away from the premises and, therefore, beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. Nevertheless, it is a key aspect of such control and the Council recognises that licensing law will always be part of a holistic approach to the management of the evening and night time economy in its area.

Many existing pubs, bars and restaurants (A3, A4 and A5) have no planning conditions at all (relating to hours of operation for example), having been in existence prior to the current Planning regime. Other businesses do have planning conditions that clearly set out the opening hours of the premises. It is entirely plausible that one premises may be controlled by planning condition and the next door unit covered by the Licensing regime. This illustrates that enforcement is not immediately straightforward and may require extensive research.

The Development Control Section contains three Officers, consisting of two Enforcement Investigators and one Principal Planning Officer (PPO). The PPO is a new role that arose as part of the April 2009 restructure of the Development Control Section, with this post sitting between the Development Control Managers and the Planning Officer posts. This post will assist the DC Managers by undertaking day-to-day workload management for the team and handling difficult professional issues and caseload. The post holder will take a lead role on enforcement matters for the two Enforcement Investigators, including planning enforcement appeals and appearing as Council Witness as necessary. Following a successful recruitment drive, the post holder is due to commence on 6 July 2009. One of the initial roles of this Officer will be the drafting of an Enforcement Policy to focus the aims and objectives of this Section of Development Control in order to provide greater clarity for our Customers.

The restructure of Development Control was a response to achieving budgetary savings across the Planning and Environment Services Directive. As part of this restructure process, Development Control achieved savings through the deleting of the following posts:

- Area Planning Manager post (PT)
- Senior Enforcement Officer
- Trainee Planning Officer
- Observation Officers x 3

The Principal Planning Officer arose from the need to provide guidance in the office to the Enforcement Investigators from a planning perspective and to provide a deputy for the Development Control Managers in their absence. This role was justified through the loss of the Area Planning Manager post and the Senior Enforcement Officer post. The previous Senior Enforcement Officer was not a planning professional and this was identified as a weakness in the Unit.

The Observation Officers were employed as out of office hour investigators. These Officers observed possible or actual breaches of planning control and reported back to the Senior Enforcement Officer; the Officers did not take any action themselves. The Council experienced problematic issues of accountability, including unreliability of evidence and this consequently harmed the ability of the Council to successfully bring prosecutions.

Out of hours investigators do not have any powers to instantly shut down premises operating outside the hours specified by a planning condition. Similarly under the licensing regime, a local authority as Licensing Authority cannot act to immediately shut down a premises; such powers do exist but can only be used by the police to apply for what are known as Closure Orders. Such orders can only be granted where there is evidence of actual or imminent disorder likely to cause risk to public safety, or public nuisance being caused by noise coming from the premises. These powers are generally used only in very serious cases. The Licensing Authority can bring prosecutions for failure to operate in accordance with the terms of a premises licence but this is a much more complex enforcement option which involves the gathering of evidence and a prosecution in the magistrates court. Generally the Licensing Officer has strong links with the police who would be able to provide opening hour information which may enable enforcement action to be considered by the Council.

Ultimately National Planning Policy Guidance Note 18 (PPG18) states that Local Planning Authorities have a general discretion to take enforcement action when they regard it as expedient. In deciding any enforcement action, the decisive issue for the Local Planning Authority should be whether the breach of planning control would unacceptably affect public amenity of the existing use of land and buildings meriting protection in the public interest. This process includes an assessment of the degree of complaints and the nature of such complaints. Enforcement action should thus always be commensurate with the breach of planning control to which it relates and would be inappropriate against a trivial or technical breach which causes no harm to amenity in the locality of the site. Compliance with licensing legislation and enforcement by other bodies such as the Police are factors in this process.

Agenda Item 5

PRINCIPAL LICENSING OFFICER – CONDITIONS ON PREMISES LICENSES

Conditions that are necessary for the promotion of the licensing objectives should emerge initially from the applicant, which are steps recorded in the application form. These are volunteered conditions and as a licensing authority we cannot insist that they volunteer conditions.

The four licensing objectives are: Prevention of Crime and Disorder; Public Safety; Prevention of public nuisance and protection of children from harm.

Once an application has been submitted it is subject to a statutory 28 day consultation period, whereby the Police, Environmental Health, Planning, Fire Authority, Trading Standards, and the Area Child Protection Committee can put forward and recommended conditions/ objections etc.

If the Licensing Authority does receive representations from any of the responsible authorities mentioned above; the Licensing Authority engages in mediation with the applicant to see if the suggested additional conditions can be placed on the licence. If the mediation process is successful, the licence is issued showing the volunteered conditions and the mediated ones. If the mediation process is unsuccessful, the application is referred to the Council's Licensing Sub-Committee who have the authority to impose and/or modify conditions on a licence.

During the 28 day consultation period, local residents and businesses can also make representations to the licensing authority about an application, again the licensing Authority engages in mediation with the applicant to see if the concerns of the residents/businesses can be addressed by modifying the application. If all parties are happy with the modifications, the licence is granted. If any party is still unsatisfied by the mediation process, again the application has to be determined by the Council's Licensing Sub-Committee. Again, the Sub-Committee has the authority to impose conditions which should be tailored to the size, style, characteristics and activities taking place at the premises concerned.

It is important that conditions are proportionate and properly recognise significant differences between venues. They must also promote the 4 licensing objectives and not duplicate other statutory provisions.

As Licensing Officers we do not have the power to impose conditions on a licence ourselves.

Sharon Smith ACIS PgDip PA
Principal Licensing Officer

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Visit to the London Borough of Waltham Forest

Friday 11th September 2009

Purpose of visit:

Visit to look at their hot food take away policy introduced by LB of Waltham Forest

Those involved:

Waltham Forest

Councillor Terry Wheeler – Portfolio Holder for Economic Regeneration

Gordon Glenday - Strategic Planning Manager

Bromsgrove

Councillor Steve Colella

Councillor David Pardoe

Phil Street

Rosemary Williams

1. Gordon Glenday made a presentation that included:
 - background and information about Waltham Forest;
 - their Sustainable Communities Strategy;
 - their evidence based approach to introducing a hot food take away policy; the reaction of the community and traders
 - the achievements to date
2. Waltham Forest is in North East London. It has a population of 222,000 and has a very diverse population. It is close to the 2012 Olympic site and is one of the five Olympic boroughs (Newham; Tower Hamlets, Hackney, Haringey). The Olympic legacy is perceived as an important dimension to its future development.
3. It boasts the longest street market in UK and despite its location it is a green borough and includes part of Lea Valley and contains Epping Forest.
4. The sustainable community strategy involved consultation with 2,500 residents and the issue of the hot food takeaways (HFT) featured in many responses. They are referred to locally as 'chicken shops'.
5. There was concern about their nutritional quality, their impact on diet, health, streetscape and poor quality shop fronts.
6. The policy has links to children's health, healthy lifestyles and areas of incidence of high crime levels.
7. There are a total of 256 hot food takeaways in the borough. Many located in clusters on the high street and there is an over concentration

of HFT in certain areas. Fast food takeaways make up 30% of outlets in specific areas.

8. There were also comments about associations with noise, anti-social behaviour and litter.
9. The Borough mapped HFT and their proximity to schools, parks, youth centres, play areas and parks.
10. They wanted to introduce a policy that prevented the development of HFT within 400 metres of places where children and young people gather i.e. schools etc.
11. The habit of using fast food takeaways is developed at an early age and evidence indicates that this informs dietary behaviour in future years. The policy aims to tackle that habit and reduce consumption of take away foods.
12. They set 11 broad tests which included:
 - Preventing concentration and clusters
 - Prevent location near schools and other focuses for children and young people
 - Close to residential property
13. They prepared a supplementary planning document (SPD) which received 89% support from those with whom they consulted.
14. Received significant support from residents, schools and health professionals.
15. The policy was introduced from April 2009.
16. LB Waltham Forest does not have a core strategy, but they introduced this as an interim planning policy. They consulted with Government Office London and they supported their proposals.
17. They also included consideration of existing HFT and set up a HFT corporate group that brought together environmental health; reps from LSP; health professionals and economic development and aimed to :
 - Improve the quality of food served
 - Make available a healthy choice
18. The policy was also aiming to address childhood obesity.
19. They see their town centre as an asset and want to encourage quality shopping, healthy businesses, vibrant and attractive daytime and evening economy.

20. They feel the policy will contribute towards improving the attractiveness, viability and marketing of the borough and smaller town centres.
21. The policy allows them to assert stronger controls over environmental management, through pro-active use of planning and enforcement powers particularly to tackle the proliferation of fast food outlets.
22. They carried out an equalities impact assessment on the HFT policy.
23. SPD placed restrictions on new HFT opening hours. They are not allowed to open at lunchtimes, they have to have a policy for picking up litter and they need to think about the nutritional content of their menus.
24. They have linked the policy to scores on the doors.
25. Seven applications have been presented since SPD and all have been refused. There have been no appeals so far.
26. The introduction of the policy has been accompanied by increased enforcement activity.
27. Increased focus on A5 uses for environmental health checks and 12 premises have been closed down.
28. The policy has been accompanied by greater inter-team activity and communication leading to a more efficient joined up working relationship.
29. Links have been formed with universities to tap into expert knowledge and best practice. Links in particular to London Metropolitan University – a name mentioned was that of Professor Jack Winkler who has been involved in nutritional issues and the issue of fast food takeaways
30. LB of Waltham Forest does not take the view that an empty shop filled by a fast food takeaway is better than an empty shop. The impact of the negative affect far outweighs the positives of having a tenant.
31. The SPD was linked to an existing policy and had popular local support.

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BROMSGROVE DISTRICT COUNCIL

CABINET

2ND DECEMBER 2009

DRAFT SAFEGUARDING POLICY FOR CHILDREN, YOUNG PEOPLE AND VULNERABLE ADULTS

Responsible Portfolio Holder	Councillor Margaret Sherrey
Responsible Head of Service	Phil Street
Non Key Decision	

1. SUMMARY

- 1.1 This report introduces Bromsgrove District Council's draft safeguarding policy. The district council contributes to the safeguarding and promotion of the welfare of children, young people and vulnerable adults across Bromsgrove. It has a particular responsibility for those children, young people and vulnerable adults with whom it works and has contact. The policy describes the procedures and arrangements it will follow to protect children, young people and vulnerable adults.

2. RECOMMENDATION

- 2.1 To seek Cabinet approval to adopt the attached Bromsgrove District Council Safeguarding Children, Young People and Vulnerable Adults Policy.
- 2.2 In the context of the introduction of a Shared Services Corporate Management Team, arrangements are put in place to nominate an appropriate senior officer as the corporate safeguarding officer and to be appropriately trained.
- 2.3 To ensure that those staff that have regular and on-going contact with children, young people and vulnerable adults receive appropriate awareness raising training in the corporate safeguarding policy.

3. BACKGROUND

- 3.1 The policy has been developed to put in place arrangements to meet the requirements placed on district councils to work in partnership with their Children's Services and Adult and Community Services. The Children's Act 2004 under Section 11 places a statutory duty on key people and bodies, including district councils, to make arrangements to ensure that in discharging their functions they have regard to the need to safeguard and promote the welfare of children.
- 3.2 Many of the safeguarding issues that affect children and young people can be extended to vulnerable adults. Instances of physical, emotional,

sexual, verbal and financial abuse can be found amongst children and young people as well as vulnerable adults. They can also experience neglect and discrimination. Therefore, the safeguarding policy has been written to encompass the needs of vulnerable adults as well as children and young people.

3.3 Through this safeguarding policy the Council is demonstrating:

- Elected member and senior management commitment to the importance of safeguarding and promoting children's, young people's and vulnerable adult's welfare;
- a clear statement of the council's responsibilities towards children, young people and vulnerable adults available for all staff ;
- a clear line of accountability within the organisation for work on safeguarding and promoting the welfare of children, young people and vulnerable adults;
- service development that takes account of the need to safeguard and promote welfare
- safe recruitment procedures
- training on safeguarding and promoting the welfare of children for all staff working with, or in contact with, children, young people and vulnerable adults and their families,
- effective inter-agency working to safeguard and promote the welfare of children , young people and vulnerable adults
- effective information sharing.

3.4 The policy provides arrangements for lines of accountability for ensuring the safeguarding of children, young people and vulnerable adults and also informs elected members and managers of their responsibility in relation to safeguarding.

3.5 The policy places considerable emphasis on the arrangements and conditions to secure safe recruitment practices. Those post that require staff to work directly with children, young people and vulnerable adults are CRB checked. However, in the context of new legislation around the Independent Safeguarding Authority (ISA) and to reflect the additional emphasis given to safeguarding by the draft policy the issue of safe recruitment is being further strengthened.

3.6 The provision of training will be central to the successful implementation of the policy. Certain staff will require significant training and support while other staff and elected members will have to receive awareness training in relation to safeguarding issues.

3.7 All elected members, staff and volunteers of Bromsgrove District Council should have an understanding of their duty to safeguard children, young people and vulnerable adults whilst carrying out there duties. National guidance states that District Councils should have a range of measures in place to ensure this is the case.

3.8 Currently those services which directly deliver services to children, young people and vulnerable adults do have local policies and procedures in place, but there is not a corporate policy. To address this requirement a draft Bromsgrove District Council Safeguarding Policy has been produced. This has been circulated to Worcestershire Children's Safeguarding Board for their comments and observations. Their comments have been incorporated in the draft policy and this policy is attached as appendix 1.

4. FINANCIAL IMPLICATIONS

4.1 Whilst basic awareness training is free there may be a cost implication to provide advanced training for staff with key safeguarding and wellbeing responsibilities.

5. LEGAL IMPLICATIONS

5.1 Bromsgrove District Council has a duty to ensure that its normal functions are discharged having regard to safeguarding and promoting the welfare of children in the area as set out in Section 11 of the Children Act 2004.

6. COUNCIL OBJECTIVES

6.1 One community is a council priority and children and young people are a key group within that priority. The Council is fulfilling its statutory duties by introducing a safeguarding policy and ensuring the safety of key groups.

7. RISK MANAGEMENT

7.1 Whilst services which directly deliver services to children and young people do have local policies and procedures in place no corporate policy exists. Adoption of the attached Safeguarding Policy will ensure that the Council takes a corporate approach to safeguarding.

7.2 The reputational damage to the Council would be immense if a child, young person or vulnerable adult protection issue was to occur involving anyone connected with the Council.

7.3 Significant damage could occur to the organisation if someone experiencing abuse came into contact with the Council and the issue was not identified or addressed because the Council did not have appropriate arrangements.

8. CUSTOMER IMPLICATIONS

8.1 By adopting a safeguarding policy Council is indicating to its customers that it attaches importance to protecting children, young people and vulnerable adults. The policy demonstrates to customers that the Council

has arrangements to respond to concerns or allegations to safeguarding issues. The policy will be communicated to customers through Council publications, website and through an easy read document.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 Protection of children, young people and vulnerable people is a major strand in the pursuit of an effective equalities and diversity approach. Neglect, discrimination and abuse are regarded as hate crime and for people to function and have opportunities to fulfil their potential it is critical that they remain safe and free from abuse.

10. VALUE FOR MONEY IMPLICATIONS

- 10.1 The policy will ensure that the Council recruits appropriate staff and is not faced with the need to undertake recruitment where an appointment is regarded as unsafe.
- 10.2 The policy will contribute to ensuring staff are recruited with appropriate experience and competencies for work with children, young people and vulnerable adults.
- 10.3 The reputation of the Council will be enhanced by demonstrating its commitment to safeguarding. Furthermore, damage to its reputation and the risk of possible legal damages will be removed or reduced through the pursuit of the safeguarding policy.

11. OTHER IMPLICATIONS

Procurement Issues - It will be important that contractors that have contact with children, young people and vulnerable people can demonstrate they have the appropriate safeguarding policies and safe recruitment practices.
Personnel Implications - The policy places enormous emphasis on ensuring a safe recruitment policy and securing appropriate checking is in place for posts working directly with children, young people and vulnerable adults.
Governance/Performance Management - None
Community Safety including Section 17 of Crime and Disorder Act 1998 – Safeguarding policy is a contributory policy in relation to wider community safety considerations.
Policy – None
Environmental – None

12. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	Yes
Executive Director (Partnerships and Projects)	Yes
Executive Director (Services)	Yes
Assistant Chief Executive	Yes
Head of Service	Yes
Head of Financial Services	Yes
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	Yes
Corporate Procurement Team	Yes

13. WARDS AFFECTED

‘All Wards’

14. APPENDICES

Appendix 1 Bromsgrove District Council’s draft safeguarding policy

15. BACKGROUND PAPERS

CONTACT OFFICER

Name: Phil Street
E Mail: p.street@bromsgrove.gov.uk
Tel: (01527) 881202

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