

BROMSGROVE DISTRICT COUNCIL

CABINET

28th April 2010

Hot Food Takeaways SPD

Responsible Portfolio Holder	Councillor Jill Dyer.
Responsible Director	John Staniland Executive Director – Planning, Regeneration and Housing Services
Non-Key Decision	

1. SUMMARY

- 1.1 The purpose of this report is to update members with progress on the Draft Hot Food Takeaways Supplementary Planning Document (SPD).

2. RECOMMENDATION

- 2.1 Due to the lack of a supporting policy in the adopted Bromsgrove District Local Plan, and the insubstantial local evidence that Hot Food Takeaways are directly having an impact on the sense of community and well being and the environment, no further action is taken on preparing the Hot Food Takeaway SPD.

3. BACKGROUND

- 3.1 The topic of hot food takeaways was first considered by the Council during a Scrutiny Board meeting on 19th May 2009, and subsequently at the cabinet meeting of the 2nd December 2009 where the strategic planning team were asked to *'scope the extent to which the issues identified in the report contribute to the negative impact on a 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, with a report detailing the findings and the draft policy being submitted to the Cabinet.'*
- 3.2 Hot food takeaways represent a popular service for local communities and an important complementary use in town and neighbourhood centres. They can also offer important economic development and employment opportunities. Nevertheless, it is recognised that hot food takeaways have the potential to have detrimental impacts on residential amenity and the environmental quality of local centres. There is also a growing recognition that takeaways are dominating the local retail food offer in the District. This displaces other shops and food options, limiting the choice and access to

healthy, fresh food which in turn impacts on the health of communities in the District.

- 3.3 As requested by cabinet on the 9th December the Strategic Planning Section liaised with the Worcestershire Primary Care Trust and West Mercia Constabulary as well as carrying out a thorough review of other evidence in investigating the issues surrounding Hot Food Takeaways and unfortunately could not find compelling evidence to support policies in an SPD.
- 3.4 Although Worcestershire PCT and government guidance “Healthy weight, healthy lives” stated that there are health impacts related to takeaways including issues of poor diet and obesity; there is no actual evidence to validate these claims. Takeaways are normally high in calories, high in saturated fats, and high in sugar, yet there is very little documented evidence to prove that they alone are the reason for higher incidences of illnesses related to poor diet. Gillian Christian the Health Improvement Practitioner for Bromsgrove from Worcestershire PCT conducted both CINHAL and MEDLINE literature searches on the health implications of hot food takeaways; finding no conclusive results except for a small number of American studies. The Strategic planning Section recognise there are health implications from eating hot food takeaways, but does not consider there to be justifying evidence in the case of Bromsgrove to warrant the production of an SPD on the subject.
- 3.5 Further discussions were also held with PC Stan Baker, the Crime Risk Manager from West Mercia Constabulary. PC Baker acknowledged that there was a link between hot food takeaways and crime and disorder, based on local police experience, however, there have been no documented studies to prove this link is conclusive. A number of incidents have occurred where clusters of hot food takeaways are situated and the police have objected to such applications in the past, yet have been overruled by the Planning Inspectorate. This ongoing situation would not be resolved by the adoption of a Hot Food Takeaways SPD as the guidance would only affect new establishments, and the lack of conclusive local evidence that Hot food Takeaways cause crime and disorder problems would mean the SPD may only carry little weight on appeal.
- 3.6 Further to the issues above concerning the evidence to support an SPD, officers also carried out significant research into how other authorities have adopted Hot Food Takeaway SPDs in different areas of the country. The planning system allows Local authorities to introduce SPDs in order to add detail and clarity to already approved development plan policies, the system is also clear that SPDs should not introduce new policies which should be included in an up to date development plan policy. The current development plan for Bromsgrove is the saved policies in the Worcestershire County Structure Plan, and the saved policies in the Bromsgrove District Local Plan as well as the adopted RSS although parts of the emerging RSS maybe more relevant. Whilst these plans do contain some general Town Centre or

retail polices which are generally supportive of the vast majority of retail uses taking place in established centres, non of these plans have policies concerning the development of Hot Food takeaways.

- 3.7 Recently the strategic planning team has been trying to introduce an Affordable Housing SPD which would supplement existing polices in the Bromsgrove District Local Plan, this SPD has been criticised by many including GOWM for introducing new polices rather than supplementing existing policy. Recognising the responses received on the Affordable Housing SPD, it is clear that the detailed policies contained in the Draft Hot Food takeaway SPD would be introducing new policy rather than supplementing existing to a greater extent than in the case of the Affordable housing policy as we currently have no specific policies on hot food takeaways. It is with this in mind that the recommendation is as at para 2.1 above.
- 3.8 In order test how successful a Hot Food Takeaway SPD would be officers prepared a draft SPD. Supplementary Planning Documents should be in conformity with and clearly cross-referenced to the relevant Development Plan policies they support. Policy S20 of the Local Plan are referred to in the draft SPD and cross referenced, but the links between this policy and the issue of Hot Food takeaways is very tenuous. Although policy S20 seeks to strengthen Bromsgrove's shopping role in order to compete more successfully with other shopping centres, there is no direct link to indicate that hot food takeaways affect this role. This policy also fails to recognise hot food takeaway premises on a District-wide scale as opposed to solely in the town centre. The other retail policies mentioned in the SPD, also only provide fragile links to hot food takeaways and in many instances would support further expansion of the number of Takeaways in key retail areas. The Strategic Planning Section deem the Draft SPD does not expand on existing policies and introduces new policy, which does not comply with national guidance.
- 3.9 Hot Food Takeaway SPDs have been able to be produced by other Local Authorities as they have been linked more coherently with policies contained in up to date Development Plan Documents. Authorities have been able to use more substantial policies that are part of their Local Plans or Unitary Development Plans (UDPs), which directly related to hot food takeaways.
- 3.10 The Hot Food Takeaway SPD produced by Waltham Forest directly supplemented a number of policies within the Waltham Forest UDP adopted in March 2006. The UDP restricted non-retail uses forming in groups of three or more standard sized units, as well as restricting A5 uses within neighbourhood retail parades. The UDP also had a policy specific to Hot Food Takeaways, restaurants and Night Economy Uses, which related to the size of units, hours of operation, implications on traffic congestion and parking, impact on the character of the area and the practicality of providing extract ducting ventilation and/or noise insulation. These policies allowed

Waltham Forest Borough Council to comply with PPS12 and supplement these policies as part of a Hot Food Takeaways SPD.

3.11 This process also applied to other authorities that have produced Hot Food Takeaway SPDs. Salford City Council, for example, had a number of policies within Salford's UDP that was adopted in June 2006 that could be used as the basis for an SPD. Policy S3 restricts the change of use from A1 retail units, and Policy A5 restricts the number of A5 uses if they are deemed to have an unacceptable impact on the area.

3.12 Based on the lack of evidence that Hot Food Takeaways are directly having an impact on the sense of community and well being and the environment, and the non-compliance with Government guidance, the Strategic Planning Section does not consider a Hot Food Takeaways SPD to be possible at this stage. Should the document be taken forward it is our view that it would have minimal credibility due to these reasons, and would not present a particularly strong case should it be used as part of a planning appeal

4. FINANCIAL IMPLICATIONS

4.1 The SPD would be produced by the Strategic Planning Section and therefore there are no external costs associated with the production of this document. However, costs could occur through the appeals process if planning applications are refused based on the SPD. The insubstantial evidence supporting the SPD and the non-compliance of national guidance would increase the likelihood of costs occurring.

5. LEGAL IMPLICATIONS

5.1 The Hot Food Takeaways SPD cannot be produced in accordance inline with the provisions set out in the Planning and Compulsory Purchase Act 2004 and as such it is recommended progress is stopped.

6. COUNCIL OBJECTIVES

6.1 Objective 1: Regeneration - Priorities: Town Centre

Through the Town Centre AAP, the Council strives to improve the range and quality of the retail offer in order to enhance the viability of Bromsgrove town as a sustainable shopping destination.

7. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

7.1 The main risks associated with the details included in this report are:

- The adoption of the SPD would lead to the creation of new planning policy and not the supplementing existing policy as such it could be challenged through the appeal process.

7.2 These risks are being managed as follows:

Risk Register: Planning and Environment

Key Objective Ref No: 6

Key Objective: Effective, efficient, and legally compliant Strategic planning Service

8. CUSTOMER IMPLICATIONS

8.1 A number of concerned residents have written to the council about this issue particularly in Rubery, the strategic planning team would respond to these letters explaining the problems with producing a hot food takeaway policy.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 There are no implications for equality and diversity.

10. VALUE FOR MONEY IMPLICATIONS

10.1 There are no implications regarding value for money.

11. CLIMATE CHANGE AND CARBON IMPLICATIONS

11.1 There are no implications regarding Climate Change

12. OTHER IMPLICATIONS

Procurement Issues	None
Personnel	None
Governance/Performance Management	None
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	SPDs cannot introduce primary new policy.
Biodiversity	None

13. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	No
Chief Executive	No
Executive Director – Planning, Regeneration and Housing Services	Yes

Executive Director – Section 51	No
Executive Director and Deputy Chief Executive	No
Director of Policy Performance and Partnerships	No
Head of Planning and Regeneration	No
Head of Resources	No
Head of Legal, Equalities & Democratic Services	No
Corporate Procurement Team	No

14. WARDS AFFECTED

14.1 All Wards

15. APPENDICES

15.1 None

16. BACKGROUND PAPERS

16.1 None

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