

Appendix 1

Health Select Committee March 24th 2010:

Briefing Note from L B Brent Planning Service on controlling Hot Food Takeaways (A5 use class) within Brent.

1. Background

- The Planning Service has been made aware of local support for the restriction or possible reduction of hot food takeaways (A5 uses) in the borough by way of planning policy and/or an SPD, in support of reducing childhood obesity.
- At present, Brent planning policy in the UDP (policy SH10) seeks to control the number of Food and Drink uses (including A5 uses) where they may harm residential amenity or have an adverse effect on highway safety. Brent's policy is now out of date as the Use Classes order has been amended since the UDP was adopted creating a new Use Class for takeaways (i.e. A5 use).
- In order to further control A5 uses on the grounds of their contribution to childhood obesity, it would require either a new Supplementary Planning Document (SPD) or new planning policy in the Development Plan, or both.

Supplementary Planning Documents (SPDs):

- This form of planning document expands on an existing planning policy. Policy can be within the borough's existing Unitary Development Plan (UDP) or new / revised policy can be created in a new Development Plan Document (DPD) which forms part of the Local Development Framework (LDF).
- It is noteworthy that an SPD cannot itself create a new planning policy but, rather, must be related to an existing planning policy
- The London Boroughs of Barking & Dagenham (B&D) and Waltham Forest (WF) have produced SPDs to help curb the establishment on **NEW** A5s in their boroughs in order to tackle local childhood obesity. They have related these to existing policies in their UDPs.
- If Brent was to pursue an SPD then that produced by B&D is favoured in terms of a model for Brent to follow because it has been prepared as part of the LDF process and is based upon a stronger evidence base and, consequently, has a greater chance of being supported on a planning appeal against refusal of planning permission.

Planning Policy:

- At present, Brent is awaiting the outcome of the examination of its Core Strategy which, on adoption (anticipated in June 2010), will mean that the borough can move on to the process of producing a Development Management Policies document. This will contain new detailed policy on controlling or promoting uses in town centres. These policies will replace the existing UDP(2004) policies.
- There is no policy within the draft Core Strategy to which an SPD limiting A5 uses can be related. Consequently, it would be more sensible for Brent to draft a Development Management policy, rather than just an SPD, to control A5 uses. An actual policy in the Development Plan would carry greater weight in terms of implementation, particularly if it came to a planning appeal against refusal of permission for a takeaway. However, because the policy would have to be subject to examination it would therefore have to be soundly based on evidence. It is highly likely that there would be objections to it, particularly from the major operators such as MacDonalDs.

Overview of Barking & Dagenham's SPD

- This was written with comprehensive evidence base researched by the local PCT regarding obesity of

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local children. A *Childhood Obesity Strategy* had been produced

- The borough already had in place a LAA to tackle obesity
- The PCT had collected evidence regarding the impact of the built environment as a key determinant of both general health & obesity in children
- The SPD was specifically written to tackle obesity and was called 'Saturation Point' to:
 - reduce the prevalence & clustering of A5 uses
 - to seek developer contributions (S106) from new A5 operators towards initiatives to tackle obesity in LBB.
 - to improve opportunities to access healthy food in new developments
- Three SPD *implementation points* were set up, based on evidence:
 - i. **Proximity to schools** – 400m exclusion zone established
 - ii. **Concentration & clustering** – no more than 5% of units within centre or frontage to be A5 OR no less than 2 non-A5 units between individual A5s
 - iii. **HFTA (A5) levy** – fee to contribute to tackling childhood obesity
- B&D takes a holistic approach to tackling obesity, with an SPD that looked at strategic approaches to tackling childhood obesity:
 - Healthy food choices
 - Schools – healthy food Programme
 - Council property – working with landlords to reduce A5s
 - Major commercial, retail & TC developments
 - Mobile hot food takeaway vans
- The local PCT would monitor the implementation points via their indicators for reduction of childhood obesity
- B&D conducted a large consultation exercise which encompassed A5 operators, academia, NHS, health organisations & residents. This ensured local buy-in to the SPD

2. Brent

- For Brent to prepare a planning policy for inclusion in its development plan, or an SPD, a robust **local** evidence base would have to be drawn up to illustrate that an over concentration of A5 units actually exacerbates, or promotes, obesity in the borough
- On the understanding that an Obesity Strategy for Brent is being written, its evidence base would have to show the clear link between the borough's built environment and local obesity. This would then provide the spatial planning direction required to write a planning policy and SPD that effectively curbs A5 uses within the borough
- In relation to schools, if an 'exclusion' or 'buffer zone' is to be calculated in which A5 uses would be restricted, the obesity health evidence base would need to illustrate:
 - That Brent school children gravitate towards A5s as a choice for food and where in the borough it is a major problem in terms of obesity
 - School locations – how far/close to A5s - spatial mapping
 - Calculate a possible exclusion zone specific to Brent's needs and then justify it
 - Calculate and define an exclusion zone distinct to Brent's needs, and justify it
 - Need to take into account Wembley and the particular demand for A5 uses as a leisure destination
 - If planning was to seek S106 contributions from new A5 operators, it would have to be determined how much should be requested and to what health initiatives the contributions would go? The PCT would need to show what health initiatives in the borough are feasible in terms of tackling obesity, and they would need to monitor these as part of the Planning Annual Monitoring Report (AMR)

3. National & Regional Planning Policy

- There is some supporting planning policy at a National or Regional level which may help make a case for further policy at a local level. The Government's planning policy statement PPS1 (2005) requires development plans to reduce health inequalities.
- PPS4 (2010) – requires local planning authorities to look at deprived areas and use qualitative assessments to decide on the distribution of uses in town centres?
- The London Plan (2008) - promotes healthier lifestyles requiring DPDs to include policies to promote healthier lifestyles and well being
- The draft London Plan: Shaping London (2009) – is proposing a policy (3.2): *Addressing Health Inequalities*

4. Conclusions

- It is recommended that if additional planning controls on the number of new takeaways in a particular area are to be introduced, related for example to proximity to schools, then this would be given greater weight by being brought forward in the form of a planning policy in the Council's forthcoming Development Management Policies DPD. This could be supported by further detail in a subsequent SPD.
- A SPD on its own may not have a great deal of weight when considered at an appeal against refusal of planning permission, which is the ultimate test of the controls. At this stage it is too early to assess the success or otherwise of either Waltham Forest's or Barking and Dagenham's SPD because they have yet to be tested on appeal.
- Unfortunately, because of other priorities and the proposed timetable for producing the new Development Management Policies document, a new policy is unlikely to be available in draft form until May 2011 and could only then be adopted as statutory policy by the end of 2012 at the earliest.
- Unless a compelling local case can be made for a policy tightly controlling takeaways, then there is a strong possibility that it would be rejected at examination because of the likely level of objection from takeaway operators. However, if a policy were to be successfully carried through to an adopted development plan, then it would carry substantially more weight than a SPD.
- There is a particular difficulty in attempting to control takeaways in proximity to schools in the Wembley area because of the level of demand from the Stadium in particular.