



Planning Committee

20th October 2010

Report from the Director of Planning

For Action

Wards Affected:
All

Brent LDF – Revised Local Development Scheme and Request by Health Select Committee for SPD on Take-Aways.

1.0 Summary

- 1.1 This report asks Planning Committee to consider the referral from Health Select Committee on the issue of restricting or reducing the number of hot food takeaways in close proximity to schools and, in light of officers' recommendations on this, to endorse the proposed Local Development Scheme timetable to be considered by Executive.

2.0 Recommendations

- 2.1 That Planning Committee endorses the proposed Local Development Scheme timetable at Appendix 3 and recommends to Executive that it be agreed for submission to the Secretary of State and the Mayor of London.

3.0 Detail

Introduction

- 3.1 As part of the process of producing the Local Development Framework (LDF) the Council is required to prepare, and keep up-to-date, a Local Development Scheme (LDS). The LDS indicates which documents the Council is proposing to produce as part of the LDF as well as setting out a timetable for their production. The last LDS was approved in May 2009 and is now out-of-date.
- 3.2 A request has been made by the Health Select Committee to produce a Supplementary Planning Document to provide more detailed guidance than currently exists on dealing with planning applications for take-away restaurants (referred to as Class A5 uses in the Use Classes

Order). A decision needs to be made, particularly in light of staff reductions and resources generally in the Planning Service, as to whether this is necessary and, if so, whether it is considered to be a greater priority than other scheduled work.

Health Select Committee

- 3.4 The Select Committee agreed, on March 24th 2010, that the issue of restricting or reducing the number of hot food takeaways in close proximity to schools be referred to the Planning Committee for their consideration. (see Appendix 1 for the minutes). This was after consideration of a briefing note (Appendix 2) which outlined the main issues relating to the preparation of a Supplementary Planning Document (SPD).
- 3.5 The key points outlined in the briefing note were:
- Current policy towards Food & Drink Uses (including A5 takeaways) is out of date
 - SPD can only expand on existing policy and cannot introduce new policy
 - Barking and Dagenham and Waltham Forest have produced SPDs to help resist the spread of A5 uses in their boroughs - however, this has not yet been tested on appeal
 - A comprehensive evidence base would be needed to support new policy or an SPD
 - The preferred way of introducing further controls, if that were considered desirable, would be to introduce revised policy in the Development Management Policies DPD when that is brought forward by 2013 at the earliest.
- 3.6 There are also issues relating to the control of A5 uses which it is worth expanding upon. In relation to Wembley, a key driver for the regeneration of Wembley is the provision of food and drink uses associated with the development of Wembley as a destination, building upon demand created by the stadium and Arena and also meeting new demand created by visitors to the new attractions including the proposed outlet centre and cinema.
- 3.7 In addition, if it is proposed that limits be placed upon the level of take-aways because of the effect on health, particularly on that of young people, then there is logically a need to assess whether the take-away food to be provided is in fact damaging to health. There is also the issue of other shops, such as convenience stores, selling food and drinks which may have similar effects to food sold from A5 uses. This would be by no means straight forward and would present serious difficulties for officers and Members in making this assessment.

- 3.8 For the reasons given above, officers recommend that the appropriate way forward for reviewing the Council's approach to the determination of planning applications for hot-food takeaways is to undertake this as part of the preparation of the Development Management Policies DPD. Officers consider that it is appropriate that policy should be revised at this time based upon a body of evidence, and that it should be based upon sound planning reasons as part of a corporate approach to improving the health of local people. This would also allow resources to be focussed, in the meantime, on area-based DPDs or SPD such as the Alperton SPD and the Wembley Area Action Plan which have already been identified as a priority in the Planning Service work programme.

Revised Local Development Scheme

- 3.9 Progress with key elements of the LDF has been relatively good with the Core Strategy adopted in July 2010 being the first in West London, and the Site Specific Allocations DPD currently being examined and likely to be adopted by June next year. Good progress has also been made on the preparation of SPD for local areas of the Borough, with the Wembley Masterplan adopted in June 2009, and the draft Alperton and Wembley Link SPDs before you tonight for approval for public consultation. However, reductions in resources available to the Planning Service means that certain other key elements of the LDF will have to be delayed beyond the timescale set out in the LDS agreed in March 2009. In particular, it is proposed that the Development Management Policies DPD, which was originally scheduled for public consultation in September 2011, be put back to early 2012. This will allow for the consultation on a Wembley Area Action Plan, needed to fulfil commitments in the Examination of the Core Strategy to pull together the various strands of policy and guidance that exists, as well as to update policy from the Wembley Regeneration Area chapter of the UDP adopted in 2004.
- 3.10 Another DPD which forms part of Brent's LDF and which is fairly advanced in its preparation, is the joint West London Waste DPD. A public consultation draft of this is before Planning Committee for consideration tonight.
- 3.11 It is proposed that for the purposes of submission to the Secretary of State and the Mayor of London, that the revised LDS will have effect from 1st January 2011.
- 3.12 The proposed LDS timetable, including a gant chart showing key milestones for all the DPDs and SPDs proposed, is included at Appendix 3. Planning Committee is asked to endorse this and recommend to the Executive that this be agreed.

4.0 Financial Implications

- 4.1 Since the Government abolished the Housing and Planning Delivery Grant in June, there are no longer any financial benefits to the Council from progressing the Development Plan Documents of the LDF

according to a timetable established by the LDS. Nevertheless, it remains a statutory requirement to prepare an LDS and to keep it up to date.

5.0 Legal Implications

- 5.1 The preparation of the LDF, including the LDS, is governed by a statutory process set out in Government planning guidance and regulations. The LDSs of London Boroughs must be submitted to the Mayor of London and the Secretary of State, who then have an opportunity to direct changes to it. If they do not direct changes then it takes effect after a prescribed period.

6.0 Diversity Implications

- 6.1 Full statutory public consultation has been carried out in preparing the Core Strategy and an Impact Needs / Requirement Assessment (INRA), which assessed the process of preparing the Core Strategy, was prepared and made available in November 2008. An INRA was also produced in 2006 on the process of producing SPDs

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 There are no accommodation implications arising directly from this report. The revised timetable for preparing the various local development documents of the LDF is based upon current levels of staffing in the Planning Service. Further reductions in staffing levels would require a further review of this timetable.

8.0 Environmental Implications

- 8.1 The Core Strategy will have a major impact upon the environment, particularly as it relates to new development and the protection of local character and open space. It includes significant new policy to help mitigate against the effects of climate change. Sustainability appraisal has been undertaken at all stages of developing the Core Strategy.

9.0 Background Papers

- 9.1 London Borough of Brent LDF – Local Development Scheme, March 2009
- 9.2 Brent UDP, 2004
- 9.3 Brent Core Strategy, 2010
- 9.4 Brent Site Specific Allocations DPD, Submission Version, June 2010
- 9.5 The Town and Country Planning (Local Development) (England) (Amendment) Regulations 2008

Contact Officers

Any person wishing to inspect the above papers should contact Ken Hullock, Planning Service 020 8937 5309

Chris Walker
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Appendix 1

Extract from Minutes of Health Select Committee, March 24th 2010

7. Response from the Planning Service on restricting or reducing the number of hot food takeaways

Following a request from members of the Health Select Committee for a statement from Brent's Planning Service regarding restricting or reducing the number of hot food takeaways in close proximity to schools, Ken Hullock (Policy Manager, Planning Services) introduced the briefing note. He informed the committee that in order to control hot food takeaways on the grounds of their contribution to childhood obesity, a new Supplementary Planning Document (SPD) or a new planning policy in the Development Plan, or both, would be required. He stated that Barking and Dagenham Council and Waltham Forest Council had produced SPDs to help curb the establishment of new hot food takeaways, which they had related to existing policies in their Unitary Development Plan (UDP). He added that if Brent was to pursue an SPD, then Barking and Dagenham's model would be the preferred model to follow because it was prepared as part of the LDF process and was based upon a stronger evidence base. He stated that a robust local evidence base, which showed that there was a direct link between the over concentration of hot food takeaways and obesity in the borough, would be required, whether Brent was to prepare a planning policy for inclusion in its development plan or an SPD.

Ken Hullock advised that planning controls would be given greater weight if brought forward in the form of a planning policy in the Council's forthcoming Development Management Policies. This, he added, could then be supported in further detail by a SPD. He advised that an SPD on its own may not have a great deal of weight when considered at an appeal against refusal of planning permission. He stated that Waltham Forest's and Barking and Dagenham's SPD had yet to be tested on appeal. However, he advised that because of other priorities and the proposed timetable for producing the new Development Management Policies document, a new policy would be unlikely to be adopted as statutory policy until the end of 2012 at the earliest. Ken Hullock informed the committee that the council had now received the prospective report regarding its core strategy. In the discussion which followed a concern was raised regarding the amount of time it would take to create a planning policy for inclusion in the council's forthcoming Development Management Policies, as tackling child obesity should be a priority. In responding to a question, Ken Hullock advised that an SPD could be developed within nine months as it would not need to go through statutory process.

A view was put forward by a member of the committee that the SPD route, using the Obesity Strategy to build up evidence, would be the best option.

Andrew Davies (Policy and Performance Officer) advised that the Obesity Strategy Group, which met recently, had expressed a wish to pursue this with planning colleagues and to take it forward within the Obesity Strategy. In responding to a question regarding the availability of evidence, Andrew Davies explained that whilst

no research had been done as such, PCT representatives on the Obesity Strategy Group felt that there would be evidence available to show the link between the over concentration of hot food takeaways and levels of obesity in the borough. The committee agreed that, in the meantime, the issue should be referred to the Planning Committee for their consideration of the issue.

RESOLVED:-

- i. that the briefing note on restricting or reducing the number of hot food takeaways be noted;
- ii. that the issue of restricting or reducing the number of hot food takeaways in close proximity to schools be referred to the Planning Committee for their consideration.

Appendix 2

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 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 LBBD.
 - 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 btwn 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 a 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.

Appendix 3 Proposed Revised Local Development Scheme Timetable

DPD	2010				2011				2012				2013			
	Jan - Mar	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sept	Oct - Dec
Core Strategy			Blue													
SISAs DPD		Red		Green	Light Blue	Blue										
Development policies DPD							Purple			Yellow		Red	Green	Light Blue	Blue	
Wembley AUP DPD					Purple		Yellow		Red	Green	Light Blue	Blue				
Joint Waste DPD					Yellow				Red	Green	Light Blue	Blue				
Design Guide for New Development SPD				Purple	Yellow		Blue									
Extending Your Home SPD				Purple	Yellow		Blue									
Front Gardens Guide				Purple	Yellow		Blue									
Albion Masterplan SPD		Purple		Yellow	Blue											
Wembley Link SPD		Purple		Yellow	Blue											
South Kilburn SPD					Yellow	Purple	Blue	Yellow	Blue							
Bridge Park SPD			Purple		Yellow	Blue										
Burnt Oak/Coldside Development Framework SPD					Purple	Yellow		Blue								
Housing SPD					Purple	Yellow		Blue								

- Key**
- Evidence gathering stage
 - Initial consultation on draft plan
 - Consultation before submission
 - Submission of DPD to Secretary of State
 - Pre-examination meeting
 - Examination
 - Inspector's report & incorporate Inspector's recommendations
 - Adoption



Planning Committee
(20th October 2010)

Version (No1)
(1st October 2010)

Development Plan Documents	Work Commences	Public Consultation	Submit	Exam	Adopt
Core Strategy	N/A	N/A	N/A	N/A	July10
Site Specific Allocations DPD	N/A	N/A	Jun10	Nov10	May11
Wembley Area Action Plan DPD	Feb11	Jun11	Feb12	Jun12	Dec12
Development Policies DPD	Sept11	April12	Dec12	April13	Oct13
Joint Waste DPD	N/A	Feb11	Jan12	May12	Nov12
Supplementary Planning Documents					
Wembley Masterplan	N/A	N/A	N/A	N/A	June09
Design Guide for New Devt.	Dec10	Feb11	N/A	N/A	Jul11
Extending Your Home	ongoing	Feb11	N/A	N/A	Jul11
Front Gardens Guide	ongoing	Feb11	N/A	N/A	Jul11
Alperton Masterplan SPD	Jun10	Nov10	N/A	N/A	Mar11
Wembley Link SPD	Jun10	Nov10	N/A	N/A	Mar11
South Kilburn SPD	Jun11	Sept11	N/A	N/A	Mar12
Bridge Park SPD	Sept10	Feb11	N/A	N/A	Jul12
Burnt Oak / Colindale Devt Framework	May11	Sept11	N/A	N/A	Mar12
Housing SPD	Mar11	Jun11	N/A	N/A	Dec11