

SLOUGH BOROUGH COUNCIL

REPORT TO: Overview & Scrutiny Committee **DATE:** 10 September 2013

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PART I **CONSIDERATION & COMMENT**

CHILDHOOD OBESITY REVIEW (MEETING 2): What options are there to alter the physical environment?

1 Purpose of Report

To provide the Committee with information on the options for potentially restricting child access to fast food outlets around schools and the possible impacts of this.

Please note, this report is based on a motion from Council which specified schools, however, the Committee may wish to also consider children's centres and community centres as part of the discussion.

2 Recommendation(s)/Proposed Action

That the Committee consider the information provided and garnered through questioning at the committee meeting in order to form conclusions on the potential to prevent any new premises with A5 usage from opening within 300-500 metres of any school in the borough, and to make any recommendations as appropriate.

3 Joint Slough Wellbeing Strategy Priorities

Priorities:

- Health and Wellbeing – enhancing positive health and wellbeing throughout life, encouraging healthy eating and improving the emotional and physical health of children of all ages from 0 to 19 years.
- Economy and Skills – maintaining and growing the economy of the town and supporting local start ups and job opportunities.

- Regeneration and Environment – to encourage private sector investment to create employment and economic activity that will increase the viability and vitality of the town, with increased participation in the planning process.

4 **Joint Strategic Needs Assessment (JSNA)**

The JSNA for Slough in 2009, 2010 and 2011/12 all noted the issue of childhood obesity as a priority.

5 **Other Implications**

(a) Financial

Should the decision be taken to recommend the introduction of a supplementary planning document creating restriction zones for A5 premises around schools in the borough there would be cost implications for this work of approximately £5,000.

(b) Risk Management

Risk	Mitigating action	Opportunities
Legal	None	None
Property	None	None
Human Rights	None	None
Health and Safety	None	None
Employment Issues	None	None
Equalities Issues	None	None
Community Support	None	None
Communications	None	None
Community Safety	None	None
Financial	None	None
Timetable for delivery	None	None
Project Capacity	None	None
Other	None	None

(c) Human Rights Act and Other Legal Implications

There are no Human Rights Act Implications relating to this report.

(d) Equalities Impact Assessment

The creation of restriction zones around schools may affect certain minority groups more than others. Owners of such businesses are usually local residents from deprived backgrounds and this is a major source of income and employment for them. Therefore, a full Equalities Impact Assessment would be required should such a policy be proposed.

6 **RESTRICTION OF A5 PREMISES NEAR SCHOOLS**

6.1 At its meeting on 27 November 2012, the Council resolved:

“that the health and well being priorities in the Sustainable Community Strategy (2011) and other relevant national and regional guidance in relation to improving the health of children be expanded by considering ways to prevent any new premises with A5 from opening within 300-500 metres of any school within the Slough borough borders...”

- 6.2 Hot food takeaways differ in purpose from restaurants and cafes (class A3), drinking establishments (class A4) and shops (class A1). A class A5 hot food takeaway is an establishment whose primary business is the sale of hot food for consumption off the premises.
- 6.3 There are currently 90 A5 premises in Slough. A map showing the locations of these premises in relation to the borough’s secondary schools will be made available at the meeting. As these premises have already been opened, any new measures concerning restrictions around schools would not apply to them, and therefore consideration of this subject must include the likely number of new A5 premises which a policy would apply to and therefore the level of impact on the issue of childhood obesity.
- Data collected through the Slough School Food Survey indicates that all schools operate a stay-on site policy for pupils up to Year 11. This means that the impact of limiting takeaways near schools may not be as effective unless they are required to close for a period at the end of the school day e.g. 3-4.30pm.
 - The 2011/12 food survey data suggests that 16% of the sample secondary group visited a takeaway once a week. It is unlikely that preventing the opening of new premises when the area is already saturated with them will reduce this.
 - There are other establishments that sell unhealthy items to children that need to be considered e.g. mobile ice cream vans which park directly opposite schools (often causing road safety issues), newsagents, large supermarkets and petrol stations.
- 6.4 In 2012 The Public Health Outcomes Framework was introduced and refocused the public health system on two high-level objectives: increased healthy life expectancy; and the reduction in differences in life expectancy between communities. Following this, in 2013, the Department for Business, Innovation and Skills (BIS) produced a report looking at the links between regulatory activity and health outcomes. BIS concluded that many of the wider health determinants, such as housing, economic development and transport, could be influenced by local authorities through a combination of traditional public health activities and other local activity in order to maximise benefits. Regulatory services, through engagement with local businesses, could support the effective targeting of specific health issues. The Local Government Association, Chartered Institute of Environment Health and Trading Standards Institute have all looked into the issue of how regulatory interventions can support public health outcomes; and the Department of Health’s Public Health Responsibility Deal acknowledges the role of small businesses in delivering health outcomes.
- 6.5 The introduction of restrictions on A5 (hot food takeaways) near schools has been implemented in a number of areas across the country. Most of the areas are clustered in London, West Midlands and North West, with no areas outside of London in the South East (Obesity-based policies to restrict hot food takeaways: progress by local planning authorities in England, www.medway.gov.uk, 21 January

2013). With the possible exception of Worcester, the authorities are urban areas characterised by high levels of deprivation.

- 6.6 The authorities have used the planning system in a number of different ways to restrict A5 premises: some have used supplementary planning documents (SPD) and some have used other planning documents such as local plans or development management policies (DPD). Any policy that is put in place must be consistent with national planning policy, known as the National Planning Policy Framework (NPPF) which states that: 'The planning system can play an important role in...creating healthy, inclusive communities' (NPPF paragraph 69).
- 6.7 The use of exclusions zones in shopping centres and along high streets is outside of the remit of this discussion, however, there have been variations in where exclusion zones have been applied:
- Primary schools
 - Secondary schools/sixth form colleges
 - Youth facilities/community centres
 - Playing fields/parks/children's play spaces
 - Leisure centres

The primary areas for restrictions have been around primary and secondary schools, generally a restriction zone of 400 metres. Some authorities have only applied the restriction zone to secondary schools on the basis that primary school children are not permitted to leave school grounds at lunchtimes.

6.8 Tower Hamlets

In 2010, Tower Hamlets undertook a Scrutiny Review on reducing childhood obesity through the promotion of healthy eating by increasing the availability of, and access to, healthy food choices and reducing the availability of, and access to, foods that are high in fat, sugar and salt. The recommendations coming out of this Review included the development of an evidence base to underpin the introduction of policies for the management of an over-concentration of fast-food outlets, and in particular restrictions of an over-concentration of fast-food outlets within the vicinity of schools. The Review also looked at the quality of food being served at established outlets.

The Healthy Spatial Planning Project (part of Tower Hamlets' Healthy Borough Programme) 'Tackling the Takeaways: A New Policy to Address Fast-Food Outlets in Tower Hamlets', which followed the Scrutiny Review, set out the evidence base for the introduction of such a policy, and looked to establish a robust development management framework for managing the number and location of hot food takeaways, as well as recommending approaches for integrating health issues into planning policy. This would be in line with the Marmot Review as well as the Government's Healthy Weight, Healthy Lives which called for 'local authorities [to] use existing planning powers to control more carefully the number and location of fast-food outlets in their local areas.'

6.9 London Borough of Barking and Dagenham

The London Borough of Barking and Dagenham introduced a Supplementary Planning Document (SPD) in 2010 called Saturation Point: addressing the health impacts of hot food takeaways. Whilst an SPD does not have the same status as a

Development Plan, it is an important material consideration in the determination of planning applications. The borough decided that it wanted to champion the creation of a built environment which makes healthier choices easier, including the availability of affordable healthy food.

The SPD aimed to reduce the risk of obesity amongst the borough's population, and in particular children, by:

- reducing prevalence and clustering of hot food takeaway shops, especially those in proximity to schools, parks and local youth amenities such as leisure centres;
- seeking developer contributions from new takeaways towards initiatives to tackle obesity (£1000 through a section 106 agreement);
- working with hot food takeaways to improve the nutritional value of the food they sell; and
- improving the opportunities to access healthy food in new developments.

In order to achieve this, planning permission for new hot food takeaways (use class A5) would not be granted in the hot food takeaway zone (within 400m of the boundary of a primary or secondary school).

6.10 Impact of these examples

According to the research conducted by Final Draft Consultancy in January 2013, at least nine of the local authorities had cited their SPD or another planning policy in refusing applications for hot food takeaways. Of these, five had had their policies tested successfully on appeal (another local authority was currently going through the appeal process). Although it should be noted that there was normally a combination of reasons for the refusal of the original application, of which a restriction zone would be just one.

The research confirmed that it was not possible to know precisely how many fast food takeaway applications had been rejected on the grounds of obesity-influenced policies, but that it was believed that between 40-50 applications had been rejected using policies designed to restrict the number of outlets in a particular area.

As the introduction of such zones is a relatively new approach, there is currently no hard evidence that restricting A5 premises has had a positive impact on the levels of obesity. However, there is a sense that this measure, in combination with other programmes of work such as nutritional education, would assist with improving the levels of childhood obesity in an area.

7 How would such a policy look in Slough and how would it be implemented?

- 7.1 A second map to be circulated at the meeting will also show that a significant part of the borough, apart from part of the town centre, the centre of the Trading Estate and Poyle Trading Estate is within 500 metres of a primary or secondary school. This means that a policy banning takeaways within the remaining areas of Slough would be quite significant.
- 7.2 As a result it might be necessary to consider reducing the distance of such a policy to 300 metres or only applying the exclusion zones around secondary schools on the basis that primary school children are likely to be supervised going to and from school, and not allowed out at lunchtimes.

- 7.3 Such a policy would not impact on existing A5 premises, or cover other alternative premises which may sell unhealthy foods such as shops or cafes. However, the policy could be the most appropriate way of dealing with a proposal for takeaway near a school that doesn't already have one in the vicinity. In terms of planning decisions, any policy would need to be applied in a considered way to minimise the risk of losing on appeal.
- 7.4 Alternatively, consideration could be given to a restriction on the hours that new takeaways in certain areas could operate which would require them to close between 3 p.m. and 4.30 p.m. during term time.
- 7.5 The council has also for the past eight years operated a Catering for Health Award in partnership with Bracknell Forest Council and the Royal Borough of Windsor and Maidenhead. It is a voluntary enhancement of the food hygiene rating scheme and food businesses rated three and above are eligible. This Award recognises the inclusion of healthy menu choices and healthier catering practices to increase awareness of healthy eating across the Slough community, and our officers work with businesses to help them reduce fat content, sugar and salt in the food that they offer. Specific assessment forms have been created to ensure the needs of different clients are met e.g. workplaces, schools, nurseries. As well as restaurants and takeaways, 46 premises in Slough currently hold the award, and this has positively influenced the diet of more than 50,000 people each week.
- 7.6 Consideration could also be given to the idea that selected premises with a low rating in the food hygiene scheme (0-2 ratings) could be coached to encourage them to reach a broadly compliant level of food hygiene (3 rating). During this limited period, they would be exempt from enforcement action (with the exception of any imminent risks to health). For those that reach a 3 rating, work under the Catering for Health umbrella could then be trialled to support more A5 premises to offer healthier alternatives e.g. alternatives to fried foods/sugary drinks and/or reducing salt, fat and sugar during cooking.
- 7.7 How would such a policy be implemented?

The Planning committee recently agreed that there was no immediate need to review the existing plans for Slough. As a result, a policy restricting takeaways would not be able to be added to the Local Plan. This means that it would have to be produced as Supplementary Planning Guidance, which would carry a lot less weight. This could be problematic as we do not have a current planning policy on which to add supplementary guidance, and therefore such a move would have to be based on the National Planning Policy Framework (NPPF) quoted above in paragraph 6.6, as it is very vague, with no direction on adopting this sort of policy which, according to the NPPF has to be balanced against the overarching presumption in favour of development which the guidance sets out.

There will need to be public consultation on the introduction of a supplementary planning guidance document. In addition, an Equalities Impact Assessment will need to demonstrate whether the policy has a disproportionate effect upon certain groups.

8 **Conclusion**

Although preventing the opening of new A5 premises will help limit yet more unhealthy items being available the impact may be limited as it would not address the problem of the amount of unhealthy foods already for sale (from existing A5 premises as well as mobile traders, newsagents etc).

However, restricting A5 premises will show residents of Slough that the LA is trying to create a positive healthy environment for their children. It would also advertise the issue, and potentially influence whether or not they allow purchase of items from those A5s already open.

Alternative options, which could be developed individually or sit alongside a restriction zone, could be initiatives which support the provision of healthier options at takeaway premises. This would need to sit alongside the other areas this Review is aiming at looking at such as education and increased physical activity to provide a holistic approach.

9 **Background Papers**

Our Health and Wellbeing (Chartered Institute of Environmental Health)

Taking forward the health role of council regulators (Local Government Association, 2009)

Making the Connection (Trading Standards Institute, 2003)

Obesity-based policies to restrict hot food takeaways: progress by local planning authorities in England (Andrew Ross, Final Draft Consultancy, January 2013; published on www.medway.gov.uk)

Tackling the Takeaways: A new policy to address fast food outlets in Tower Hamlets (Healthy Borough Programme: Healthy Spatial Planning Project, 2011)

Summary Report. Exploring the Links between regulatory Activity and Health Outcomes (Better Regulation Delivery Office, 2013)