



Agenda

Meeting: **Council**
Date: **26 June 2019**
Time: **7.00 pm**
Place: **Council Chamber - Civic Centre Folkestone**

To: **All Members of the Council**

YOU ARE HEREBY SUMMONED to attend a meeting of the Council on the date and at the time and place shown above. The meeting will be open to the press and public.

Anyone who wishes to have information on any matter arising on the Agenda which is not fully covered in these papers is requested to give notice prior to the meeting to the Chairman or appropriate officer.

This meeting will be webcast live to the council's website at <https://folkestone-hythe.public-i.tv/core/portal/home>. Although unlikely, no guarantee can be made that Members of the public in attendance will not appear in the webcast footage. It is therefore recommended that anyone with an objection to being filmed does not enter the council chamber.

Head of Paid Service

9. **Opposition Business (Pages 5 - 26)**

The Labour Group has raised the following matter:

"The council notes the recent arrival of UberEats and the upcoming arrival

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of Deliveroo to the district. The rise of the gig economy allows companies to avoid their responsibilities as employers and promote low paid, zero hours contracts further entrenching our residents in poverty.

The Council also notes that such businesses and in turn the businesses they deliver for, only help fuel an already rising obesity crises within the district.

The Council also notes that a number of established food outlets with a delivery service are already feeling the impact from corporate fast food chains entering the delivery market.

This Council believes that if UberEats and Deliveroo are to operate in the district then they should be accessible to all local businesses not just the large corporations and offer a wide range of choice.

This Council believes that these companies through social media are using targeted advertising to promote instant fast food which will in turn fuel an already rising obesity crises in the district.

This Council believes that UberEats and Deliveroo must operate within the law, observing their rights of employers and that their workers must be treated accordingly.

This Council believes that UberEats and Deliveroo ability to trade in the district should not be to the detriment of already established businesses.

This Council resolves to:

- 1) Ask the Leader of the Council to consider writing to the Secretary of State for business Greg Clark MP, to note this Council's concerns with UberEats and Deliveroo regarding the following:*
 - a) That workers are all registered to work in the UK and are being paid at least the UK living wage*
 - b) That these employers recognise a trade union and respect membership.*
 - c) That these employers pay their employees the same wage for the same work, regardless of age.*
 - d) That all workers have equal rights from day one, including sick pay, paid holiday, and protection from unfair dismissal.*
 - e) That their process on working with and promoting smaller businesses interested in using their service is reasonable and fair.*
 - f) That they will not use targeted social media advertising to promote unhealthy eating habits.*
 - g) That as employers they will refrain from making deductions from tips, so staff get to keep 100%, and customers know who their money is going to.*
 - h) That they will refrain from taking a cut of any tips paid via card.*

Council resolves to adopt the issue raised by opposition business, provided that the decision, so made, is within the Policy Framework and

Budget, and is within the power of the Council to make the decision”.

Debates on opposition business shall be limited to 15 minutes. If the time limit is reached or the debate concludes earlier, the leader of the group raising the item shall have a right of reply.

The Council shall:

- a) Note the issue raised and take no further action;
- b) Refer the issue to the cabinet or relevant overview and scrutiny committee, as the case may be for their observations before deciding whether to make a decision on the issue;
- c) Agree to examine the matter as part of a future scrutiny programme;
- d) Adopt the issue raised by opposition business provided that the decision so made is within the policy framework and budget.

*Explanations as to different levels of interest

(a) A member with a discloseable pecuniary interest (DPI) must declare the nature as well as the existence of any such interest and the agenda item(s) to which it relates must be stated. A member who declares a DPI in relation to any item must leave the meeting for that item (unless a relevant dispensation has been granted).

(b) A member with an other significant interest (OSI) under the local code of conduct relating to items on this agenda must declare the nature as well as the existence of any such interest and the agenda item(s) to which it relates must be stated. A member who declares an OSI in relation to any item will need to remove him/herself to the public gallery before the debate and not vote on that item (unless a relevant dispensation has been granted). However, prior to leaving, the member may address the meeting in the same way that a member of the public may do so.

(c) Members may make voluntary announcements of other interests which are not required to be disclosed under (a) and (b). These are announcements made for transparency reasons alone, such as:

- membership of outside bodies that have made representations on agenda items, or
- where a member knows a person involved, but does not have a close association with that person, or
- where an item would affect the well-being of a member, relative, close associate, employer, etc. but not his/her financial position.

Voluntary announcements do not prevent the member from participating or voting on the relevant item

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Deliveroo and Uber Eats drivers are being 'reckless' in Canterbury

"We take road safety very seriously and work hard to ensure riders know their responsibilities"

BY

VICTORIA CHESSUM

- 16:09, 31 JAN 2019
- **UPDATED** 17:05, 1 FEB 2019

NEWS

Deliveroo and Uber Eats have received a letter from Canterbury City Council

A pensioner needed medical treatment after a "reckless" delivery driver barged past him on a bike in [Canterbury](#).

Big firms Deliveroo and Uber Eats have been urged to take their moral and legal responsibilities seriously by Canterbury City Council.

Residents ordering takeaways through apps on their smartphones, or the internet, can get popular dishes delivered to their door by the third party companies who have staff on push bikes.

Cllr Terry Westgate, the chairman of the council's Canterbury Forum, has written to bosses at both takeaway HQs as a result.

Deliveroo confirmed to [Kent Live](#) that it had received the letter, and was "deeply concerned" over the issues raised.

The matter was first discussed at a forum meeting earlier this month, where members were shocked to hear from one pensioner who took a glancing blow from a delivery rider.

The council said the driver had been making their way through a pedestrian friendly area "at speed."

'We fear someone is going to be seriously hurt'

In his letter, Cllr Westgate says: “Despite being steeped in history, Canterbury in east Kent is a forward-thinking city determined to embrace every opportunity presented to it by advances in technology.

“However, a recent meeting of the forum was told of increasing concerns from residents about the way your delivery riders recklessly make their way through the city centre.

“We have no doubt your organisation takes safety incredibly seriously and the forum seeks your assurance you will remind your riders in this area of their legal and moral responsibilities.

“If this behaviour continues to be an issue, councillors will ask council officers to explore what other legal avenues are open to restrict riders behaving in a way that can only be described as dangerous.

“We will also work with the police and those responsible for policing health and safety legislation.

“At best, we see this as a reputational issue for your company. At worst, we fear someone is going to be seriously hurt unless this matter is tackled with a sense of urgency.”

The forum was told the issue has also been raised by Kent Police, which is responsible for policing the ban on vehicles in pedestrianised areas between 10.30am and 4pm each day.

'Deeply concerned'

A Deliveroo spokesman said: "We were deeply concerned to read Cllr Westgate's letter.

"We take road safety very seriously and work hard to ensure riders know their responsibilities to ride conscientiously and safely.

"We will remind all Canterbury riders of this and we will be writing to the council to propose joint action in the city centre to ensure all riders are meeting the high standards people have come to expect.

"Deliveroo riders are a force for good in the community delivering amazing meals and often going the extra mile to help those in need and we will work together with other food delivery companies and the authorities to ensure this remains the case."

Deliveroo and Uber Eats face questions over worker black market

By [Adam McCulloch](#) on 7 Jan 2019 in [Freelance workers](#), [Gig economy](#), [Right to work](#), [Latest News](#), [Migrant Workers](#)

The way that Deliveroo and Uber Eats engage their riders and drivers' has come under fresh scrutiny after claims emerged of a black market in delivery jobs.

An [investigation by The Sunday Times](#) has found that jobs are traded online and some may be taken by people who do not pay tax or national insurance as they may not have the right to work in the UK.

Deliveroo and Uber Eats' parent company Uber have both faced [court proceedings](#) to establish whether the people they engage to deliver food are self-employed contractors, as the gig economy companies claim, or "workers", the employment status that allows drivers various additional rights, as unions have claimed.

Last month, the [High Court upheld that Deliveroo riders were contractors](#), not workers, since they were able to pass on a job to another rider or abandon a job. Separately, Uber lost its Court of Appeal case against a previous decision which found drivers for its cab-hailing service were workers and not self-employed.

Gig economy

[The search for clarity on the gig economy](#)

[High Court upholds Deliveroo self-employment and collective bargaining ruling](#)

[Campaigners turn to UN to tackle gig economy firms](#)

If Deliveroo riders send someone else in their place to collect or deliver food, they are supposed to carry out checks on their substitutes but do not have to prove this has taken place.

One Deliveroo worker quoted in the newspaper warned: "There is a big problem in the area I work, with people working illegally using the [app] and in a way stealing my job.

"There are... Brazilians coming as tourists and using accounts from [other] people working every single day taking hundreds of orders from legal riders and then disappearing back to their countries without paying a penny."

A Deliveroo "rider support" worker responded: "I can assure you we are taking this very seriously as this activity is clearly not legal and ramifications for us are also very serious."

The company told The Sunday Times that riders had to have right-to-work and criminal record checks, and were responsible for ensuring the same checks on their substitutes. However, both Deliveroo and Uber Eats allow delivery workers to alter the phone numbers and bank account details connected with accounts.

Chairman of the Commons work and pensions committee Frank Field MP said substitute riders were a “desperate attempt” by Deliveroo and Uber Eats “to get around the fact riders work for them”. He said their model exploited substitutes who may be “illegally in this country, whose status and health record has never been checked, and who presumably cannot pay tax or national insurance”.

The Sunday Times said it had monitored private Facebook and WhatsApp groups, through whistleblowers, where Uber Eats and Deliveroo accounts were traded. One message in a Portuguese language group quoted read: “I am renting Uber (£70) and Deliveroo (£60) / both motorbike / for women / message me privately if interested.”

Another stated: “I’m looking for an Uber account to rent temporarily for two to three weeks, I am waiting for a friend of mine who just arrived from Brazil.” One response was: “I have an account for 100 a week for those three weeks.”

One rider said that tourists were taking jobs for Deliveroo then disappearing home having paid for their holiday and not paying any tax or national insurance.

Uber Eats requires proof of the substitute’s driving licence and right to work within 24 hours and says riders must inform restaurants of a change in identity. But a restaurant owner told the Mail Online that drivers signed up by saying they use bicycle, so there is no driving licence or insurance documents to check but then they just use a car, making the insurance invalid. The owner claimed that Uber must know about this because their app indicated the speed the drivers travel at. “No bicycle can do 50mph,” he said.

An Uber spokesperson said: “We take these allegations very seriously. If we are made aware of any breaches to our requirements, we can take immediate steps to deactivate a courier’s account.

“In the future we will also be working hard to enhance our safety processes with technology-enabled solutions such as GDPR compliant facial recognition software. This will help us take immediate action to ensure everyone using the Uber Eats app is authorised.”

Julia Jackson, partner at law firm Wedlake Bell, confirmed that the fines imposed on employers who took on staff without permission to work in the UK could not be applied to

gig economy firms using self-employed contractors. The substitute workers themselves, working outside their immigration permission, may be prosecuted for illegal working. However, she said, “the Home Office are more likely to detain and remove them from the UK”.

Jackson added: “The ‘hostile environment policy’ (or ‘compliant environment’ as it has been newly dubbed) relies on third parties, such as employers, landlords and banks making checks on immigration status. A route into lucrative work without an employer, especially for payment in cash, exposes the weaknesses in the Home Office’s outsourced checking system.

“Right-to-work checks only apply to employees... but in these cases there’s no one checking. The cyclists are particularly under the radar.”

Deliveroo claimed that The Sunday Times had not provided any evidence to support its story and told Personnel Today that “Riders who work with Deliveroo must have the right to work in the UK, and a clear criminal record. Riders engaged by Deliveroo have these checks completed before onboarding; and riders who use substitutes, for example, lending accounts to friends and family members to do deliveries, are contractually responsible for ensuring the same.

“Deliveroo has a zero-tolerance approach on this matter and takes this extremely seriously including fully investigating any concerns that may arise. Should a rider subcontract to an individual without right -to-work status, Deliveroo would end their contract immediately. These obligations are clearly and consistently communicated to all riders.

“Riders’ use of substitutes has been reviewed by courts and upheld as legitimate.

“It is unfortunate that the Sunday Times has failed to provide any actual evidence to support its allegations despite repeated requests to do so.”

A spokesperson for Uber Eats added: “Anyone who delivers with Uber Eats must adhere to a strict set of safety-based criteria, including being 18 years or older, passing a criminal background check and holding a valid right to work in the UK.”

6 Responses to *Deliveroo and Uber Eats face questions over worker black market*

1.



Gus 7 Jan 2019 at 10:22 pm #

I'm delivery rider and many times I've heard about that, people renting accounts to illegal people.

[REPLY](#)

2.



taxpayer 9 Jan 2019 at 10:29 am #

in Bath the problem of Uber 'cyclists' using cars is rife....Uber have been given proof repeatedly but nothing has changed

[REPLY](#)

3.



Ronaldo 9 Jan 2019 at 10:43 pm #

Many people from Brasil are using holiday visas/fake documents and working illegally for UberEats/Deliveroo/JustEats.

They do the following:

- > Rent official accounts from UK/EU citizens.
- > Use multiple accounts at once to steal jobs from other drivers.
- > Use apps to fake their GPS location which helps steal jobs from other drivers.
- > Have a combination of no business insurance, tax, or driving licence.
- > Stab other drivers tyres.
- > Steal food from restaurants.
- > Don't even have thermal equipment to keep the food from going cold.
- > Don't care about the customer.
- > Can't call the customer if they need help finding the drop off locations because they can't speak English.
- > They aren't paying income tax.

[REPLY](#)

4.



Malik 12 Jan 2019 at 11:25 am #

I have seen people whose account was deactivated but there are many black sheeps working in deliveroo office who take few hundreds pounds to activate their account again ,and i heard from one guy he told me he paid deliveroo zone manager couple of pounds to not check his immigration documents , and deliveroo didnot check his right to work

[REPLY](#)

5.



Adam 14 Mar 2019 at 12:19 am #

Reported and showed evidence of several such drivers registered as cyclists to Uber at a local green light hub. Was told very clearly "we don't care". While their actions had already made this manifestly clear, it's disappointing to be told so in plain

English. Almost all of the genuine “delivery partners” have moved on and only the cheats remain.

[REPLY](#)



6.

Tom 15 Jun 2019 at 11:15 pm #

I recently worked for Deliveroo in Exeter, car drivers told me how they take out delivery insurance and pay the first instalment, send the certificate to Deliveroo and then stop paying the monthly instalment and from then on work without insurance. I was also told that scooter and car drivers register as bicycle riders so that they can operate with out insurance, apparently after the initial checks Deliveroo rarely check again.

I also came across a cycle rider who had lost his right to work in the UK but was working by using his friends account, again no checks.

Just about every body working for Deliveroo in Exeter also claim that they are not registered to pay tax or NI again, no checks.

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Public Health
England



Chartered
Institute of
Environmental
Health



Healthy people, healthy places briefing

Obesity and the environment: regulating the growth of fast food outlets



March 2014

About PHE

Public Health England's mission is to protect and improve the nation's health and to address inequalities through working with national and local government, the NHS, industry and the voluntary and community sector. PHE is an operationally autonomous executive agency of the Department of Health.

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About this briefing

This briefing has been written in conjunction with the Local Government Association (LGA) and the Chartered Institute of Environmental Health (CIEH). It is aimed at those who work in or represent local authorities. It addresses the opportunities to limit the number of fast food takeaways (primarily hot food takeaways, especially near schools) and ways in which fast food offers can be made healthier. It summarises the importance of action on obesity and a specific focus on fast food takeaways, and outlines the regulatory and other approaches that can be taken at local level.

This briefing was written for PHE by Dr Nick Cavill and Professor Harry Rutter.

We would like to thank all those on our advisory group who commented on the drafts of this briefing, with special thanks to Angela Hands, public health practitioner, planning and transport, Coventry City Council and Andrew Ross, writer and editor, Final Draft Consulting for their additional expert advice.

We would welcome your views on this briefing and how we might develop or improve these in future. If you have ideas for future topics, let us know. Enquiries to Healthypeople.healthyplaces@phe.gov.uk

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Revisions, March 2014: page 6, reference to National Planning Practice Guidance; page 7, rewording about health considerations in planning appeals. Original version published November 2013



Obesity and the environment: regulating the growth of fast food outlets

1. The importance of action on obesity

In 2011 the government published 'Healthy lives, healthy people: a call to action on obesity in England',¹ which described the scale of the obesity epidemic and set out plans for action across England.*

Obesity impacts on health in many ways. It is a cause of chronic disease leading to early death. It increases the risk of type 2 diabetes (fivefold in men and twelvefold in women), raised blood pressure (two and four times respectively) and colorectal cancer (three and two times respectively).²

Two-thirds of English adults, one fifth of children in reception (four to five years old), and a third in year 6 (ten to 11 years) are obese or overweight.^{2,3} Obesity tends to track into adulthood, so obese children are more likely to become obese adults.³

There are stark inequalities in obesity rates between different socioeconomic groups: among children in reception and year 6, the prevalence of obesity in the 10% most deprived groups is approximately double that in the 10% least deprived.

2. The role of the environment

The 2007 UK government Foresight report 'Tackling obesities: future choices'⁴ remains the most comprehensive investigation into obesity and its causes. It described

* In adults, obesity is commonly defined as a body mass index (BMI) of 30 or more. BMI is weight (in KG) divided by the square of height (in metres). For children in the UK, the British 1990 growth reference charts are used to define weight status. See www.noo.org.uk/NOO_about_obesity for details

the complex relations between the social, economic and physical environments and individual factors that underlie the development of obesity.

Obesity is a complex problem that requires action from individuals and society across multiple sectors. One important action is to modify the environment so that it does not promote sedentary behaviour or provide easy access to energy-dense food.⁵ The aim is to help make the healthy choice the easy choice via environmental change and action at population and individual levels. This provides the opportunity to build the partnerships that are important for creating healthier places, and around which local leaders and communities can engage.⁶

Local authorities have a range of legislative and policy levers at their disposal, alongside wider influences on healthy lifestyles, that can help to create places where people are supported to maintain a healthy weight. Public health professionals should work with their colleagues across local authorities to use these and other approaches to maximise health benefits.

3. Planning and health: the policy context

Planning authorities can influence the built environment to improve health and reduce the extent to which it promotes obesity.^{7,8} The government's public health strategy 'Healthy lives, healthy people', explicitly recognises that "health considerations are

an important part of planning policy”,¹ and the Department of the Environment 2011 white paper made many explicit connections between planning and health.⁹ One of the ten recommendations of the Academy of Medical Royal Colleges’ 2013 report on obesity was that “Public Health England should, in its first 18 months of operation, undertake an audit of local authority licensing and catering arrangements with the intention of developing formal recommendations on reducing the proximity of fast food outlets to schools, colleges, leisure centres and other places where children gather”.¹⁰ It also recommended that local authority planning decisions should be subject to a health impact assessment.

4. Evidence for action on obesity

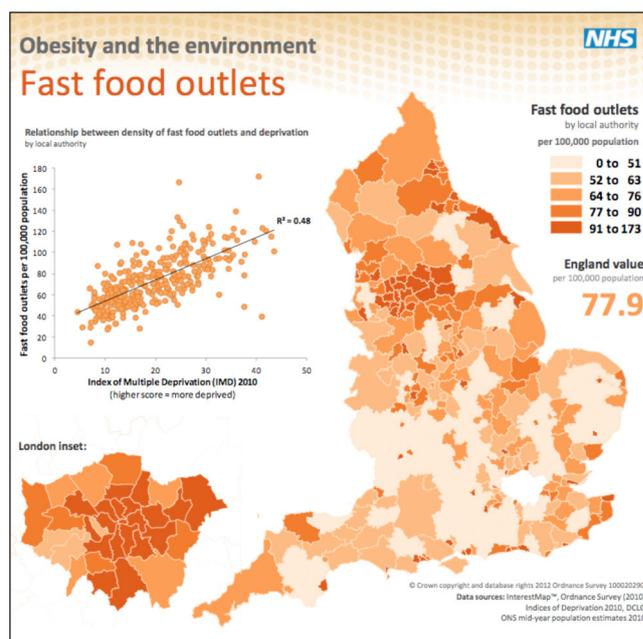
The typical adult diet exceeds recommended dietary levels of sugar and fat. Less than a third of adults currently meet the five a day target and around one in five children aged five to 15 meets the target, with the average being just three portions a day.¹¹ Healthy eating is associated with a reduced risk of being overweight or obesity and of chronic diseases, including type 2 diabetes, hypertension, and certain cancers.¹²

One of the dietary trends in recent years has been an increase in the proportion of food eaten outside the home, which is more likely to be high in calories.⁴ Of particular concern are hot food takeaways, which tend to sell food that is high in fat and salt, and low in fibre, fruit and vegetables.¹³

Research into the link between food availability and obesity is still relatively undeveloped¹⁴ although a US study has found evidence of elevated levels of obesity in communities with high concentrations of fast food outlets.¹⁵

PHE’s obesity knowledge and information team (formerly the National Obesity Observatory) has produced a briefing paper on fast food outlets, together with downloadable data on fast food outlets by local authority. This shows the density of outlets varies between 15 and 172 per 100,000 population (see below).

This data shows a strong association between deprivation and the density of fast food outlets, with more deprived areas having a higher proportion of fast food outlets per head of population than others.



School food

Children who eat school meals tend to consume a healthier diet than those who eat packed lunches or takeaway meals.¹⁷ While there have been many initiatives to improve standards of school meals, including nutrient-based standards and the School Food Plan, these currently only affect around four in ten children who take school meals.^{4,18,19} Uptake of school meals decreases when children move from primary to secondary school (46.3% compared to 39.8%), and in many

cases secondary school pupils are allowed to leave the school premises at lunchtime.

Improving the quality of the food environment around schools has the potential to influence children's food-purchasing habits, potentially influencing their future diets.¹⁹ However, it is important to note that taking action on hot food takeaways is only part of the solution, as it does not address sweets and other high-calorie food that children can buy in shops near schools.

Action on the food environment is supported by the NICE public health guidance, 'Prevention of Cardiovascular Disease'.²⁰ NICE recommends encouraging planning authorities "to restrict planning permission for takeaways and other food retail outlets in specific areas (for example, within walking distance of schools)".

It is only in recent years that local authorities have started to use the legal and planning systems to regulate the growth of fast food restaurants, including those near schools. There is thus an unavoidable lack of evidence that can demonstrate a causal link between actions and outcomes, although there is some limited evidence of associations between obesity and fast food,²¹ as well as with interventions to encourage children to stay in school for lunch.¹³ However, there are strong theoretical arguments for the value of restricting the growth in fast food outlets, and the complex nature of obesity is such that it is unlikely any single intervention would make a measurable difference to outcomes on its own.

There are several reasons why the presence of fast food outlets may be undesirable from a public health perspective, with implications for planners. For example:

- many hot food takeaways may generate substantial litter in an area well beyond their immediate vicinity
- discarded food waste and litter attracts foraging animals and pest species
- hot food takeaways may reduce the visual appeal of the local environment and generate night-time noise
- short-term car parking outside takeaways may contribute to traffic congestion
- improving access to healthier food in deprived communities may contribute to reducing health inequalities

The most relevant evidence of successful approaches in England tends to come from case studies of approaches being taken by local authorities using policy and regulatory approaches.

5. What tools are available?

The 'Takeaways toolkit'¹³ noted that there were three broad approaches that could be taken to address the problem of over-proliferation of hot-food takeaways in city centres and near schools:

- working with the takeaway businesses and food industry to make food healthier
- working with schools to reduce fast food consumed by children
- using regulatory and planning measures to address the proliferation of hot food takeaways

This briefing focuses on the role of planning on the food environment and so addresses only the last of these approaches.

Planning laws

The National Planning Policy Framework (NPPF) makes it clear that local planning authorities (LPAs) have a responsibility to promote healthy communities.⁸ Local plans should “take account of and support local strategies to improve health, social and cultural wellbeing for all”.

LPAs should prepare planning policies and take decisions to achieve places that promote “strong neighbourhood centres and active street frontages which bring together those who work, live and play in the vicinity”.

The NPPF also gives clear advice that local planning authorities should “work with public health leads and organisations to understand and take account of the health status and needs of the local population... including expected changes, and any information about relevant barriers to improving health and wellbeing”.

The National Planning Practice Guidance (NPPG)* refers to promoting access to healthier food and that a health impact assessment** may be a useful tool where significant impact is expected.

A number of local authorities*** have drawn up supplementary planning documents (SPDs) to restrict the development of new fast food premises near schools. However, it is recognised that due to consultation and other procedures, these can take a long time to prepare and agree. SPDs must also relate to a policy in the local plan, so the priority is to make sure the issue is addressed within the local plan in the first place.

*planningguidance.planningportal.gov.uk

**Health Impact Assessment (HIA) assesses the health impact of policies, plans and projects in diverse economic sectors using quantitative, qualitative and participatory techniques: www.hiagateway.org.uk; www.who.int/hia/en/

*** Within London, the following councils have been identified to have either proposed or adopted restrictive policies based around A5 usage: Barking and Dagenham; Greenwich; Hackney, Haringey; Havering; Islington, Kensington and Chelsea; Kingston-upon-Thames; Newham and Waltham Forest

The ‘Use Classes’ order defines commercial premises using a coding system. Therefore, A5 hot-food takeaway premises are defined as “where the existing primary purpose is the sale of hot food to take away”. A3 premises are “restaurants where the primary purpose is the sale and consumption of food and light refreshment on the premises”.²²

However, before 2005 all hot food takeaways were given Use of Class A3, when the 1987 Town and Country Planning (Use Classes) Order was amended. This means that, historically, hot food takeaways may have given planning permission under either Use Class A3 if they have been in existence since before 2005 or A5 if permission came after that date. This is important when considering over-concentration or cumulative impact in particular areas. Also, A3 premises can have ancillary A5 use – that is a restaurant that also provides hot food takeaways.

Planning permission is required for change of use to a different category but not change of use within the same category, although changes in permitted development rights that arose in June 2013 mean that clarification is being sought on this issue.

Proximity to schools used as a criterion

St Helen’s Council has implemented a wide-ranging policy including a number of restrictions, granting planning approval only “within identified centres, or beyond a 400m exclusion zone around any primary or secondary school and sixth form college either within or outside local education authority control”.²³ The council’s SPD is a material consideration in determining planning applications. As well as proximity to schools and health impact, it covers issues such as over-concentration and clustering, highway safety, cooking smells, and litter.

Most authorities have used a distance of 400m to define the boundaries of their fast food exclusion zone, as this is thought to equate to a walking time of approximately five minutes.²⁴ However, in Brighton and Hove this was found to be inadequate to cover the areas actually used by pupils: an 800m radius is used as it covers significantly more lunchtime journeys.

Development plan or supplementary plan documents

Barking and Dagenham was nearing completion of its core strategy when it began to develop its A5 SPD, which was adopted in 2010. The council chose to develop its A5 policy as an SPD, but has reported that for local authorities developing local plans it is advisable to incorporate A5 policies within the development plan documents (DPD) rather than SPDs as they carry more policy weight. The downside of this is that DPDs face much more in the way of procedural challenges.²⁵

Planning permission/appeals

A number of authorities have had planning decisions challenged through the appeals process. Some appeals have been allowed, but many have been dismissed. Healthy eating and proximity to a school has been a consideration in a number of planning appeals.²⁶ It has not been the sole or determining factor in the final decision so far, except for one occasion* we know of. However, healthy eating and proximity to a school have been given substantial weight when there is an adopted local plan policy or SPD in place, local evidence on childhood obesity and healthy eating initiatives, and representations from the relevant school.

Can proximity to schools be a consideration?

In 2010 a High Court judge declared that Tower Hamlets Council in East London “acted unlawfully” when it gave the go-ahead for Fried & Fabulous to open for business close to a school. The judge said councillors had voted in favour of permission after being wrongly directed that they could not take account of the proximity of the local secondary school because it was not “a material planning consideration”.²⁷

However, planning permission was ultimately granted on appeal for a number of reasons, including the lack of evidence that “the location of a single take-away within walking distance of schools has a direct correlation with childhood obesity, or would undermine school healthier eating policies”. This prompted Tower Hamlets to review its policies with the aim of limiting such appeals in future.

The importance of engaging with stakeholders

Sandwell Council adopted an SPD for hot food takeaways in 2012, including a 400m exclusion zone around secondary schools, and tests for over-concentration, clustering and environmental impact. In one appeal there was little support from the school affected or secondary evidence, so the application was approved. Council officers reported they have since made efforts to work more closely with public health colleagues and to engage with schools on the issue.²⁸

All subsequent appeals to the Planning Inspectorate, including one within 400m of a secondary school, have been dismissed, so the SPD appears to have been effective.²⁹

*Appeal ref: APP/G5750/A/12/2182393 – London Borough of Newham (December 2012)

Environmental health and licensing

Alongside planning policies, there are other measures available, mainly implemented by environmental health or licensing teams, to help local authorities regulate the sale of fast food. These include:

- street trading policies to restrict trading from fast food vans near schools
- policies to ensure that menus provide healthier options
- enforcement on other issues such as disposal of fat, storage of waste, and litter
- food safety controls and compliance
- restrictions on opening times
- using Section 106 agreements and the Community Infrastructure Levy to contribute to work on tackling the health impacts of fast food outlets

No ice

Hillingdon Council passed a resolution banning ice cream vans from the vicinity of schools and nurseries. One of the reasons cited for the ban was that ice cream trading near schools contradicted dietary recommendations and the aims of the Healthy Hillingdon Schools Scheme.^{7,13}

Encouraging healthier provision

As an alternative to using legislation to restrict the proliferation of fast food takeaways, local authorities may choose to work with them to change the nature of their food provision.

The government procurement standards for food and catering services aim to set standards for more sustainable and healthier food provision. They provide criteria to reduce the salt, fat and sugar content of

different food categories,³⁰ and sit alongside DH guidance on healthier, more sustainable catering.³¹ The government's Responsibility Deal also offers a wide range of advice for small businesses on issues, including calorie labelling and reducing saturated fat.³²

In London, the Healthier Catering Commitment is a voluntary scheme for food outlets, operating across 25 London boroughs by catering businesses in partnership with environmental health and public health teams. It provides information on healthier food together with offering healthier alternatives.³³

6. Ideas for action

Public health professionals and others who wish to address the prevalence of fast food outlets in their area in order to support healthier lifestyles may find the following actions helpful:⁷

Strategic leadership: local authority and health and wellbeing boards

- identify a councillor who will be a champion on behalf of the local authority and provide leadership (and in two tier areas, to engage with work with district councillors)
- work with key partners: local authority public health teams and clinical commissioning groups, to identify a senior lead officer with responsibility for this work who will champion it within the health and wellbeing board
- work with other professional groups to identify lead officers, such as environmental health practitioners, to support this work early on, especially in two-tier authorities that may otherwise not be directly involved
- in addition to statutory consultees, ensure the engagement of planners and

environmental health practitioners as early as possible when developing a policy

work with planners and other local authority colleagues to ensure that appropriate and important information is recorded.

Public health teams

- identify a person within the public health team to liaise with planning officers
- establish a programme of health impact assessment (HIA) training for public health teams, planning officers, and others
- agree a process with the planning team for incorporating HIAs in the planning process. Some councils are writing such requirements into their assessment processes for planning or development applications over a certain size or scale
- use government buying standards for food and catering services as the basis for school food procurement
- conduct wider community engagement to incorporate the views of local residents, community groups and schools in planning decisions

Supporting data and information

Planning officers will require evidence before including items in the development plan or SPD so:

- review all the publications in the 'additional resources section'. These contain detailed advice and case studies
- consider collecting other data such as surveys of school children's purchasing habits on the way to and from school

Evaluation

Local authorities are required by law to publish an annual monitoring report. This is an excellent source of information on the impact of policies. Public health colleagues should

Additional resources

'Takeaways toolkit'. A comprehensive briefing including tools, interventions and case studies to help local authorities develop a response to the health impact of fast food takeaways. Published in 2012 (updated in June 2013) by the London Food Board and Chartered Institute of Environmental Health, based on a consultancy report by Food Matters.. Available from www.foodvision.cieh.org/document/view/326

'Fast food saturation'. A resource pack that collates good practice and key resources from across London and beyond on managing the impact of fast food shops on local health and wellbeing through the use of planning powers. Although developed for use in London, it is based on the use of national powers for local authorities and is directly applicable in all local areas in England. Published in July 2103 by the London Health Inequalities Network. Available from www.lho.org.uk/viewResource.aspx?id=18208

'Tackling the takeaways: a new policy to address fast-food outlets in Tower Hamlets'. This is a wide-ranging evidence review on the association between the over-concentration of hot-food takeaways and obesity, and an examination of practice (mainly in London). The evidence review and policy background are very comprehensive and will be likely to be very useful for drawing up policy options. Published in 2011 by NHS Tower Hamlets. Available from [www.towerhamlets.gov.uk/i doc.ashx?docid=2b285be6-9943-4fec-a762- 76c93d07ca50&version=-1](http://www.towerhamlets.gov.uk/i%20doc.ashx?docid=2b285be6-9943-4fec-a762-76c93d07ca50&version=-1)

'Hot-food takeaways near schools; an impact study on takeaways near secondary schools in Brighton and Hove'. This assesses the policy options for Brighton and Hove, but

contains a very useful review of the evidence and case studies on successful approaches to date. Published in 2011 by Brighton and Hove City Council and NHS Sussex. Available from www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/downloads/ldf/Healthy_eating_Study-25-01-12.pdf

The UK Health Forum's website contains a wealth of useful information on the food environment, including an extensive resource on marketing food to children. www.ukhealthforum.org.uk and www.ukhealthforum.org.uk/who-we-are/our-work/policy/nutrition/marketing-food-and-drink-to-children/

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