

Respondent Name: Steve Simms

(Submitted through online Snap survey)

Document	Policy/Para number	Legally compliant?	Sound?	Complies with DtC?	Please give further comments.	Please set out suggested changes	Do you wish to attend the oral examination?
DM DPD	DM47	No	No	Yes	Compliance We consider that no regard has been given to national policy and advice in preparing Policy DM47 because no National Planning Policy Framework (NPPF) policies deal with dietary issues. This means that the draft DM DPD does not comply with sub-section 19 (2) (a) of The Planning and Compulsory Purchase Act 2004 (PCPA04). Specifically, taking into account the proximity of hot food takeaways to schools or indeed any other type of facility has no basis in national policy and national practice guidance simply refers to a briefing paper containing case studies on the issue. Indeed, restricting accessibility to services is directly contrary to national policy. We consider that no regard has been given to national policy and advice in preparing Policy DM47 because the draft DM DPD would	The deletion of Policy DM47 Part (A) entirely, and, from Part (B), the text "Subject to (A) above" and "only" and the criteria (b) and (c). Specific percentage figures are needed in order to achieve certainty as to what might constitute an over-concentration or what might cause an adverse impact on vitality and viability. Evidence is needed for the figures used.	Yes

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				<p>furthermore be rendered unsound in terms of the criteria set out at NPPF paragraph 182. This also means that the draft DM DPD does not comply with sub-section 19 (2) (a) of PCPA04. We do not consider a reasoned justification for the draft policy has been substantially provided in accordance with regulation 8 (2) of The Town and Country Planning (Local Planning) (England) Regulations 2012. Neither the text at paragraphs 6.58 – 6.62 nor the evidence base support zonal restrictions on food and drink uses. Positively Prepared The draft policy is not based on any objectively assessed development requirement. It effectively assesses the requirement for hot food takeaways within 400 metres of the boundary of a primary or secondary school as zero, but does so without evidence of either a link between the incidence of childhood obesity and the proximity of hot food takeaways to schools or of any particular distance at which</p>	
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				<p>that link is demonstrated. Consequently, the development requirement has not been objectively assessed. In fact, the distance chosen has the effect of banning hot food takeaways from a large majority of the Borough. Because no assessment has been made of the number of hot food takeaways that might be refused as a result of this or what the social, economic or environmental impacts of that might be, it is not possible to balance these impacts. The policy is negative in its assumptions, using the concept of 'unhealthy food', which is at best unhelpful in isolation from an understanding of the person eating the food, their health and lifestyle, and at worst is simply subjective. Furthermore, it assumes all hot food takeaways offer little choice and serve the same type and standard of food. Justified The only evidence referred to specific to the draft policy appears to be a Government Office for Science Report from 2007 that simply</p>	
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				<p>observes that diet is a key determinant of obesity levels. It does not make a spatial link between the incidence of obesity and the proximity of hot food takeaways to schools or indeed any other locations. Whilst supporting text to Policy 3.2 of the London Plan at paragraph 3.11 suggests that planning policies established as contributing to health "...can be complemented by other measures, such as local policies to address concerns over the development of fast food outlets close to schools", this does not itself represent evidence. Indeed, it aspires only to tackle "concerns" and omits a definition of what "close" might mean because no adverse effects of the proximity of hot food takeaways to schools have been established. To that extent, the London Plan simply passes responsibility on to Boroughs to justify any such policies they may seek to promote. There is no objective evidence for any link between the incidence of obesity</p>		
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				<p>and the proximity of hot food takeaways to schools, so it is at best unclear whether refusing planning applications for hot food takeaways on the basis suggested could ever have an effect on the incidence of obesity, childhood or adult, near schools or elsewhere. The inclusion of primary schools is particularly problematic, as it is clear that children at primary schools are not usually permitted to leave the premises at lunchtime and, given their age, are unlikely to travel to or from school unaccompanied. Outside school time, children's diets are quite properly the responsibility their parents or guardians. Consequently, it is far from clear how refusing planning permission for hot food take-aways "close to" primary schools could ever be justified. This was the view taken by a Planning Inspector in an appeal (APP/P4415/A/11/2159082) against refusal of a restaurant and hot food takeaway in January 2012. A further difficulty of using</p>	
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					<p>simple distance radii as shown in Figure 6.1 is that it takes no account of real barriers, either physical or perceptual, so that premises on the other side of a line feature such as a canal or busy road could be affected despite in reality being more than a 400m walk away. Diet is clearly a key determinant both of general health and obesity levels. Exercise is the other key determinant which must be considered for a complete picture. Focussing on improving access to open space, sport and recreation facilities would be a far more appropriate strategy for reducing childhood obesity. Whilst no evidence is presented to support any public health effects of concentrations of food and drink uses referred to in draft Policy DM47 (B), we consider high concentrations of any one type of use are unhealthy in retail health terms, and that this may sometimes also be the case in terms of human health. Effective For the reasons set out above in respect of the lack of justification</p>		
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					<p>for the policy, it is unclear how refusing permission for hot food takeaways within 400 metres of primary schools could ever be effective. Some hot food takeaways, together with restaurants, pubs and shops are clearly a source of cheap, energy dense and nutrient poor foods; however, not all hot food takeaways, restaurants, pubs and shops are, and the planning system is ineffective in distinguishing between those that are and those that are not. The area that would be affected by the policy covers most of the Borough, so it is hard to see how the effectiveness of its extent could be monitored. Would poor or negative achievement against the objective result in reduction or expansion of the zones? What other corrective action might be taken short of its withdrawal?</p> <p>Consistent with National Policy We consider that no regard has been had to national policy and advice in preparing Policy DM47 because none of the NPPF policies include dietary issues.</p>	
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					The NPPF recognises the role planning takes in better enabling people to live healthier lifestyles. However, it seeks to do this by creating, not restricting choice, by increasing access to recreation and health services, and by ensuring developments are walkable. National practice guidance simply refers to a briefing paper containing case studies.		
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