

# Pre-Submission Publication Representation Form



Ref:

**R071**

(for official use only)

Name of the document (DPD) to which this representation relates:

Draft Revised Lambeth Local Plan Proposed Submission  
Version January 2020 (DRLLP PSV Jan 2020) and associated  
Proposed Changes to the Policies Map January 2020 (PCPM  
Jan 2020)

Please return to: [localplan@lambeth.gov.uk](mailto:localplan@lambeth.gov.uk)

or by post: Planning Policy Team, London Borough of Lambeth, PO Box 734 Winchester SO23 5DG

by 11pm on 13<sup>th</sup> March 2020.

**Please read the Guidance Note and Privacy Notice attached to this form before completing the representation form or submitting your comments**

This form has two parts –

Part A – Personal details (please see applicable privacy notices in Section 5 of the guidance note)

Part B – Your representation(s). Please fill in a separate sheet for each part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 you wish to make a representation about.

## Part A

### 1. Personal details\*

### 2. Agent's details (if applicable)

\* If an agent is appointed, please complete only the Title, Name and Organisation boxes below but complete the full contact details of the agent in 2.

Title	Mr	Mr
First name	Paul	Steve
Last name	Stokes	Simms
Job title <sup>†</sup>	Head of Franchise Developments	Director
Organisation <sup>†</sup>	Kentucky Fried Chicken (Great Britain) Limited	SSA Planning Limited
Address	Orion Gate	PO Box 10201
	Guildford Road	
	Woking	Nottingham
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Postcode	GU22 7NJ	NG9 9FZ
Telephone	01483 717000	0115 849 1234
Email <sup>†</sup>		steve.simms@ssaplanning.co.uk

<sup>†</sup> where relevant

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## Part B – please use a separate sheet for each representation

**3. To which part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 does this representation relate?** *(identify specific reference if possible)*

Paragraph no.  Policy no.  Policies Map

**4. Do you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is:**

*(please tick)*

**4.1 Legally compliant**

Yes

No

**4.2 Sound<sup>^</sup>**

Yes

No

**4.3 Complies with the Duty to co-operate**

Yes

No

<sup>^</sup> The considerations in relation to being 'sound' are explained in the notes at the back of this form. If

you have ticked 'No' to 4.2, please continue to Q5. Otherwise please go to Q6.

**5. Do you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is unsound because it is not:**

*(please tick)*

5.1 Positively prepared

5.2 Justified

5.3 Effective

5.4 Consistent with national policy

*(Please tick only one option. A separate form should be used if you wish to raise more than one concern.)*

**6. Please give details of why you consider the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible**

**If you wish to support the legal compliance or soundness of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 or their compliance with the duty to co-operate, please also use this box to set out your comments and then go to Q9.**

### POSITIVELY PREPARED

Part (e) of the draft policy is not positively prepared because no assessment has been made of how many hot food takeaways (a) are needed to serve the Borough in retail or nutritional terms, (b) might be refused due to the policy, (c) how many might be in sequentially-preferred locations or (d) what the social, economic or environmental impacts (for example, reduced access to local facilities, investment, jobs and journey lengths) of that might be, so it is impossible to balance these with any supposed health benefits.

*(if required continue on the additional comments page attached)*

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7. Please set out what change(s) you consider necessary to make the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 legally compliant or sound, having regard to the test you have identified in Q5 above where this relates to soundness. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination.) You will need to say why this change will make the part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 that you identified in Q3 legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of this part of policy or text. Please be as precise as possible.

## JUSTIFIED

Part (e) of the draft policy is not justified because the background paper survey is inconsistent as to what it takes to be, or treats as, a hot food takeaway within Class A5. Various terms, such as “fast food outlet”, “hot food takeaway outlet”, “hot takeaway fast food outlet”, “fast food takeaway” and “takeaway fast food outlet” are used interchangeably - however, the speed with which food is served does not relate to the use class of the premises it is served (or its nutritional value), whereas whether food is hot and taken away can be the difference between premises being within Class A1, A3 or A5.

(continued overleaf)

(if required continue on the additional comments page attached)

**Please note** your representation should cover succinctly all the information, evidence and supporting information necessary to support / justify your representation and your suggested change, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he/she identifies for examination.

8. If your representation is seeking a change to the DRLLP PSV Jan 2020 or associated PCPM Jan 2020, do you consider it necessary to participate at the oral part of the examination?

No I do not wish to participate at the oral examination

Yes I do wish to participate at the oral examination

Please note that while this will provide an initial indication of your wish to participate in hearing sessions(s), you may be asked at a later point to confirm your request to participate.

If you have selected 'No', your representation(s) will still be considered by the independent Planning Inspector by way of written representations.

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Because evidence may subsequently be presented that requires testing at examination.

(if required continue on the additional comments page attached)

**Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination. You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

10. Please tick relevant boxes if you require notification of any of the following to your address stated in Part A:

That the DRLLP PSV Jan 2020 and associated PCPM Jan 2020 have been submitted for independent examination

The publication of the inspector's recommendations following the independent examination

The adoption of the Revised Lambeth Local Plan and Policies Map.

Signature

SSA Planning Limited

Date

13th March 2020

*Please use this section for any additional/continued comments*

(continued)

The background paper also cites PHE density data, which does not use planning records, but instead relies on its own modifications to Food Hygiene Rating Scheme data to define a 'fast food outlet'. PHE make no claim that this reflects Class A5. Figure 4 of the background paper also includes sandwich shops, which are within Class A1. Missing these distinctions will significantly affect survey results and the possibility of drawing any useful conclusions from them.

Whilst it is true that there is often a higher proportion of hot food takeaways in lower-order centres in deprived areas, this is often also the case for such centres in less developed catchments and is largely a result of lower spend density leading to a lack of viability in traditional small-unit shop uses. Whilst we accept that this can dominate some parades, a balance must be struck, since such uses also drive footfall to remaining shops, particularly convenience stores.

Crucially, this supports proportional limits for all retail classes, rather than a ban based on proximity to schools, which will affect a large part of the Borough, including town centres, that happen to be near schools.

The Marmot Review (Marmot, 2010) is clear (page 132) that "studies that show association between proximity, or lack of, to healthy food, and health outcomes such as obesity or malnutrition [...] should be approached with caution. They are most often observational and so do not show causality between inadequate access and health outcomes." Later evidence reviews (Williams, J et al, 2014) did not find evidence to justify policies based on proximity to schools.

The July 2008 School Fringe study cited is just such a study: It is not peer-reviewed and found that most children purchased food in shops not hot food takeaways. It was itself clear that it should not be used as a basis for policy.

The inclusion of primary schools is particularly problematic, as it is clear that children at primary schools are not usually allowed 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 the responsibility their parents or guardians, a view supported by Inspectors at appeal (see, for example, APP/P4415/A/11/2159082).

#### EFFECTIVE

Part (e) of the draft policy will not be effective because food served quickly for immediate consumption is available at a range of premises such as restaurants or bakeries in Class A3 or A1, not just hot food takeaways in Class A5. Recent research (Robinson et al, 2018) shows that high calorie content is a general problem, so applying the Healthy Catering Commitment to all food and drink uses is likely to be effective, but singling out hot food takeaways is not.

Failing to differentiate operators that offer healthier options and portion sizes and reduce energy density, fat, salt or sugar provides no incentive to adopt good practice and effectively penalises operators that do. Furthermore, not permitting exceptions to proportion limits due to non-viability in areas of deprivation is also likely to be more effective in breaking localised cycles than simply banning specific uses across unrelated geographies.

More generally, designing in and improving (not restricting) foot, cycle and public transport accessibility to services including open space, sport and recreation facilities is a more effective strategy for improving health and wellbeing.

#### CONSISTENT WITH NATIONAL POLICY

The NPPF recognises the role planning takes in better enabling people to live healthier lifestyles, but seeks to achieve this by designing in and improving foot, cycle and public transport accessibility to services including open space, sport, recreation and health facilities, and by ensuring developments are within walkable distances of local facilities (including a balanced range of leisure and retail facilities) and public transport to other facilities.

The PPG allows controls on specific uses, where justified, to limit proliferation in the interests of health, but is limited to areas of proliferation, over-concentration and high levels of obesity. Because justification and evidence of these is not presented, the policy approach in this case is not consistent with national policy.

#### References:

- Robinson, E., Jones, A., Whitelock, V., Mead, B.R., Haynes, A. (2018) (Over)eating out at major UK restaurant chains: observational study of energy content of main meals /British Medical Journal/ (363) 4982
- Marmot, M. (2010) Fair society, healthy lives: the Marmot Review: strategic review of health inequalities in England post-2010.
- Williams, J et al (2014) 'A systematic review of the influence of the retail food environment around schools on obesity-related outcomes ' Obesity Reviews 15, 359-374

## **Draft Revised Lambeth Local Plan Proposed Submission Version January 2020 (Regulation 19) Guidance Note**

**Please read this guidance note before completing the representation form or submitting your comments**

### **1. Introduction**

- 1.1. The Draft Revised Lambeth Local Plan Proposed Submission Version January 2020 (DRLLP PSV Jan 2020) and associated Proposed Changes to the Policies Map January 2020 (PCPM Jan 2020) has been published by Lambeth Council in order for representations to be made on it before it is submitted for examination by a Planning Inspector. The Planning and Compulsory Purchase Act 2004, as amended, [PCPA] states that the purpose of the examination is to consider whether the draft plan complies with the relevant legal requirements, including the duty to co-operate, and is sound. The Inspector will consider all representations on the draft plan that are made within the publication period 31<sup>st</sup> January – 13<sup>th</sup> March 2020.
- 1.2. To ensure an effective and fair examination, it is important that the Inspector and all other participants in the examination process are able to know who has made representations on the draft plan. Lambeth Council will therefore ensure that the names and addresses of those making representations can be made available and taken into account by the Inspector.

### **2. Legal Compliance and Duty to Co-operate**

- 2.1. You should consider the following before making a representation on legal compliance:
  - The DRLLP PSV Jan 2020 and associated PCPM Jan 2020 should be included in Lambeth's current Local Development Scheme [LDS] and the key stages set out in the LDS should have been followed. The LDS is effectively a programme of work prepared by Lambeth Council, setting out the plans it proposes to produce. It will set out the key stages in the production of any plans which Lambeth Council proposes to bring forward for examination. If the DRLLP PSV Jan 2020 and associated PCPM Jan 2020 is not in the current LDS it should not have been published for representations. The LDS should be on the Lambeth's website and available at its main offices.
  - The process of community involvement for the draft plan in question should be in general accordance with the Lambeth's Statement of Community Involvement 2015 [SCI]. The SCI sets out the Lambeth's strategy for involving the community in the preparation and revision of plans and the consideration of planning applications.
  - Lambeth Council is required to provide a Sustainability Appraisal [SA] report when it publishes a draft plan. This should identify the process by which SA has been carried out, and the baseline information used to inform the process and the outcomes of that process. SA is a tool for assessing the extent to which the draft plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives.
  - In London, the DRLLP PSV Jan 2020 and associated PCPM Jan 2020 should be in general conformity with the London Plan. In this case this is the Draft London Plan Intend to Publish version December 2019.

- The DRLLP PSV Jan 2020 and associated PCPM Jan 2020 should comply with all other relevant requirements of the PCPA and the Town and Country Planning (Local Planning) (England) Regulations 2012, as amended [the Regulations].

2.2. You should consider the following before making a representation on compliance with the duty to co-operate:

- Section 33A of the PCPA requires Lambeth Council to engage constructively, actively and on an ongoing basis with neighbouring authorities and certain other bodies over strategic matters during the preparation of the plan. Evidence of this activity is provided in the Statements of Common Ground published on the council website [www.lambeth.gov.uk/planning/localplanreviewproposedsubmission](http://www.lambeth.gov.uk/planning/localplanreviewproposedsubmission)
- Non-compliance with the duty to co-operate cannot be rectified after the submission of the plan. Therefore the Inspector has no power to recommend modifications in this regard. Where the duty has not been complied with, the Inspector cannot recommend adoption of the plan.

### 3. Soundness

3.1. The tests of soundness are set out in paragraph 35 of the National Planning Policy Framework (NPPF). Plans are sound if they are:

- Positively prepared – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs, and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
- Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- Effective - deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the NPPF.

3.2. If you think the content of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 is not sound because it does not include a policy on a particular issue, you should go through the following steps before making representations:

- Is the issue with which you are concerned already covered specifically by national planning policy or the London Plan?
- Is the issue with which you are concerned already covered by another policy in the DRLLP PSV Jan 2020 or associated PCPM Jan 2020?
- If the policy is not covered elsewhere, in what way is the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 unsound without the policy?
- If the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 is unsound without the policy, what should the policy say?

#### **4. General advice**

- 4.1. If you wish to make a representation seeking a modification to the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 or part of the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 you should set out clearly in what way you consider the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 or part of either is legally non-compliant or unsound, having regard as appropriate to the soundness criteria in paragraph 3.1 above. Your representation should be supported by evidence wherever possible. It will be helpful if you also say precisely how you think the plan should be modified.
- 4.2. You should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification. You should not assume that you will have a further opportunity to make submissions. Any further submissions after the DRLLP PSV Jan 2020 and associated PCPM Jan 2020 have been submitted for examination may only be made if invited by the Inspector, based on the matters and issues he or she identifies.
- 4.3. Where groups or individuals share a common view on the DRLLP PSV Jan 2020 and associated PCPM Jan 2020, it would be very helpful if they would make a single representation which represents that view, rather a large number of separate representations repeating the same points. In such cases the group should indicate how many people it is representing and how the representation has been authorised.
- 4.4. Please consider carefully how you would like your representation to be dealt with in the examination: whether you are content to rely on your written representation, or whether you wish to take part in hearing session(s). Only representors who are seeking a change to the DRLLP PSV Jan 2020 or associated PCPM Jan 2020 have a right to be heard at the hearing session(s), if they so request. In considering this, please note that written and oral representations carry the same weight and will be given equal consideration in the examination process.

#### **5. Privacy notice**

- 5.1 Lambeth Council's privacy notice can be found at <https://www.lambeth.gov.uk/elections-and-council/privacy/privacy-notice> and its planning service privacy notice is here: <https://www.lambeth.gov.uk/elections-and-council/privacy/planning-transport-and-development-service-privacy-notice> . Representations received will be sent to the Planning Inspector. The Planning Inspectorate privacy notice is [here](#). It is very important that you read and consider these notices carefully because they explain how your personal information will be used and stored.

## **Inspector Privacy Statement June 2019**

This privacy notice provides information about our processing of personal information on Local Plan and Community Infrastructure Levy (CIL) examinations in England.

Our published *Procedure Guide for Local Plan Examinations* provides detailed information about the plans process. It can be found here:

<https://www.gov.uk/guidance/local-plans>

### **Who are we?**

We are the Planning Inspectorate, an agency sponsored by the Ministry of Housing, Communities and Local Government.

Our Inspectors are appointed by the Secretary of State for Housing, Communities and Local Government to carry out an independent examination of local plans which have been submitted. For CILs, our Inspectors are appointed by the charging authority to examine their Charging Schedule.

### **How do we collect information?**

Local authorities submit information to us in respect of their proposed plan and CIL– including the representations that they received on it. This information is sent to the Inspector.

During the examination, the Inspector will also hear oral representations from the parties and consider any further written representations that are accepted during that examination.

The local planning authority will provide a programme officer to support the Inspector, and representations are exchanged between the local authority and the Inspector through the programme officer

### **What type of information do we collect?**

Typically, the personal information will be your name, address and contact details plus any other personal information (if any) that you provide in your representation.

### **How is that information used?**

The Inspector will examine the information submitted and will provide a report to the local planning authority setting out their recommendations.

Those participating in a Local Plan and CIL should note that the representations they provide in respect of an examination are normally required to be made available and/or published by the local planning authority. The local planning authority is also required to publish the Inspector's report.

### **What is the legal basis for our processing of information?**

Our processing of personal information on plans and CIL casework is necessary for the performance of a task carried out in the public interest. There are also explicit statutory/legal obligations that underpin the examination of plans and CIL casework.

Our processing of any special category data (if any is provided) is on a similar basis, being necessary for reasons of the substantial public interest in exercise of our official function of administering and determining cases.

### **What are the consequences of failing to provide your information?**

There is no statutory obligation on an interested party to participate in a case.



### **How long do we keep your information?**

We normally keep the documents submitted on the plan and CIL for a period of approximately 3 months following the local planning authority's decision as to whether they adopt their proposed plan.

We keep the Inspector's report for approximately 5 years.

### **Who do we share information with?**

As set out above and in our casework guidance, representations received on the plan and CIL are exchanged with the local planning authority through the programme officer, and are made publicly available by the local planning authority. We may also provide information to our sponsor department.

We may use third party service providers to assist us in the provision of our service – for instance through the provision of information technology services. Where we do so, contracts will be put in place to ensure that your personal information is processed only as instructed by us (unless otherwise required by law), and that appropriate measures are in place to ensure the security of information.

### **Transfer of information overseas**

We do not transfer your information outside of the EU.

### **Your rights in respect of your personal information**

Data protection legislation provides you with rights in respect of your personal information. Typically these are:

- the right to be informed;
- the right of access;
- the right to rectification;
- the right to erasure;
- the right to restrict processing;
- the right to data portability
- the right to object;
- rights in relation to automated decision making and profiling.

Given our lawful basis for processing information, your rights to erasure, data portability and to object to the processing of your information may not apply and we do not use automated decision making or profiling.

Your other rights may also not be absolute and, as our legal basis for processing information is not normally dependent on your consent, withdrawal of this is not normally applicable. However, if you have concerns over the use of your personal information, or wish to exercise your rights, then please contact us at the address below.

### **Complaints about the processing of your personal information**

When we process your personal information we will comply with the Data Protection Act.

If you are unhappy with the way the Inspectorate processes your personal information then you should first contact the Inspectorate's Data Manager: [dataprotection@planninginspectorate.gov.uk](mailto:dataprotection@planninginspectorate.gov.uk).

Data Manager The Planning Inspectorate 3<sup>rd</sup> Floor Temple Quay House 2 The Square, Temple Quay Bristol BS1 6PN

Alternatively, you can contact our respective sponsor's Data Protection Officer directly (please make clear that your query/complaint relates to the Planning Inspectorate)

MHCLG: [dataprotection@communities.gov.uk](mailto:dataprotection@communities.gov.uk)

If you are still not happy, or for independent advice about data protection, privacy and data sharing, you can contact:  
The Information Commissioner's Office Wycliffe House Water Lane Wilmslow,  
Cheshire, SK9 5AF Telephone: 0303 123 1113 or 01625 545 745  
<https://ico.org.uk/>

**Changes to this privacy notice**

We keep our privacy policy under review. This privacy policy was last updated on 3 June 2019.