



Affordable Housing SPG
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Date: 28 February 2017

Our Ref: MR M15/0715-106

By email only:
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Dear Sirs

RE: HOMES FOR LONDONERS: DRAFT AFFORDABLE HOUSING AND VIABILITY SPG

WHAT IS RENTPLUS?

We represent **Rentplus**, a company providing an innovative affordable housing model aimed at delivering discounted rented homes to buy for people aspiring to own their own home, but trapped by their ineligibility for other affordable housing.

Rentplus enables families to move to more appropriate homes, both freeing up social rented or affordable rented properties for households in greater need and allowing those families trapped in private rented sector accommodation, or still living with parents to gain independence and security of tenure. Our comments on the draft SPG seek to ensure that the guidance properly reflects best practice and truly enables delivery of affordable housing to meet Londoners' needs and aspirations for home ownership.

We enclose with this response our Affordable Housing Statement. This sets out the model's compliance with the NPPF definition of affordable housing, and how this should be incorporated into planning policy and guidance to boost supply and meet local needs. We ask that this be read alongside our representation so that the Council's planning policy team can fully consider this innovative, Government supported model.

The model operates through a five year renewable tenancy at an affordable rent, managed by a housing association; all dwellings are leased to RPs at an affordable rent for up to 20 years. The housing association will be responsible for managing and maintaining the properties and the Rentplus homes are sold to tenants on a phased basis every 5 years; those homes not sold at year 5 will be re-let to tenants for a further 5 years. All Rentplus homes are sold after 20 years. If the occupier does not purchase the property then the managing housing association has the option to acquire the unit, with Rentplus providing a 10% discount on open market value. The future use of the unit as any other affordable tenure, such as shared ownership, can then be decided by the housing association.

PART 2: THRESHOLD APPROACH TO VIABILITY

Registered providers and public owned land

Whilst Rentplus homes are managed by Registered Providers, Rentplus is entirely funded by private institutional investment, with no requirement for any public subsidy or grant funding to bring forward Rent to Buy homes. This is an important new model of providing affordable housing and as such should be recognised in **paragraphs 2.24 - 2.26**. The guidance may, for example, be amended to state:

"All applicants are expected to work with the LPA, the Mayor, and affordable housing providers, including RPs to ensure affordable housing delivery is maximised from all sources. On private sites this will include exploring the availability of grant and RP and other affordable

housing providers' own funding to increase the numbers of affordable homes. On public sector land this will include forgoing land value to increase the number of affordable units. On a case-by-case basis it may also be appropriate to explore the potential to diversify the tenure mix and increase densities to make the delivery of more affordable homes viable."

Tenure

The **second bullet point** of **paragraph 2.28** references intermediate products being sold on a shared ownership basis after a period of 10 years. As intermediate products can be sold at a wide number of points we would expect the Guidance to recognise this, and set out that the figure of 10 years is only an average. Rentplus homes are sold in years 5, 10, 15 and 20; this provides occupiers with a significant element of flexibility as well as key targets when saving towards purchase. It also provides key flexibility to assist those households more or less able to save to aim for the purchase point that best suits their needs, as well as providing RPs with the capacity to purchase unsold Rentplus properties with the opportunity to then use those markets for any other affordable tenure that fits their needs at that time. We consider the Rentplus model to not only fit with the London Living Rent definition, but also to provide wider opportunities for delivery and flexibility of opportunity; this should be recognised in the Guidance.

The **third bullet point** of **paragraph 2.28** should also include reference to Rentplus as a model which can meet a significant level of need in London. As it is not reliant on public funding it can also make up a significant proportion of the mix on sites to require less grant funding overall on sites.

To clarify for the purposes of **paragraph 2.29**, the rent on Rentplus homes is set at 80% of the market rate including the service charge or the Local Housing Allowance (LHA), whichever is the lower. Rents are subject to annual reviews at CPI +1% and rebased each 5 years at 80% open market value, or where the units are initially let at LHA a cap of CPI plus 1% of the previous year is applied.

This means the model, during the rental period, fits with the definition of the London Affordable Rent as set out in *Homes for Londoners: Affordable Homes Programme 2016-21*. As envisaged by the Mayor this has the very significant benefit of enabling Londoners to rent a high quality, new home at an affordable level in a secure tenancy. The difference with other affordable tenures is that this model enables Londoners to save for the mortgage deposit for that same home, with a 10% gifted deposit making the property even more affordable.

The model also operates a cascade mechanism for sale, whereby a 10% gifted deposit is given to the tenant (or substitute) at the point of purchase, or the managing Registered Provider is given a 10% discount to buy the property (for use as another affordable product, including shared ownership or rental). If the unit is not bought by a tenant or the managing RP then Rentplus sells the unit on the open market and 7.5% of the sale proceeds are provided to the local planning authority. This cascade mechanism provides a far greater choice than shared ownership as currently proposed under the strict definition of the London Living Rent; the benefits of this to tenants, RPs and the LPA should be recognised in the Guidance and reflected in the tenures sought across London. The 40% set out in **bullet point three** of **paragraph 2.29** should include Rentplus homes.

As the need for affordable housing across London is very significant, and requiring a step change in supply, it is important that the Guidance maintain flexibility towards the proportions of tenures expected. Rent to Buy specifically helps those households who aspire towards home ownership save for the period that best suits their needs, having the ability to house those Londoners who may otherwise have been considered for social or affordable rent, or other intermediate products, or simply be left to rent increasingly expensive private rental accommodation. As the product is a hybrid, this should be reflected in the Guidance and flexibility of approach maintained.

Definition of London Living Rent

London Living Rent should not be strictly defined as it currently is, as intermediate affordable. The Rentplus model of Rent to Buy delivers exactly the aims of the London Living Rent by providing an affordable rent on a time-limited tenancy for households saving towards a mortgage deposit - for the home being rented. This provides a tenancy during which the property is managed and maintained by the Registered Provider and enables the household to 'get to know' that property with the confidence

that they are purchasing a home they have already invested in, within a community established over the last 5-20 years.

We consider the maximum household income cap of £60,000 to be too low to operate effectively over the long term. Household income levels must be strong in order to obtain a mortgage, and £60k fails to reflect the significant variation in affordability across London and the very significant private rental costs being paid. Whilst Rentplus offers a 10% gifted deposit, this alone will not be sufficient for all households for whom the product will be suitable to obtain a mortgage with the current income cap. We consider this to be ineffective and should be increased to better reflect income variation.

As set out at **paragraph 2.35**, upon registering an interest in a Rentplus scheme households are assessed on their suitability for a 5, 10, 15 or 20 year tenancy, after which it is expected that the home will be purchased. Tenants are also encouraged and supported throughout their tenancy in saving for the mortgage deposit; the use of an assured tenancy period also improves a tenant's ability to prove credit-worthiness when applying for the mortgage. This fits with the definition of the London Living Rent model, offering the same benefits but augmented by the purchase of the rented property and the 10% gifted deposit. The statement that the tenant is offered the purchase on a shared ownership basis is too prescriptive, placing an obligation on the Housing Association at the point of purchasing the (S106) units from developers. This also assumes ready availability of funding to the Housing Association - this should be avoided to enable greater flexibility of tenure and funding options. New entrants, including Rentplus, provide ready supply of housing without requiring Housing Associations to be signed up to long term funding commitments.

As currently defined the London Living Rent proposal will limit the scale and scope of the programme; as RPs are given the option of purchasing Rentplus properties that are not sold to tenants, for whichever affordable tenure they choose, has added flexibility and an opportunity for RPs to be responsive to market changes. The Housing White Paper (Fixing our Broken Housing Market, February 2017) sets out an ambitious plan for a major step change in delivery. Housing Associations will increasingly be expected to use their funding for a wide variety of tenures, including rented, build to rent, shared ownership and market sale development; the inclusion of Rent to Buy will widen their ability to house Londoners without upfront capital expenditure. This should be embraced wholeheartedly as part of the wider solution to London's housing crisis.

Affordability of other intermediate products

Rentplus will be making representation to the consultation on the Housing White Paper proposals. It is important to recognise that the definitions as set out at Box 4 of that paper are not yet fixed in national planning policy, and we expect them to change. Specifically, Rentplus will be seeking inclusion of 'Affordable Rent to Buy' separate to 'intermediate housing' to better define the tenure and the benefits of this. At present the London Living Rent most clearly reflects the affordable private rent definition, but this fails to recognise the myriad benefits of a hybrid approach to rental products. If *Homes for Londoners* is not amended to reflect a hybrid approach then the ability to deliver the full programme will be limited. By enabling Registered Providers to diversify their stock with the leasehold of Rent to Buy properties, there will be a far greater ability to spread funding across all tenures, and enable better managed RP investment. This is only enabled through recognising the Rent to Buy tenure as part of a hybrid London Living Rent definition; **paragraph 2.36** should be amended to reflect this, in the expectation that national policy will also be flexible.

Affordable housing *in perpetuity*

It is not always appropriate for affordable housing to be retained *in perpetuity*, and this is already recognised in the NPPF definition at Annex 2. It is well worth noting planning appeals have long acknowledged that permanence is not a realistic objective for affordable housing even when a housing association is involved, indeed 20 years is widely accepted as a reasonable 'retention' period. This is clearly demonstrated with shared ownership homes which are eventually lost through householders staircasing to full ownership, and homes removed from the affordable housing stock through Right to Buy. It is also important to note that Housing Associations are also not required to replace each shared ownership property on a one-for-one basis, as planning recognises the benefits of each unit that has been delivered.

As already set out in this representation, Rentplus has defined a cascade mechanism which is agreed in its S106 Agreement, within which the final tier of the cascade delivers 7.5% of the sale proceeds (where a Rentplus home is sold on the open market) to the local authority for it to deliver further affordable housing. It would be proposed through this affordable tenure that a Memorandum of Understanding (MoU) is signed with individual local planning authorities, to secure a best endeavours commitment to replace homes sold to tenants on a one for one basis within that local authority area. **Paragraphs 2.44 and 2.45** should be amended to reflect that alternative models exist which will continue to deliver affordable housing across London.

PART 3: GUIDANCE ON VIABILITY ASSESSMENTS

Affordable housing values

Paragraph 3.14 should also refer to alternative models, such as below:

“... For viability purposes London Living Rent homes in mixed-tenure schemes should be assumed to be sold, on shared ownership basis, after a period of 12.540 years with anythe relevant grant subsidy recycled. This will mean anythe planning subsidy required will be similar to shared ownership homes with a 12.5 year deferred purchase.”

This is more flexible, reflecting that Rent to Buy is a hybrid model that overarches both affordable rent and home ownership. As set out above, this gives the Guidance greater flexibility and wider opportunities to deliver the programme for much greater numbers of affordable housing across London, as well as helping a far greater number of households aspiring to home ownership to access this using affordable rents to build a deposit.

When taking on S106 affordable housing, London Living Rent will offer lower financial levels than shared ownership properties, and certainly below 75% as the cash flow from the Living Rent will be far longer than on shared ownership sales. Rentplus properties have longer cashflows before the point of sale and so the assumption of 75% open market value on appraising viability as set out at **paragraph 3.15** needs to be removed. This will ensure that London Living Rent will be able to compete with shared ownership for the final tenure offer on mixed-tenure sites.

As Rent to Buy differs in many ways from other affordable tenures in terms of its funding and development financing it would be helpful for this to be set out separately, and for this to have a separate target. It would be useful therefore to set out London Living Rent, to include Rent to Buy, under a separate heading to more clearly reflect the values expected to be achieved by London Living Rent products and the percentage of affordable provision that will be provided as this.

PART 4: BUILD TO RENT

Affordable housing tenure

As set out earlier in this representation, Rentplus homes are let at 80% of the market rate including the service charge, or the Local Housing Allowance (LHA), whichever is the lower. Rents are subject to annual reviews at CPI +1% and rebased each 5 years at 80% open market value, or where the units are initially let at LHA a cap of CPI plus 1% of the previous year is applied. This should be reflected in this section of the Guidance, and in particular at **paragraph 4.22**. While Build to Rent products are not expected to be offered to tenants for sale, Rent to Buy is specifically set up for purchase by the tenant, and this should be fully reflected in the Guidance as part of the London Living Rent hybrid definition. As already set out, this will widen the opportunities to meet Londoners' needs and aspirations towards home ownership whilst maintaining affordable rents.

Paragraph 4.23 should reflect the ability to deliver Rentplus Rent to Buy homes as part of London Living Rent. Reference to discounted market rent units meeting the definition of intermediate housing is too narrow and should be amended to state “definition of ~~affordable intermediate~~ housing, including Affordable Rent to Buy and are affordable to those eligible for ~~affordable intermediate~~ rented housing in London.”

As set out above, in relation to 'Affordable housing *in perpetuity*' requiring all affordable homes to be retained *in perpetuity* is inappropriate and fails to reflect the reality of affordable tenures and national planning policy. **Paragraph 4.25** should be amended to reflect that Rent to Buy housing delivered by Rentplus secures a commuted sum of 7.5% upon the open market sale of those homes not purchased first by a tenant and second by the managing Housing Association. The Rentplus Memorandum of Understanding also delivers benefits to seeking to replace Rent to Buy homes sold in each local authority area.

CONCLUSIONS

Homes for Londoners seeks to deliver a step change in affordable housing delivery across London, but as currently set out is too narrow in its scope and the opportunities it takes to deliver the 2016-2021 affordable housing programme. The changes sought through this representation would add further flexibility to the Guidance by enabling LPAs across London to seek Affordable Rent to Buy homes as part of the solution to meeting Londoners' housing needs and aspirations. RPs are having to diversify the tenures being delivered across the country, and nowhere is this more constrained than London. Cashflow is of the utmost importance to developers, and the inclusion of Rentplus homes in mixed-tenure schemes would ensure that schemes actually get built, and get built efficiently. Management by RPs ensures that all homes are properly maintained and managed, and that tenants are properly supported in their aim to save for a mortgage deposit. It also diversifies RP housing stock and income, without the need for significant capital expenditure on getting these homes built.

As sought by the Government in its ongoing discussion on affordable housing, Rentplus homes provide a new opportunity for those households currently unable to save for a mortgage deposit to do so while living in secured tenancy homes, at affordable rental levels. The expectation as set out in the Guidance that intermediate homes will be sold at 10 years is flawed, and should be widened to reflect the reality of when householders purchase their home. We ask that these comments be taken into account in revising the Guidance, and further suggest that direct discussions with Rentplus would assist in understanding the practicalities of delivering Rent to Buy housing across London.

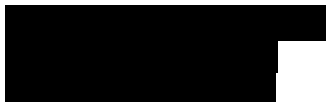
We would like to be notified of any future consultation on this Guidance and other housing related planning policy consultations by email only to consultation@tetlow-king.co.uk. Please ensure that **Rentplus** is retained on the consultation database, with **Tetlow King Planning** listed as their agents.

Yours faithfully



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PRINCIPAL PLANNER
For and On Behalf Of
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Cc:



Enc: Affordable Housing Statement

RENTPLUS: AN AFFORDABLE MODEL

Affordable Housing Statement

AFFORDABLE HOUSING STATEMENT

Rentplus

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Executive Summary

George Osborne pledged in his Autumn Statement to “*choose to build the homes that people can buy*”. The pledge to build 10,000 affordable homes to buy that will allow a tenant to save for a deposit while they rent provides explicit Government support for a new model of housing provision, enabling working households to enter the housing market with assistance not already offered.

Rentplus is a new model that seeks to provide a route to home ownership for those households aspiring to home ownership, but unable to afford to save for a mortgage. It is an affordable, privately financed alternative to the private rented sector, providing a managed route to home ownership in collaboration with housing associations. The delivery of Rentplus will be managed through S106 agreements tailored specifically to the product, and can act as a catalyst for bringing forward stalled developments.

The Government has stated its intention to diversify the form of affordable housing being delivered to meet the needs of those families aspiring to home ownership. This report confirms that the model conforms to the definitions of affordable housing, as set out in the Annex to the NPPF, by providing a hybrid product spanning affordable rent and intermediate affordable housing. As a product complementary to those models of affordable housing already being provided by housing associations, Rentplus will contribute to the NPPF’s aims of boosting housing supply and creating mixed and balanced communities.

This report describes the significant shortfall in affordable housing nationwide and the steady decline in the availability of grant funding over the past decade. Together with the rent reductions to housing associations taking effect from April 2016, it is likely that affordable housing delivery from this sector will be constrained, and so it is clear that there remains a need for further assistance in the market. This has been supported by organisations such as Shelter, which in a 2014 report on improving access to housing makes clear that public and private investment will have multiple, stabilising benefits, including reduced welfare dependency. The social benefits for

those aspiring to home ownership but unable to achieve this security whilst trapped in often prohibitively expensive private rented sector accommodation are numerous.

As housing associations come under strain from reduced public funding, rent reductions and the extension of Right to Buy this new model, which can be delivered quickly and in high volumes with no recourse to public funding, has been explicitly supported by the Government. It should be encouraged on a local level for its clear ability to make a significant contribution to improving lives and communities. The Government's proposed amendments to the definition of affordable housing in the NPPF to include rent to buy housing only confirms this.

Owing to the fixed period of tenancy at affordable rents for Rentplus dwellings before purchase, households have the ability to save for a deposit on the home they have rented. This offers a new product to those households whose needs are not already met by the market, whilst also diversifying the local housing stock and contributing to the development of mixed and balanced communities. Changes to local planning policy both generally and relative to individual sites should be prioritised to encourage early, accelerated delivery.

The Rentplus product has a wide pool of prospective households for whom saving towards a home purchase is not currently possible due to falling outside eligibility for current affordable housing stock. Rentplus should be considered a route towards a more diverse housing sector by local authorities seeking to provide mixed, balanced communities whilst reducing the number of households on the local housing register. The Rentplus model would make a valuable, NPPF-compliant contribution towards significantly boosting housing supply, and most importantly in meeting need for affordable housing without public sector funding. With full Government support, Rentplus will deliver the national aim to turn *Generation Rent* into *Generation Buy*.

Introduction

Section 1

- 1.1 **Tetlow King Planning Ltd.** has been commissioned by **Rentplus** to prepare this Affordable Housing Statement to accompany its promotion of a new affordable housing model aimed at delivering discounted rented homes to buy for people who are unable to acquire a property on the open market. This report sets out Tetlow King Planning's expertise and credentials in the field of affordable housing, and confirms our professional opinion that the Rentplus model fully meets the need for affordable housing.

Who We Are: Qualifications and Experience

- 1.2 Tetlow King Planning Ltd. is a town planning and housing consultancy, co-founded by the current Chairman, Robin Tetlow, in 1985. Over the past 30 years the company has accumulated specialist expertise in affordable housing, becoming acknowledged leaders in the field.
- 1.3 Tetlow King Planning Ltd. provides strategic and detailed advice to *inter alia* housing associations, developers, landowners and investors on numerous sites and developments located throughout the UK. The company has been retained more generically by national research organisations, such as the Joseph Rowntree Foundation, representative/trade organisations, such as the National Housing Federation, professional institutions, such as the Royal Institution of Chartered Surveyors and government/ government related organisations, such as the Housing Corporation/ Homes and Communities Agency. The company is also regularly employed by local authorities.
- 1.4 The principal individual authors of this report have provided expert evidence to courts of law, tribunals and to parliamentary committees and groups; and appeared nationwide at Regional Planning Guidance, Regional Spatial Strategy and Structure Plan examinations in public, Local Plan / Unitary Development Plan inquiries and Local Development Document public examinations.
- 1.5 The principal individual authors of this report have also provided expert evidence extensively at S77/S78 inquiries, including many relating to planning appeals and called-in applications of regional and national significance.

- 1.6 Since the inception of the National Planning Policy Framework in 2012, Tetlow King Planning's input on the need for and the provision of affordable housing as part of planning application and appeal proposals has become of even greater importance in demonstrating the social and economic benefits of developments which decision makers are obliged to weigh in the overall planning balance.

This Report

- 1.7 The report comprises six sections, setting out the national planning policy framework; the evidence calling for a more diverse affordable housing sector; the proposed affordable housing model; how we consider this fits within the planning definition of affordable housing; and our recommendations for how this can best be utilised to help meet diverse housing needs.

Affordable Housing as a Material Consideration and the National Planning Policy Framework

Section 2

Introduction

- 2.1 It is useful to put any affordable housing offer in its historic, legal and planning appeal context. This section sets out the importance of affordable housing as a material consideration, and highlights a number of relevant legal and planning appeal decisions.

Affordable Housing as a Material Consideration: Historic Context

- 2.2 The importance of affordable housing as a material consideration has long been established, originating from PPG3 (1992). A community's need for affordable housing is a material planning consideration which may properly be taken into account in formulating development plan policies; authorities may also seek to negotiate with developers for the inclusion of an element of affordable housing in new schemes and it is Government policy that this approach is appropriate on-site unless off-site provision or a financial contribution can be robustly justified. Where there is a policy as to the provision of affordable housing in the development plan, the willingness of a developer to include an element of such housing in accordance with the policy will be a material consideration. The essence, however, is **reasonable flexibility**; policies should not seek to impose a uniform quota on all developments, regardless of market or site conditions.
- 2.3 As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the National Planning Policy Framework (NPPF, 2012), where an adopted or approved development plan contains relevant policies an application for planning permission or an appeal should be determined in accordance with the plan unless material considerations indicate otherwise. Account can also be taken of policies in emerging development plans which are going through the statutory procedures towards adoption or approval; the weight to be attached depends upon the stage of plan preparation and the nature of representations relative to particular policies. Most adopted or approved and emerging development plans now include policies on affordable housing. Furthermore affordable housing can be regarded as a '*material*

consideration’ in its own right as per the provisions of the NPPF and other Government advice. Supplementary Planning Documents and Housing Strategies may also be ‘*material*’ subject to the level of public consultation and the extent to which they are broadly consistent with development plan policies.

Affordable Housing as a Material Consideration: Legal Context

- 2.4 The importance of affordable housing has been reflected in a number of court cases including *Mitchell v Secretary of State for the Environment and Another* (1994); *ECC Construction Limited v Secretary for the Environment and Carrick District Council* (1994); and *R v Tower of Hamlets London Borough Council, ex parte Barratt Homes Ltd* (2000). Of particular relevance is the case of *Harry Rowlinson and Lynda Rowlinson as Trustees of the Linson Construction Pension Fund v Warrington Borough Council and the Department of Transport, Local Government and the Regions* (2002).
- 2.5 In this case, the Inspector had concluded that the opportunity to provide 100 affordable dwellings to address unmet need for affordable housing across the Warrington Borough Council area provided an overriding justification for immediately releasing a substantial Greenfield site at Lymm, with a capacity for approximately 200 dwellings, on the edge of the settlement. In reaching this conclusion, the Inspector had weighed other facets of PPG3, in particular the sequential approach towards site selection. This decision was challenged by Warrington Borough Council, with the consent of the Secretary of State.
- 2.6 The High Court initially quashed the Inspector’s decision but the Court of Appeal subsequently upheld it, with leave to appeal to the House of Lords refused. Paragraph 45 of the Court of Appeal judgement concludes that the Inspector’s reasoning was perfectly clear:
- “The provision of affordable housing is a material planning consideration. His assessment was that the assessed need for affordable housing was not likely to be met in the foreseeable future and meeting it was a compelling material consideration in the proposals favour which outweighed the general principle of sequential approach to development land.”*
- 2.7 In a more recent case, of *Oadby and Wigston Borough Council v CLG and Bloor Homes Limited* (2015) the Council sought to challenge the grant of permission at appeal for up to 150 dwellings at Oadby. The Council brought the challenge on the ground that the Inspector failed in his assessment of the full objectively assessed

need for housing. The claim failed, and the application to quash the decision was dismissed on the grounds that the Inspector had not failed in his decision making. . In this case the local planning authority's Strategic Housing Market Assessment (SHMA) had confirmed that private rented sector housing is not affordable housing, however the local authority had sought to rely upon this sector for meeting the shortfall in affordable housing provision to satisfy the full objectively assessed need. The decision reinforces the principle that private rented accommodation does not fall within the definition of affordable housing.

Secretary of State appeal decision: Addlestone, Surrey

- 2.8 A number of important planning appeal decisions demonstrate that affordable housing should meet a wide range of housing needs beyond a local authority's 'Reasonable Preference' obligations, and that permanence is not a prerequisite to appropriate affordable housing provision. An example of this is set out in a Secretary of State appeal decision¹ for 350 dwellings, 100% affordable, on a greenfield site identified as suitable for housing in the Local Plan for development considered the issue of whether a suitable mix of development would be provided. Whilst the development was proposed for 100% affordable housing, the tenure mix was offered as 49% social rented and 51% intermediate affordable housing. The Inspector's Report notes that the proportions of social rented and intermediate housing were "*at odds with the proportions identified as needed in the Council's own Housing Needs Assessment*" and in local policy (paragraph 3.65). One of the issues at the heart of the appeal was therefore the Council's intention for affordable housing to be delivered that would meet their Reasonable Preference groups.
- 2.9 Reasonable Preference groups are defined as those households with high levels of assessed housing need. The law requires that reasonable preference is given to the following categories:
- People who are homeless, including those who are intentionally homeless and in priority need;
 - People who are owed a re-housing duty under the homelessness legislation, where this duty has not been discharged by an offer of suitable accommodation, which may be to a letting in the private sector;
 - People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;

¹ Appeal decision relating to Land at Franklands Drive, Addlestone ref. APP/ Q3630/A/05/1198326

- People who need to move on medical or welfare grounds, including grounds related to a disability; and
- People who need to move to a particular locality, where failure to meet that need would cause hardship to themselves or to others.

2.10 In other words they are those households in most priority need. The Housing Register is a limited source for identifying the full current need for affordable housing. The Inspector drew an important distinction between the narrow statutory duty of the Housing Department in meeting priority need, and the wider ambit of the planning system to meet the need for affordable housing. As such the number of households on the Register will only be an indication of those in priority need and who the housing department have a duty to house. But it misses thousands of households who are in need of affordable housing, a large proportion who will either be living in overcrowded conditions with other households or turning to the private rented sector and paying unaffordable market rents.

2.11 Paragraph 7.13 of the Inspector's Report on the Secretary of State appeal decision states:

"The case advanced by the Borough Council was founded on the long established experience of the Council in grappling with issues of 'housing need'. This has long been an area of concern for local authorities, initially through the active twentieth century tradition of Council House building and transformed, via the process of producing Housing Investment Programmes (HIPs), into a general concern with Social Housing and the production of local housing strategies.

The direct link between such local housing strategies and assessment of 'housing need' is made explicit within the Department of the Environment, Transport and the Regions' "Local Housing Needs Assessment: A Guide to Good Practice" (CD199). This document published in 2000 remains the source of guidance for Runnymede's January 2005 Housing Needs Assessment (CD72) carried out by Fordham Associates. However, while I recognise that this approach will have value in identifying groups most in need of assistance in realising their housing aspirations, I regard the approach as retaining a relatively narrow and unduly restrictive approach to the concept of what comes within the ambit of the term Affordable Housing."

2.12 In this case, the Inspector noted evidence that most households in the Borough aspired to home ownership but many would be unlikely to purchase for a significant

period, or not at all, remaining instead in the private rented sector. As summarised by the Inspector, such households:

“should not be confused with those who can only afford social rented or intermediate housing. Ignoring the private rented sector as part of the housing market ... not only deprives the more hard pressed household of appropriate intermediate housing, but frustrates Government’s intention to develop a ‘ladder’ up which those able to do so may ‘climb’ to full owner occupation.” (Paragraph 3.116)

- 2.13 In this case, the Inspector concluded that the scheme for 100% affordable housing would provide an acceptable mix of tenures, and that the range of house types would therefore not produce a uniformity of house types. The Inspector posed the question of whether the *“households residing in this development would be a sufficient mix of social and economic groups”* (IR7.18), taking account of the mix that would result from the particular cascade arrangement for this scheme. The total mix on the scheme, the Inspector concluded, would be:

“likely to accommodate households of differing character, such that the overall development would be accommodating a range and variety of households. Even if the mix of tenures being made available by the operation of the cascade mechanism, were to alter the balance of these tenure groups, the result would be to increase the proportion of equity sharing households and I see no reason to anticipate that there would be any unusual concentration of socially disadvantaged households.” (IR7.19)

- 2.14 The Inspector’s overall conclusions found that the scheme represented a *bona fide* 100% affordable housing scheme which would *“result in a mixed development, accommodating households of different sizes and with a variety of socio-economic characteristics”* (IR7.72). He recommended that planning permission be granted. The Secretary of State agreed with her Inspector’s conclusions, noting in particular that:

“if the mix of tenures being made available by the operation of the cascade mechanism secured in the Unilateral Undertaking were to alter the balance of the proposed tenure groups, the result would be to increase the proportion of equity sharing households. She therefore agrees with the Inspector that there is no reason to anticipate that the proposed scheme would result in any unusual concentration of socially disadvantaged households.” (DL16)

- 2.15 The appeal was allowed on this basis.

Appeal Decision: St Albans

- 2.16 An appeal decision² considered the 6 units of affordable housing offered as part of an approved scheme for 55 dwellings in St Albans. There was an issue as to whether the proposed key workers accommodation would meet the need for affordable housing in the area. The appellants proposed the freehold sale of 6 units to a housing association at 60% of market value. The housing association would then liaise with local employers and let the units to key workers at affordable rents to those with incomes below £25,000 per annum. The local authority argued that such housing would not meet priority needs. The Inspector agreed but ruled that the needs of key workers were not being addressed in the District, noting that the Council's housing evidence had not investigated the needs of key workers, and that it was legitimate to provide for the full range of housing needs, not just those with priority needs.
- 2.17 The appellants referred to the 'polarisation' that can result if only those who can afford market prices and rents, and those with priority needs for affordable housing, have access to local housing stock. The Inspector agreed that the scheme would offset that tendency, meeting the national objectives to provide for the housing needs of the whole community and to increase choice. The Inspector concluded on this point that the Council should *"aim to meet a wide range of housing needs for middle as well as low income earners"* (paragraph 19). As local housing prices are too high and private renting too expensive, the needs of key workers were not being met. The scheme would meet this need.
- 2.18 The local authority also objected to the fact that the housing would not be secured *in perpetuity* as affordable housing. The Inspector noted that the privately financed model indicated that they would be lost as affordable units at the end of 20 years. However, it was concluded that permanence was not a realistic objective for affordable housing even when a housing association is involved; it is worth quoting these paragraphs at length:
- "When a RSL uses Social Housing Grant to provide dwellings for rent, every tenant has the right to purchase by virtue of the Housing Act 1996. Every 'shared owner' has the right to 'staircase' to 100% ownership. ...*
- The Council brought no evidence to the Inquiry to support its judgment that 20 years was not a sufficiently long period of time for the provision of affordable housing on a*

² Appeal decision relating to Old Albanians Sports Ground, St Albans ref. APP/B1930/A/01/1073344

site. I consider that this is a long period in development plan terms. Also, there would be a reasonable prospect of the units being retained for affordable housing for a longer period as they would be in the hands of a RSL ... The Council argued that the scheme should be differentiated from one wherein the tenant exercised the right to buy, because that would benefit someone in housing need. However, I agree with the Appellants that the tenant exercising the right to buy would be no longer in need.

On permanence, I conclude that this is not a realistic objective for affordable housing even where a RSL is involved. I consider that the scheme, in the hands of a RSL operating under the auspices of the Housing Corporation, would offer benefits to the District for a substantial period of 20 years.” (Paragraphs 24-26)

- 2.19 The Inspector also rejected the Council’s concerns about enforceability in relation to rent control and the timing of individual sales of units, since the scheme would be run by a housing association.

National Planning Policy Framework (NPPF, 2012)

- 2.20 The National Planning Policy Framework (NPPF) is a material planning consideration, central to setting out the role of affordable housing in the planning and decision making process. The delivery of sustainable development, encompassing social, economic and environmental roles, is at the heart of the NPPF; the paragraphs below set out the key points in relation to affordable housing.
- 2.21 Fundamental to the social role is *“supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations”* (paragraph 7).
- 2.22 Paragraph 8 is clear that these roles *“should not be undertaken in isolation, because they are mutually dependent”*. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly through the planning system.
- 2.23 In pursuit of sustainable development paragraph 9 notes the importance of *“widening the choice of high quality homes”*.
- 2.24 Paragraph 14 sets out a presumption in favour of sustainable development, stating:

“at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking.

For decision taking this means:

- *Approving development proposal that accord with the development plan without delay; and*
- *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.”*

2.25 Paragraph 17 sets out 12 core principles which underpin both plan making and decision taking. These include that planning should:

- *“be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;*
- *not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;*
- *proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;*
- *... actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable; and*

- *take account of and support local strategies to improve health, social and cultural well being for all, and deliver sufficient community and cultural facilities and services to meet local needs.”*
- 2.26 There is a clear emphasis on supporting enterprise, including the statement at paragraph 19 that planning *“should not act as an impediment to sustainable growth”*, and at paragraph 21 that investment in business *“should not be over-burdened by the combined requirements of planning policy expectations”*.
- 2.27 Section 6 sets the Government’s agenda for delivering a wide choice of high quality homes. Paragraph 47 clearly sets out the Government’s aim to *“boost significantly the supply of housing”* through a number of methods. Local Planning Authorities (LPAs) should *“use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing”* and identify and update annually a five year supply of housing.
- 2.28 The NPPF is clear that delivering sufficient housing is a key consideration for LPAs; and in particular that this should widen opportunities for home ownership and create sustainable, inclusive and mixed communities. LPAs should:
- *“plan for a mix of housing based on current and future demographic trends, market trends and the needs for different groups in the community (such as but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);*
 - *identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and*
 - *where they have identified that affordable housing is needed, set policies for meeting this ... and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.”* (Paragraph 50)
- 2.29 The section on plan-making emphasises the need for LPAs to reflect the vision and aspirations of local communities in Local Plans (paragraph 150), and for Plans to be aspirational but realistic (paragraph 154). Opportunities should be sought to achieve the economic, social and environmental dimensions of sustainable development, and net gains across all three.
- 2.30 The NPPF is clear that LPAs should have a *“clear understanding of housing needs in their area”* by assessing *“their full housing needs”* (paragraph 159) through a

Strategic Housing Market Assessment (SHMA). This should *“identify the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period”*, including *“the need for all types of housing, including affordable housing.”*

- 2.31 Paragraph 173 states that Plans should be deliverable, with developments not subject to *“such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs ... [should] provide competitive returns to a willing land owner and willing developer”*.

- 2.32 The NPPF encourages a positive and proactive approach to the delivery of development through positive decision-taking. Paragraphs 186 and 187 indicate:

“Local Planning Authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.

Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.”

- 2.33 The NPPF also notes that planning conditions and obligations should be used to address unacceptable impacts or otherwise unacceptable development. Planning obligations should only be sought where they *“meet all of the following tests:*

- *necessary to make the development acceptable in planning terms;*
- *directly related to the development; and*
- *fairly and reasonably related in scale and kind to the development”*

- 2.34 **Annex 2: Glossary** defines affordable housing for planning purposes as follows:

“Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

Homes that do not meet the above definition of affordable housing, such as 'low cost market' housing, may not be considered as affordable housing for planning purposes."

National Planning Practice Guidance (PPG)

2.35 The Planning Practice Guidance (PPG) was first published in 2014 to complement the NPPF in providing guidance on its practical implementation. The PPG is an online-only resource divided into 47 sections. The principal section relevant to this statement is the section entitled *Housing and economic development needs assessments*.

2.36 The guidance is clear that there should be an objective and unconstrained assessment of the total housing need. It states:

"The assessment of development needs is an objective assessment of need based on facts and unbiased evidence. Plan makers should not apply constraints to the overall assessment of need, such as limitations imposed by the supply of land for new development, historic under performance, viability, infrastructure or environmental constraints. However, these considerations will need to be addressed when bringing evidence bases together to identify specific policies within development plans."

- 2.37 A methodological approach is set out for assessing housing need. Councils are required to take into account under-supply and worsening affordability of housing, with assessments needing to reflect past under delivery of housing. Affordability is highlighted as a key factor in assessing overall housing targets.
- 2.38 Under the heading *How should plan makers respond to market signals?* the guidance states that *“A worsening trend in any of these indicators will require upward adjustment to planned housing numbers compared to ones based solely on household projections.”*
- 2.39 It goes on to state:
- “Assessing affordability involves comparing house costs against the ability to pay. The ratio between lower quartiles house prices and the lower quartile incomes or earnings can be used to assess the relative affordability of housing. The Department for Communities and Local Government publishes quarterly the ratio of lower quartile house prices to lower quartile earnings by local authority district.”*
- 2.40 Other factors to be considered are land prices, house prices, rents, rate of development and overcrowding.
- 2.41 The Viability section of the PPG notes that Local Plans’ visions for an area should *“not undermine ambition for high quality design and wider social and environmental benefit”* (Paragraph: 001 Reference ID: 10-001-20140306).
- 2.42 The Government introduced the Starter Homes model through a new section in the PPG. This enables exception sites to come forward specifically to meet the housing needs of first time buyers through the provision of below open market value homes. This product is to be delivered on under-used or unviable industrial and commercial land not currently identified for housing. The Government encourages LPAs to make these sites exempt from affordable housing and tariff-style contributions. The introduction of this model shows the Government’s clear intention to widen the availability of home ownership through more affordable models of delivery.

Summary

- 2.43 Over the past 30 years, the need for affordable housing has been recognised as being integral to the planning system. A consistent thread has run through various policy documents, with the need now firmly stated in the NPPF and the PPG.
- 2.44 The Courts have confirmed that affordable housing is capable of being a compelling material consideration in the determination of planning applications, the weight

attached to any material consideration being at the discretion of the decision maker. As confirmed by a Secretary of State appeal decision, housing provision need not be exclusively for the benefit of those households at the extremes of need. Affordable housing such as Rentplus rent to buy will, as with the schemes referenced above, accommodate a range and variety of households of different character while freeing up existing social rented housing for those in need.

- 2.45 There is no requirement for all affordable housing to be retained *in perpetuity*. As set out in the St Albans appeal decision, it is unrealistic to expect affordable housing to be retained for a period longer than 20 years, due to the Right to Buy for social housing tenants and for shared ownership occupiers to 'staircase' to full ownership. Even though these homes are lost from the general affordable housing stock, housing associations are not required to replace each home on a one-for-one basis in the local authority area, nor to recycle receipts for future investment. The commitment by Rentplus to replace each home sold on a one-for-one basis, securing long term delivery of homes to rent to local people, will fulfil local authority duties to meet local needs whilst also diversifying the local housing stock.

Making the Case for Diversity of Supply

Section 3

Introduction

- 3.1 This section highlights those reports and statements from Government that define the case for a diversity of affordable housing supply to meet the full range of housing needs, as required by the NPPF and PPG. This encompasses reports from Government departments, including CLG and HM Treasury, leading think tanks, and respected charities such as Shelter.

Government Statements

George Osborne MP, Chancellor of the Exchequer, Autumn Statement (25 November 2015)

- 3.2 In his Autumn Statement, George Osborne verbally pledged:

*“For another of the great social failures of our age has been the failure to build enough houses. In the end Spending Reviews like this come down to choices about what your priorities are. And I am clear: **in this Spending Review, we choose to build.***

Above all, we choose to build the homes that people can buy. For there is a growing crisis of home ownership in our country.** 15 years ago, around 60% of people under 35 owned their own home, next year it's set to be just half of that. We made a start on tackling this in the last Parliament, and with schemes like our Help to Buy the number of first time buyers rose by nearly 60%. But we haven't done nearly enough yet. So it's time to do much more. **Today, we set out our bold plan to back families who aspire to buy their own home.

*First, I am doubling the housing budget. Yes, doubling it to over £2 billion per year. We will deliver, with government help, 400,000 affordable new homes by the end of the decade. **And affordable means not just affordable to rent, but affordable to buy.** That's the biggest house building programme by any government since the 1970s. Almost half of them will be our Starter Homes, sold at 20% off market value to young first time buyers. 135,000 will be our brand new Help to Buy: Shared Ownership which we announce today. We'll remove many of the restrictions on*

shared ownership – who can buy them, who can build them and who they can be sold on to.

*... So this Spending Review delivers: A doubling of the housing budget. 400,000 new homes; with extra support for London. Estates regenerated. Right to Buy rolled-out. Paid for by a tax on buy-to-lets and second homes. **Delivered by a government committed to helping working people who want to buy their own home. For we are the builders.***

3.3 Most importantly, the written statement clarifies the Government's:

*“...**Five Point Plan for housing to:***

*1. **Deliver 400,000 affordable housing starts by 2020-21, focussed on low cost home ownership. This will include:***

- ... **10,000 homes that will allow a tenant to save for a deposit while they rent.** This will be in addition to 50,000 affordable homes from existing commitments*

*The scale of this programme of house building will require all sectors to play a role in delivery. **As a result, the government will remove constraints that prevent private sector organisations from participating in delivery** of these programmes, including the constraints to bidding for government funding.” [Underlining added]*

DCLG Statement (25th November 2015)

3.4 The Department for Communities and Local Government announced as part of its settlement at the Spending Review 2015:

*“The government will double the housing budget from 2018 to 2019 to deliver at least 400,000 affordable homes [over this Parliament] including 200,000 Starter Homes, 135,000 new Help to Buy Shared Ownership homes and **10,000 Rent to Buy homes.**”*

3.5 In these statements the Government at the highest levels has set out its explicit support for the affordable Rent to Buy model being offered by Rentplus.

Impact of Social Rent Changes on the Delivery of Affordable Housing (Minister of State for Housing and Planning Brandon Lewis MP, 9 November 2015)

3.6 The Minister wrote to all local authorities to ask that a more flexible approach is taken to S106 agreements and negotiations on tenure mix. In this letter he notes that

following the announcement of rent reductions some approved or emerging schemes:

“are not being built out at the anticipated rate. Delay risks planned homes not coming forward and the ability of councils being able to demonstrate a five-year supply of deliverable housing land”.

- 3.7 Whilst the ability to renegotiate S106 agreements is already in place, the Minister has used this letter to encourage local authorities to:

“respond constructively, rapidly and positively to requests for such renegotiations and to take a pragmatic and proportionate approach to viability.”

- 3.8 The letter specifically asks that local authorities expedite negotiations where simple adjustments to tenure mix are proposed, without the need for full open book viability appraisals. In circumstances whereby the overall amount of affordable housing is proposed, the Minister is encouraging the “minimum amount of viability information necessary” to be sought. The letter also indicates that CLG will produce guidance on cascade mechanisms for S106 agreements to encourage flexible arrangements.

Greg Clark MP, Secretary of State for Communities and Local Government (5th October 2015)

- 3.9 At the Conservative Party Conference Greg Clark spoke of the need to deliver more housing for those increasingly shut out of home ownership:

“... the opportunities that our generation took for granted, have been slipping out of reach for the next generation. In the 20 years to 2012, the proportion of 25-34 year olds owning their own homes fell from 67% to 43%. The number of 20-34 year olds living with their parents increased by two thirds of a million.

...

*Most people in our country want to own their own home. For years governments have talked about affordable homes but in my view, not enough of them have been affordable homes to buy. I want us to put that right. I want us to build many more homes and I want to build homes that people can buy as well as rent. Shared ownership homes, starter homes for young people. **Now, homes for rent will always have a role. But why should signing a tenancy agreement mean signing away your aspirations to become a homeowner?***

David Cameron MP, Prime Minister, Conservative Party Conference Speech (7 October 2015)

- 3.10 The Prime Minister in his conference speech said that he wants to turn ‘Generation Rent’ into ‘Generation Buy’:

“But for me, there’s one big piece of unfinished business in our economy: housing. A Greater Britain must mean more families owning a home of their own. ... If you’ve worked hard and saved, I don’t want you just to have a roof over your head – I want you to have a roof of your own.

In the last 5 years, 600,000 new homes have been built. More than 150 people a day are moving in thanks to our Help to Buy scheme. ... 1.3 million to be given the chance to become homeowners. ... But the challenge is far, far bigger. When a generation of hardworking men and women in their 20s and 30s are waking up each morning in their childhood bedrooms – that should be a wakeup call for us. We need a national crusade to get homes built. That means banks lending, government releasing land, and yes – planning being reformed.

... Increasing home ownership means something else. For years, politicians have been talking about building what they call “affordable homes” – but the phrase was deceptive. It basically meant homes that were only available to rent. What people want are homes they can actually own. ...

*So today, I can announce a dramatic shift in housing policy in our country. Those old rules which said to developers: you can build on this site, but only if you build affordable homes for rent, we’re replacing them with new rules: you can build here, and those affordable homes can be available to buy. **Yes, from Generation Rent to Generation Buy**”*

Brandon Lewis MP, Housing Minister

- 3.11 In oral evidence delivered to the CLG Select Committee on 9th November 2015, the Housing Minister emphasised the Government’s aim to increase access to home ownership, *“whether it is rent-to-buy schemes”* or other avenues; *“all these avenues will play an important part”*.
- 3.12 On 15th December the Housing Minister answered two questions posed by Solihull MP Julian Knight on affordable rent to buy housing. The first of which asked if the Government would make rent to buy housing exempt from pay to stay proposals for higher income social tenants. The Minister responded:

“Higher income social tenants in a Rent to Buy scheme will not face increased rent under proposals for pay to stay. This is because the rent they pay is an intermediate rent which is excluded from social rent policy.”

- 3.13 A further question on whether the Government will include rent to buy housing as part of the Housing and Planning Bill’s proposed general duty on local authorities to promote the supply of Starter Homes. The Minister referred to rent to buy:

*“The Housing and Planning Bill will support our manifesto commitment to build 200,000 Starter Homes to help more young people into home ownership. **Like other valuable products which support access to home ownership, affordable rent-to-buy, can be considered by councils as part of their wider affordable housing requirements for their area.**”*

Housing and Planning Bill: Committee Stage

- 3.14 The Housing and Planning Bill includes a number of proposed reforms to both the planning system and the way in which affordable housing is managed. One of the proposed reforms is to phase out ‘tenancies for life’, removing security of tenancy by changing to fixed terms of 2 to 5 years which will not automatically be removed. Should the proposed clauses be accepted as part of the Bill, the availability of fixed term tenancies will be much reduced.
- 3.15 The Bill is currently at report stage; further amendments to the Bill were first considered in the House of Commons on 5th January 2016. Amongst these Greg Clark tabled a series of amendments confirming that private registered providers of affordable housing will not be required to charge high income social tenants specific rents, confirming that ‘pay to stay’ will not be mandatory. Consideration of the Bill continues.

Other Publications

Laying the Foundations – A Housing Strategy for England (CLG, 2011)

- 3.16 This document sets out an intention to ‘unblock’ the housing market and tackle the social and economic consequences of the failure to develop sufficient high quality homes over recent decades.
- 3.17 The problems noted in this Strategy and the methods to achieve the ‘unblocking’ include the following:

- A thriving, active but stable housing market that offers choice, flexibility and affordable housing - this is critical to England's economic and social wellbeing;
- *"The problems we face are stark"* and have been compounded by the impact of the credit crunch;
- *"Urgent action to build new homes"* is necessary as children will grow up without the opportunities to live near their family;
- *"Housing is crucial for our social mobility, health and wellbeing"*;
- *"Housing is inextricably linked to the wider health of the economy"*; and
- Fundamental to the whole approach of the strategy is communities (including prospective owners and tenants), landlords and developers working together.

3.18 The Strategy proposed an increase in the estimated output of affordable homes between 2011 and 2015 to 170,000 dwellings (from the 150,000 dwellings proposed by the previous Government).

3.19 The Strategy also sets out the support needed to deliver new homes and 'support aspiration', including ***"including encouraging new private entrants into the social housing market, and considering innovative new approaches to funding affordable housing in the medium term"***. This Strategy gives explicit support for the entry of for-profit providers into the affordable housing market. The ability to charge rents at up to 80% of market levels is encouraged to provide additional financial capacity to:

"deliver more housing than would otherwise be possible ... reducing the pressure on funding from the taxpayer ... This means that we can ... help a greater number of households experience the benefits of an affordable rented home".

3.20 The Strategy further states that the entry of for-profit providers adds to the affordable housing sector's diversity and potential financial capacity, as raised by the investment opportunity presented to institutional investors such as pension funds.

Fixing the Foundations: Creating a More Prosperous Nation

3.21 Planning reforms were announced in this document, itself following on from *Laying the Foundations*. These reforms are aimed at driving up living standards and providing a better quality of life in Britain. At paragraph 9.23 the report commits the Government to delivering affordable homes to buy, confirming this Government's

support for models of extending opportunities for affordable home ownership to many more households.

Building the Homes We Need (KPMG and Shelter, 2014)

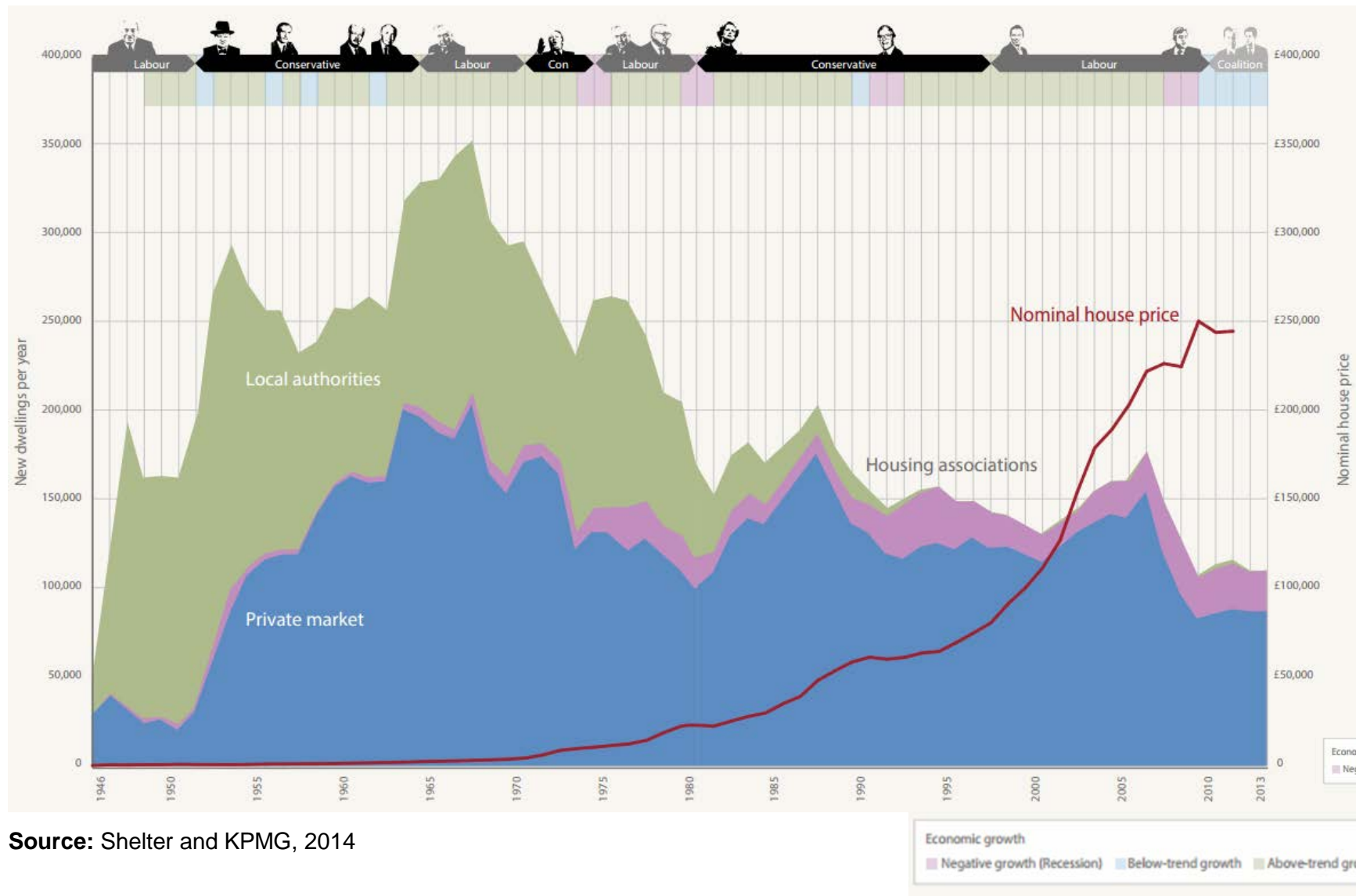
- 3.22 This report is the result of a year-long project by KPMG and Shelter to understand the housing shortage and provide advice to the Government on the housing crisis following the 2008 recession. The report starts by setting out:

“Everyone now accepts that we have a desperate housing shortage in England.

Each year we build 100,000 fewer homes than we need, adding to a shortage that has been growing for decades. What’s more, our current house building system seems incapable of delivering growth on the scale required. Growing demand means that without a step change in supply we will be locked into a spiral of increasing house prices and rents – making the current housing crisis worse”.

- 3.23 The report highlights that if firm action is not taken to build more homes there will be significant adverse consequences for the UK economy and society, including rising homelessness, stalled social mobility, declining pension saving and an ever-rising benefit bill.
- 3.24 The report includes the graph shown on the following page, displaying the levels of house building in England since 1946.

Figure 3.1: House building since 1946



Source: Shelter and KPMG, 2014

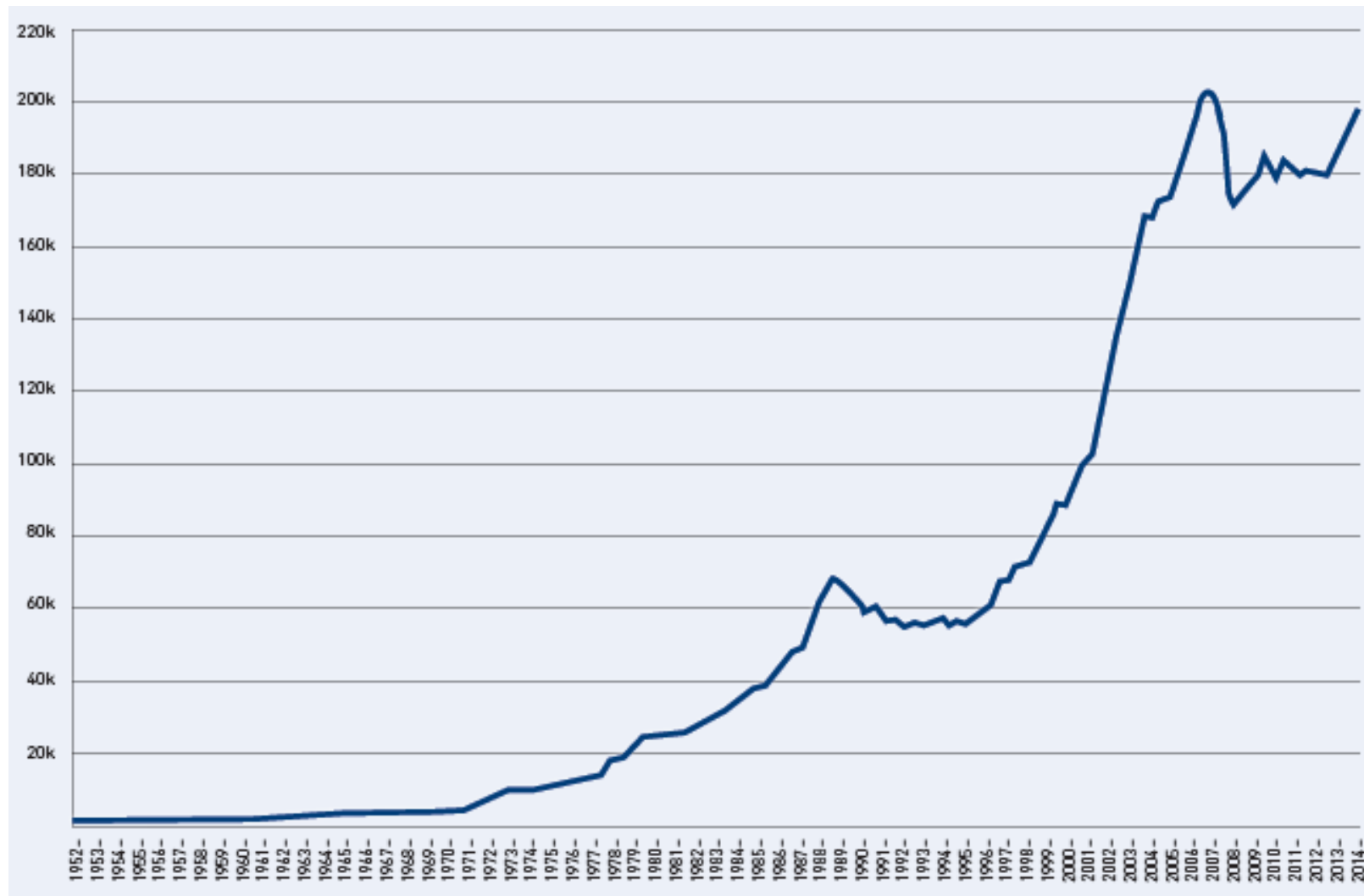
3.25 This shows four interrelated trends:

- An overall decline in house building since 1946, including two recessionary declines after 1980 and 2007;
- High levels of social housing provision by local authorities until the mid-1970s;
- The growing contribution to affordable housing provision by housing associations since the late 1980s; providing most of the new affordable housing stock but not matching anything like the previous local authority contribution; and
- The gradual increase in the nominal house price through until about 1985 which then grows significantly over the subsequent 30 years.

Home Truths 2014/15: Broken Market Broken Dreams (NHF, 2014)

- 3.26 The report sets out that England is suffering a catastrophic housing crisis that has been more than a generation in the making. The number of new homes built each year is not nearly enough – to keep pace with demand another 245,000 homes per year are needed in England; currently only around half of this is built each year.
- 3.27 The report illustrates that house prices and private sector rents are rising ever higher, locking more people out of home ownership, as demand has outstripped supply for many years. It notes that a rising number of people are now private renters and face high costs. As well as impacting on day-to-day living, high housing costs have also previously increased the benefit bill. The number of people who claim housing benefit but are also in employment has doubled over the last six years. Increasingly, earnings do not cover all living costs and so households need assistance from the Government and the taxpayer.
- 3.28 The report offers alarm bells: people struggling with rent, needing housing benefit to keep a roof over their heads, being unable to be near family, unable to buy their own home or downsize to suitable and more affordable homes. This would be mitigated if more homes of all types were built at different price points in the market to meet more needs.
- 3.29 Demand for housing - through increasing population, decreased household size and other factors is outstripping a chronic undersupply of housing. Estimates show around 245,000 new homes are required each year to keep up with demand, and even more would be needed to clear the backlog of demand. As a result, house prices have more than doubled (after accounting for inflation) in 40 years, as illustrated by Figure 3.2, overleaf.

Figure 3.2: Nominal House Prices in the UK



Source: Home Truths 2014/15: Broken Market Broken Dreams (2014)

- 3.30 In the 1960s, a home was four and a half times the average salary and within the realms of being attainable with a reasonable deposit. As house prices have risen, wages have not been able to keep up; across the UK the average home now costs almost seven times the average salary, making home ownership largely unattainable for most young people.

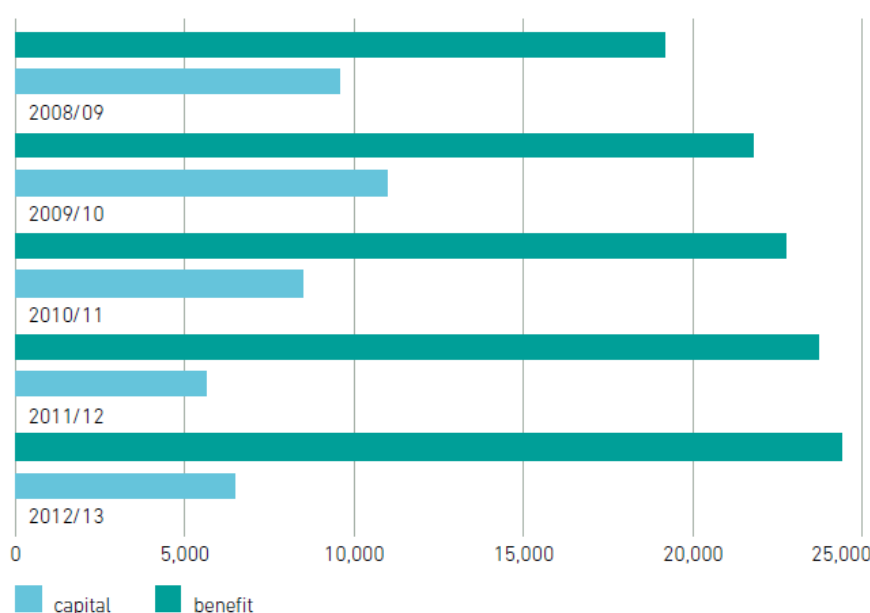
Housing Britain: Building New Homes for Growth (CBI, 2014)

- 3.31 This report states that the UK's housing market has not functioned healthily for decades, with an imbalance between the supply of new homes relative to demand being at the centre of this problem. This has created the current situation whereby half the number of houses needed every year has been built over the last decade.
- 3.32 The report notes that UK house prices have increased 54% since 2004. Housing shortages are also pushing up market rent at a time when forecasts for disposable income remain weak, putting severe strain on household finances and limiting housing choice. This demand gap has inflated the cost of buying or renting a house, making it more difficult for people to join and move within the housing market. Following the 2008 recession, from 2011 UK house prices once more began rising.
- 3.33 The report notes that the 1.8 million people on local authority waiting lists for social rented properties clearly demonstrate the strong demand for affordable housing from families up and down the country³.
- 3.34 Figure 3.3 (overleaf) shows the upward trend in levels of housing benefit paid out in recent years, compared to increasingly low levels of capital investment in boosting the housing stock. In 2013 over £24bn was spent on housing benefit in total, whilst just under £6.5bn was used for capital development⁴. Rising government spending on housing benefits is symptomatic of a housing market unaffordable for many people.

³ *Improving the Rented Housing Sector*, Department for Communities and Local Government

⁴ It should be noted that the Government has implemented rent reductions for housing associations; this may impact overall supply of affordable housing from the sector due to financial capacity being limited.

Figure 3.3: Housing Benefit and Capital Spend Comparison 2008/09 to 2012/13



Source: Housing Britain: Building New Homes for Growth (2014)

In the Mix: The Need for a Diverse Supply of New Homes (Shelter, 2014)

- 3.35 In this briefing, Shelter set out the need for a balance of tenures across the housing growth in England, following on from the KPMG and Shelter report described above, at paragraph 3.10. It emphasises the need for a balanced mix of tenures, from a diverse range of funding sources and delivery models “*involving both the private and public sectors*” in order to achieve a more resilient housing stock:

“...this diversity makes the housing system more productive over the long term by making it more resilient to fluctuations in house prices and less prone to cyclical shocks. Diversity of supply will not only help us to increase supply to 250,000 homes a year, but will help ensure that high levels of output can be sustained over time.”

- 3.36 The benefits of this diversity will not only provide longer-term benefits to the economy, but also have wider social benefits:

“England’s housing crisis has impacted different people in different ways, and no single tenure can offer the best solution for everyone. Each different type of housing plays a different role in the English housing system, catering for different preferences and needs – and we need more of all of them. Just as not everyone needs an intermediate or social rented home, not everyone will be able to afford to buy, even if total housing output is dramatically increased and house prices stabilised.”

- 3.37 Shelter note that by building a mix of housing, including intermediate homes, more people’s aspirations to home ownership can be met; a “*better alternative to private*

renting” may be provided and the “steady rise of in-work housing benefit claimants” can be halted. To achieve the upswing in delivery required (as set out in the earlier KPMG and Shelter report) to achieve a more balanced housing market, the briefing states that there should be a boost to public and private investment in affordable housing. Of the 6 recommendations set out in this briefing, one is for the Government to “explore new forms of intermediate tenure to widen access to intermediate homes, including low share shared ownership and affordable rent-to-buy homes.”

- 3.38 The briefing notes the national preference for home ownership, as set out in a prior Shelter report⁵, for reasons such as greater stability and control over the home. It also recognises that achieving a significant boost in housing supply is likely to achieve political legitimacy by *“the majority of new homes offering a route to some form of ownership”*. Research⁶ has shown that:

“66% of private rented are unable to save anything towards a deposit for purchasing their own home ... [the] net result is that fewer people can cross the widening financial gap between renting ... and market homeownership in one leap: if ownership is to be extended to more people a substantial increase in the intermediate options for people who can’t afford to buy a suitable home is needed.”

- 3.39 Without intervention, many families will continue to be trapped in the ‘insecure’ private rented sector, spending significant proportions of household income on rent. To meet the needs of those households currently priced out of accessing home ownership, Shelter suggest more affordable, intermediate homeownership solutions to be vital to helping those out of private renting and a commensurate reduction in in-work housing benefit claimants. Rent-to-buy offers one solution to these problems.

NatWest Millennials Home Buying Survey (NatWest, June 2015)

- 3.40 This Survey has shown that of those polled, 69% of young adults (aged 22-30 years old) currently either renting or living with parents believe they will not save enough for a house deposit within 5 years. 44% considered their prospects of buying a home to be more optimistic as a result of the Help to Buy scheme.

⁵ Homes for Forgotten Families (Shelter, 2013)

⁶ England’s ‘rent-trap’: just another reason housing is now a top 5 issue for voters (YouGov for Shelter, 2014)

Build to Rent: Funding Britain's Rental Revolution (Addleshaw Goddard and BPF, July 2015)

- 3.41 This report sets out an overview of the 'transformation' of the housing market in Britain over the past 15 years, in which time homeownership has steadily declined from a peak of 69% in 2001. The private rented sector has grown significantly over the same period, overtaking the social rented sector in providing homes and forecast to provide homes to one in four households by 2020:

"Growing demand for rented accommodation and the response to this demand from professional investors looks set to change the market, perhaps permanently.

... businesses are looking to create new clusters of homes for rent, as long-term investment opportunities. The result has been dubbed Build to Rent".

- 3.42 The report references research which estimates that Build to Rent could generate over £30 billion of new investment in Britain over the next five years, delivering over 150,000 homes. The report notes the 'dire' need for affordable housing, *"but this must not diminish the need for quality market-rented housing or housing for sale either".*

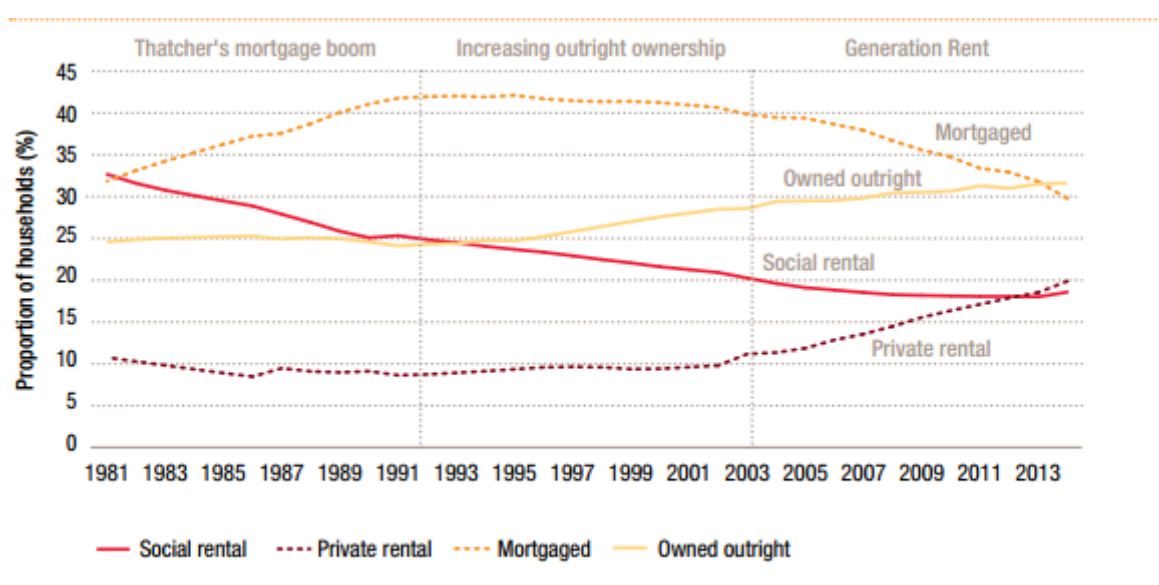
UK Economic Outlook – UK housing market outlook: the continuing rise of Generation Rent (PwC, July 2015)

- 3.43 This report notes:

"As house prices have risen and social housing supply remains constrained, the number of households in the private rented sector has more than doubled since 2001, rising from 2.3 million to 5.4 million by 2014, around 20% of the total. We project that this trend will continue with an additional 1.8 million households becoming private renters by 2025. This would take the total to 7.2 million households – almost one in four of the UK total. The trend is particularly strong in the 20-39 age group where more than half will be renting privately by 2025. The rise of 'Generation Rent' will continue."

- 3.44 The report also notes the fall in households who own a home with a mortgage (from almost 45% in 2001 to under 30%), linking this with a limited housing supply, affordability of the housing market and poor mortgage availability. This is shown in the graph, overleaf:

Figure 3.4: UK share of households by tenure type (%)



Source: PwC analysis of English Housing Survey, DCLG

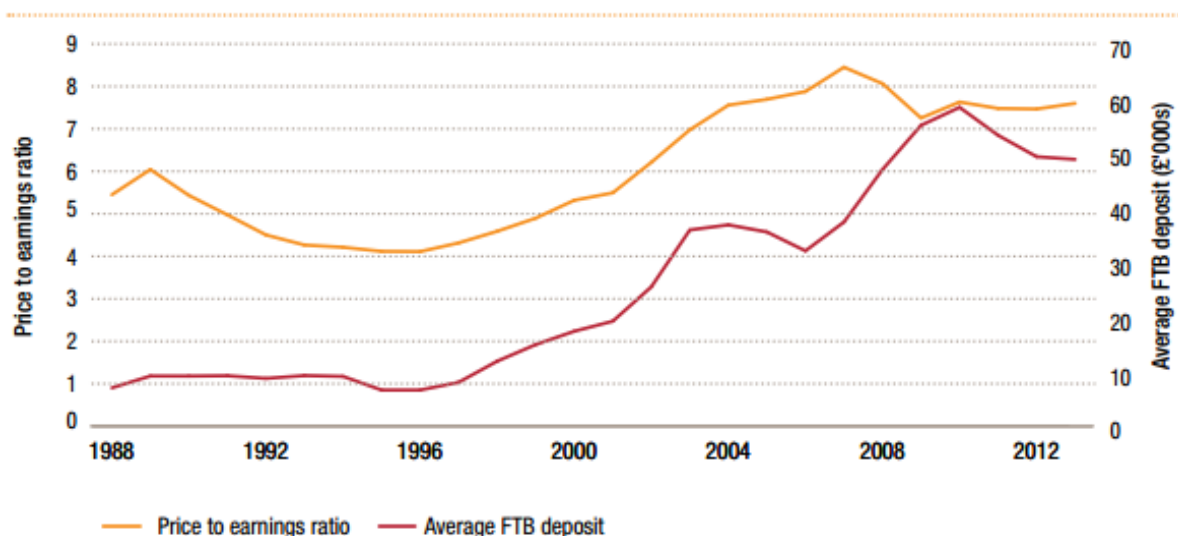
3.45 It adds:

“A significant rise in the supply of affordable housing might change this in the long run, but seems unlikely to occur fast enough to stem the rise in Generation Rent between now and 2025.

... the ability of people to use the mortgage market to make the transition from renting to owning appears to be diminishing, with younger generations having to wait longer to buy in many cases.”

3.46 The report notes that this affordability crisis, and inaccessibility for many to mortgages, stems from the *“combined effect of rising house prices and lenders withdrawing higher Loan-to-Value mortgages”*. This point is highlighted in the graph, overleaf. Average first time buyer deposits have increased almost five-fold, an increase much greater than the growth in average earnings over the same period.

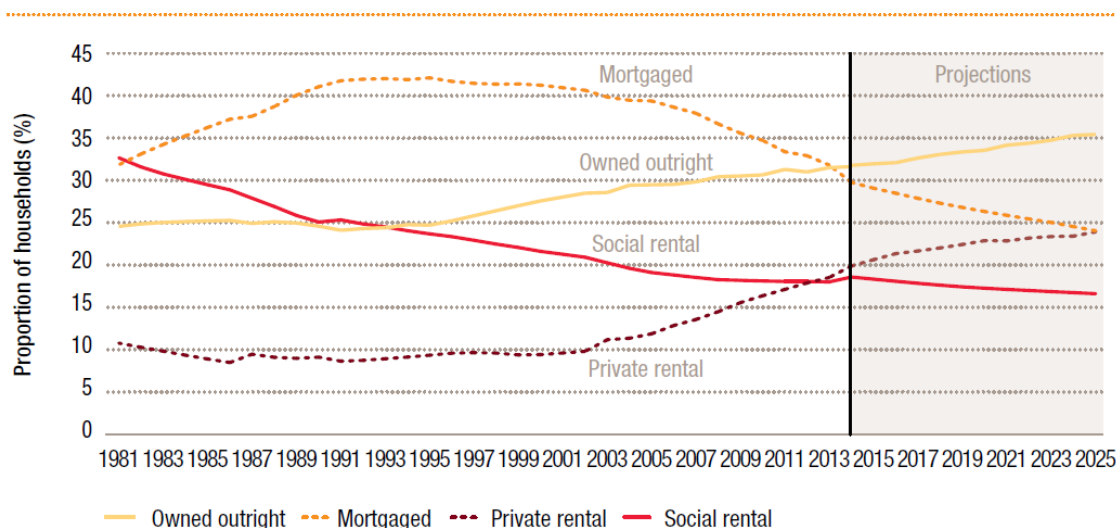
Figure 3.5: House price to earnings ratio and average first time buyer deposit, 1988-2013



Source: PwC analysis of ONS data

- 3.47 The report summarises: *“This trend threatens to lock large segments of society out of the housing market, especially those on middle or low incomes, and who live in higher priced areas”*. Forward projections for housing tenure in this report suggest that current trends will continue (see Figure 3.6, below).

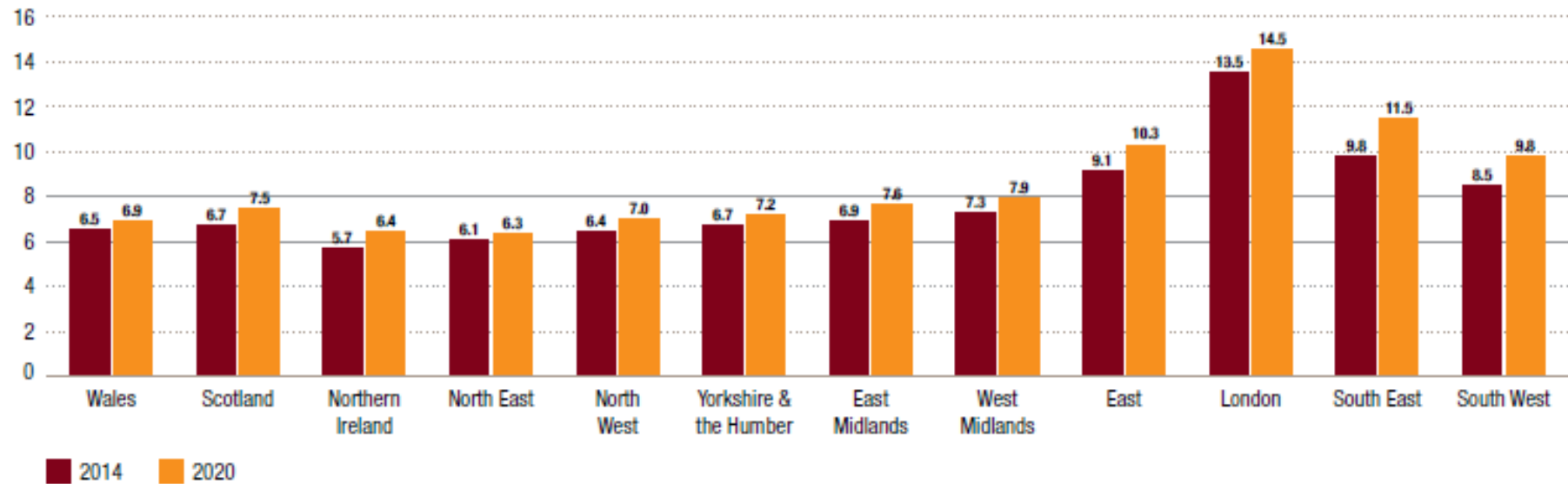
Figure 3.6: Projections for UK housing tenure, share of households



Source: PwC analysis, English Housing Survey

- 3.48 The report also sets out house price projections for the UK regions, indicating that the current difficulties of affordability across the country will continue (see overleaf).

Figure 3.7: Regional average house price to individual full-time earnings ratios



Source: ONS for 2014, PwC main scenario projections for 2020

National Housing Federation Statement (NHF, 20 August 2015)

- 3.49 The National Housing Federation's Assistant Director of Campaigns commented on the May-July 2015 quarter housing statistics released by CLG:

"Britain is in the grips of a housing crisis, and at the centre of this huge national issue is the fact that we've failed to build enough homes for a generation or more.

Today's figures are encouraging as they show housebuilding is at its highest level since 2008. However, we need to continue to increase our efforts as a nation to build the homes that are desperately needed. Last year alone we built less than half of the homes needed, pushing house prices and home ownership further out of reach for millions of families and young people.

... We want to work together to end the housing crisis and provide quality affordable homes to everyone who needs them."

Summary

- 3.50 The Chancellor of the Exchequer in his first Autumn Statement of this Parliament and the Prime Minister during PMQs announced explicit support for the development of affordable homes to buy. The recognition of affordable housing to buy in helping to resolve the nation's housing crisis follows on from a growing wealth of evidence that demonstrates a clear and pressing requirement to build more homes to meet a significant level of unmet need. The Minister for Housing and Planning, Brandon Lewis MP, has also recently expressed his support for local authorities taking a more flexible approach to negotiating tenure mix, expediting negotiations in order to speed up delivery of affordable housing.
- 3.51 The need for affordable housing is not solely met by social rented homes, which only meet the needs of the poorest. The evidence in this section highlights the ability of more affordable homeownership solutions to help households out of private renting. Those who cannot yet afford to buy on the open market because they are either trapped by poor quality and expensive private rented accommodation, or have not yet been able to leave the parental home due to the inhibitive cost of buying have had their needs recognised by this Government. The Chancellor's Statement clearly signals this Government's intention to widen opportunities for home ownership by removing barriers to private for-profit providers entering the market to deliver more affordable homes – specifically including £200m to support delivery of 10,000 Rent to Buy homes – and add to the diversity of the sector.

Rentplus: The Model

Section 4

- 4.1 The Rentplus model is aimed at providing an affordable rented home to households until such time as the occupier can afford to purchase the property. In this way it aims to assist those households who cannot currently purchase a house on the open market but who would otherwise not be considered a priority, or qualify for social or affordable rented homes.
- 4.2 The model is essentially one of rent to buy, with a five year renewable tenancy at an affordable rent, managed by a housing association. All dwellings are to be leased to Registered Providers at an affordable rent for up to 20 years; the housing association will be responsible for managing and maintaining the properties. Homes will be sold on a phased basis every 5 years; those homes not sold at year 5 will be re-let to tenants for a further 5 years.
- 4.3 Upon registering interest in a scheme households are assessed on their suitability for a 5, 10, 15 or 20 year tenancy after which it is expected that the home will be purchased at market value. At the time of purchase, the occupier will be gifted 10% of the purchase price as a deposit towards a mortgage by Rentplus.
- 4.4 Rental of the property before purchase will be at the lower of 80% open market rental (including service charge) or Local Housing Allowance (LHA). The household will be supported through the term of their tenancy by the managing housing association to save and increase the deposit to assist the mortgage application. The assured tenancy period also benefits from improving a tenant's ability to prove credit-worthiness.
- 4.5 The Rentplus model aims to improve the ability of purchasers to build a suitable deposit, as well as improving, or creating a good credit rating, by paying a reduced (affordable) rent rather than a private market rent for the duration of the tenancy (as set out at paragraph 4.4, above).
- 4.6 During the period of rental tenancy occupiers can serve notice to vacate a Rentplus unit on one month's notice. Assistance may be sought from the managing housing association to assist in re-housing.

- 4.7 The Rentplus model permits tenants to swap with other tenants who are able to bring forward an early purchase of the unit, to assist those who are unable to purchase the property at the programmed time.
- 4.8 If the property is sold within 2 years of the original occupier purchase then all or a part of the gifted deposit will be repayable to Rentplus on such disposal, subject to a maximum cap of the original sum gifted.
- 4.9 All Rentplus homes are sold after 20 years. If the occupier does not purchase the property then the housing association has the option to acquire the unit, with Rentplus providing a 10% discount on open market value to the housing association. The future use of the unit as any other NPPF compliant affordable property can then be determined by the housing association.
- 4.10 In the circumstances of neither the tenant nor housing association purchasing the property after 20 years, the property is sold on the open market and 7.5% of the net sales proceeds are paid to the Local Authority to reinvest in new affordable housing provision.
- 4.11 A Memorandum of Understanding may be entered into with each individual LPA to seek to replenish the stock of Rentplus homes on a one for one basis, retaining a proportion of the affordable housing stock in the local area.

Considering the Definition

Section 5

- 5.1 This section discusses the model's compliance with the planning definition of affordable housing as in Annex 2 of the NPPF, set out below for ease of reference:

“Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.”

- 5.2 Affordable rent and intermediate affordable are defined in the Annex as:

“Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

“Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.”

- 5.3 The Rentplus model is unusual in that it conforms to two of the three definitions of affordable housing, falling under the remit of affordable rent and intermediate for sale at different points of its lifetime. It cannot be considered a social rent product due to the rent falling outside the guideline level of the national rent regime. The definitions set out within the Annex are not prescriptive, but offer a number of different terms within which to describe various affordable tenures and products. The Rentplus model is not unique in this aspect of diverging from the more traditional social rented / intermediate affordable tenures, as there are other models of affordable tenure being delivered by private registered providers across the UK.

- 5.4 The Rentplus model is considered to be a hybrid form of affordable housing. Unlike widely understood shared ownership or shared equity products, in which an initial percentage of the home's value is purchased and rent is paid on the remaining share, Rentplus households have the opportunity to save towards the deposit before purchase of that same home. This is achieved by paying a reduced, affordable rent

during the agreed period of tenancy which is fixed (and secure) for a period of 5 years, the same as currently offered by housing associations for affordable rent units.

- 5.5 As set out in Section 4, the model fixes the rent at an affordable level, being the lower of either 80% below market rent or the Local Housing Allowance (LHA), including service charge. This is strictly in accordance with the definition of affordable rent as defined in the NPPF Annex. The model will be managed by a registered provider to households who are allocated according to local authority priorities through the local housing register or other local mechanisms (such as choice based lettings or Help to Buy agents), further bringing this into compliance with the NPPF definition of affordable rent.
- 5.6 As defined by the Annex, the sale of Rentplus properties will be in line with other intermediate affordable homes, at a cost above social rent. The purchase price will be at the level of open market value, but will effectively be discounted by 10% by the 'gifted' deposit from Rentplus. The model should also therefore be considered a low cost home for sale under the definition of intermediate affordable. This is also comparable with rented properties on which tenants can exercise the Right to Buy through existing legislation.
- 5.7 The NPPF definition includes the provision that affordable housing should *"include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision."* Such provisions are secured by the Rentplus model by direct subsidy (in the form of a 10% discount to the Housing Association and 7.5% of net proceeds payable to the local authority upon sale) for future affordable housing.
- 5.8 Where a Memorandum of Understanding (MoU) has been agreed Rentplus will, upon the sale of homes, use its best endeavours to invest in new units on a one-for-one basis. Each MoU is to be negotiated on an individual basis with each local planning authority, but is considered an integral part of the product, comparable with the recycling of receipts from shared equity units by housing associations. The recycling of funds by housing associations is not guaranteed to be reinvested within the same local authority area as the original units, whereas the Rentplus MoU provides a best endeavours commitment to deliver further affordable units on a one-for-one basis in that local authority area. This thereby raises the overall level of affordable housing that is delivered, whilst reducing the numbers on housing registers and increasing the financial investment in the creation of sustainable communities in that area.

- 5.9 Each subsequent unit delivered by Rentplus would be on the same affordable rent basis. Where a property is not purchased by the occupier, the managing housing association has the opportunity to purchase instead, retaining this as part of its stock of affordable units. Whether through direct reinvestment by Rentplus or recycling by the managing housing association, where an MoU has been agreed, this ensures the affordable housing subsidy is reinvested for the benefit of local people.

Recommendations

Section 6

We Are the Builders: Generation Rent to Generation Buy

- 6.1 The Government has announced its full, explicit support for private investors to deliver affordable Rent to Buy homes in order to extend the opportunities for home ownership to back families *“who aspire to buy their own home”*. The Chancellor of the Exchequer, George Osborne MP, in his Autumn Statement pledged to deliver *“10,000 homes that will allow a tenant to save for a deposit while they rent”, “removing constraints that prevent private sector organisations from participating in delivery”*. The Prime Minister also announced in his Party Conference speech to turn *Generation Rent* into *Generation Buy*; this Government is explicit in its support for affordable homes available as rent to buy.
- 6.2 Rentplus seeks to fulfil that role to extend a hand to those households currently unable to save for and access the open market to purchase their own home whose needs are not met by the current affordable housing sector and other home ownership initiatives.

Moving In: The Benefits of Rentplus

- 6.3 The purpose and practical detail of the Rentplus model, as described in **Section 3**, demonstrates that Rentplus has been developed as an investment product that will enable a rolling stock of homes for rent and eventual sale to complement other affordable housing products. As set out in **Section 2**, the delivery of a large quantity of affordable housing is considered highly beneficial in areas of high need. As Rentplus homes are sold on a phased basis every 5 years the model also creates its own mixed tenure development over the lifetime of the scheme. As Rentplus is a fully funded model and does not require any public subsidy to deliver homes, it will result in significant additional investment that would not otherwise be available.
- 6.4 As noted in **Section 3**, the current problems with the housing market do not meet the diverse needs of all, but are instead forcing greater welfare dependency through an increasing reliance on the private rented sector. This includes those who are in-work housing benefit claimants, for whom rent costs take up such a proportion of income that it is very difficult to save towards a house deposit. There is considerable

aspiration towards home ownership; this is recognised in Government policy and encouragement towards intermediate affordable housing delivery.

- 6.5 This is also supported by planning decisions; as set out in the Secretary of State appeal decision referred to in **Section 2**, it is important to recognise that affordable housing delivery should not be restricted to meet a narrow definition of need, providing homes only for those households with 'Reasonable Preference'. This is regarded as 'unduly restrictive', failing to recognise the needs of 'hard pressed' households for appropriate affordable housing which meets the Government's intention to enable households to *"climb' to full owner occupation"*. Households entering a scheme with a mix of house types and with the ability to save towards accessing home ownership at a flexible point in time will create a full mix of social and economic groups.
- 6.6 Those reports referenced in **Section 3** demonstrate that current affordable housing tenures do not meet the full needs of all those aspiring to ownership, principally as these rely on ready availability of savings to access shared ownership mortgages. Equally, this product will be a realistic alternative for those households who are not able to purchase their home through the Government's Starter Home Initiative, as acknowledged in the Autumn Statement. As a great number of those households would not be considered eligible for social rented homes, access to any affordable product is significantly constrained. The Rentplus model will diversify the affordable housing stock available to those households, and enable a greater number of households to access affordable housing without recourse to welfare support. This diversity of supply is a crucial factor in solving the nation's significant housing crisis.
- 6.7 The Rentplus product offers the security of rental at an affordable level whilst allowing households aspiring to home ownership the opportunity to save towards and purchase with a gifted deposit. The basis for setting and charging rent levels is guaranteed through an assured shorthold tenancy, giving added certainty to those households who may otherwise be subject to private rent level fluctuations (typically rent rises) and insecure tenancy agreements. This is a significant benefit of the model which is likely to be very attractive to those not able or desiring to access other forms of affordable housing before obtaining a mortgage. This will also remove households from the housing register, allowing local housing authorities the ability to focus greater resources on those most in need.
- 6.8 The product also offers the flexibility to alter the point of purchase on a phased basis at five year intervals, as well as the benefit of a property being managed and

maintained by a housing association throughout the period of it being a Rentplus property.

- 6.9 The product is new, and therefore not previously considered within either housing evidence documents such as SHMA or in Local Plan policies. Section 4 has set out the model's compliance with the NPPF definition of affordable housing. The NPPF seeks to encourage LPAs to plan for a range of housing to meet all needs, across market and affordable tenures, whilst the Government has made it clear that encouraging home ownership is central to the country's economic stability and social justice⁷. It is clear that mixed, sustainable communities are at the heart of planning and that planning should not seek to threaten the ambition of business, or to prevent viable schemes from bringing forward social, economic and environmental benefits.
- 6.10 By providing a rental product at the lower of 80% below market rent or at Local Housing Allowance (LHA), households are also given a hitherto-unavailable opportunity to save towards a deposit without the need to revert to parental handouts, remain living with parents in their teenage bedrooms, or possibly to live in poor quality cramped rental conditions. Not only does the Rentplus model offer households the opportunity to be able to afford to save for a deposit and the costs associated with purchasing a property, but the gifted 10% deposit effectively offers the property for sale at below-market rate at the point of purchase.
- 6.11 Certainty is also offered to local planning authorities as units are managed and maintained by a housing association, with the product only being offered to eligible households on the local housing register. Those households may otherwise fail to be offered an affordable property due to not being categorised as a high priority household. As described in **Section 3**, this situation traps a considerable number of the non-home owner population, and in particular what has become known as *Generation Rent*, in a hard to escape cycle of renting at private market rates. Unable to save any significant sum for a deposit this generation is struggling to obtain a mortgage; this has contributed to the ever-rising age at which Britons enter home ownership.
- 6.12 A further point to note is the potential for delivery on rural exception sites where a small quantity of market housing is already accepted to improve scheme viability. In rural areas affected by poor affordability the existing supply of affordable housing products would be complemented by Rentplus homes. These would further support

⁷ Here's how to build a homeowning Britain (David Cameron and George Osborne, The Times, 4 July 2015) and the Autumn Statement (HM Treasury, 25 November 2015)

the diversity of housing delivered in rural areas, contributing to the ongoing sustainability of those communities and assist those trapped by being unable to afford market housing but not high priority enough to receive social or affordable rented homes.

Plan-Making to include Rentplus

- 6.13 Local Planning Authorities are encouraged by the NPPF to significantly boost the supply of housing, including through the provision of affordable housing which is a material planning consideration, and an inherent part of planning for housing through a proper, full objective assessment of housing need. By including a proportion of Rentplus units within the mix of any scheme, the local planning authority is also given the opportunity to increase the diversity of homes on offer. Together with open market, social rented, affordable rent, and intermediate affordable units local authorities have the ability to approve schemes that fully accord with the NPPF's aim to create mixed and sustainable communities.
- 6.14 People also aspire to home ownership. This provides households with a financial stake in the local community. The specific Rentplus model, together with other forms of affordable housing, also widens local housing choice adding to a more mixed, balanced local community.
- 6.15 It is the intention of the Rentplus model to be delivered alongside other forms of affordable housing, acting as a complementary product as part of the housing mix to meet the needs of those households whose aspirations towards home ownership are not currently achievable through other intermediate affordable tenures. This can also deliver the benefit of enhancing the overall affordable housing offer and increasing the certainty of deliverability on sites where viability may be an issue. Early delivery of Rentplus homes, in volume, is a further benefit of this diversity of tenure offer.
- 6.16 Whilst the transitional nature of the product (from affordable rent to ownership) may present a difficulty for local planning authorities in defining it for the purposes of determining applications or counting for housing land supply, it should be considered a suitable method of diversifying local affordable housing offer without recourse to public funding. This also enables a greater overall level of affordable housing to be delivered both in the short term on individual sites, and in the longer term, as Rentplus stock is replaced.

- 6.17 We recommend that to incorporate the Rentplus model into the local plan, that the below text is included within an affordable housing policy. This will enable a degree of flexibility to be employed when negotiating the tenure mix on individual sites.

“The Council will seek a developer contribution of X% towards the provision of affordable housing on residential developments of X dwellings or more. The mix of affordable dwellings may be negotiated, taking into account site specific issues and viability. The mix should take into account local need for social rented and intermediate affordable tenures, including Rent to Buy models, such as Rentplus.

There will be a strong presumption in favour of the affordable homes being fully integrated within proposed development. However the Council may consider off site provision, for instance to enable other policy objectives to be met, subject to an equivalent level of developer contribution being provided. There will be a presumption in favour of cross-subsidy to enable a higher proportion of affordable housing to be provided, preferably through an element of affordable Rent to Buy, such as Rentplus, or market housing. Off site provision could be by way of direct affordable housing provision on an alternative site, or by a financial contribution which would enable provision elsewhere in the local authority area.”

Incorporating Rentplus: S106 Sites and Current Developments

- 6.18 Rentplus has been established as a specialist provider of affordable housing in the private sector. The model as described in **Section 3** is specifically designed to provide housing which is affordable to local people aspiring to home ownership. The involvement of a housing association should give the security and assurance that such homes are to be properly managed, whilst the sale of the homes provides Rentplus with a capital sum return. This enables replacement affordable housing delivery in the local authority area by Rentplus as well as a return to the local authority in the case of sale on the open market to reinvest in local affordable housing. The ability for the managing housing association to purchase the unit at a 10% discount if the occupier does not wish to purchase offers a further method of retaining an affordable unit within the local stock.
- 6.19 Other social benefits which are a material consideration in decision making include the ability of households to integrate with neighbours over a longer period before purchasing the property; the ability to renew tenancies; and swapping with other tenants at the time of purchase which offers flexibility to those not ready to purchase at the previously envisaged date.

- 6.20 As noted in **Sections 4 and 5**, upon the sale of each Rentplus property a Memorandum of Understanding, where agreed with each individual LA, will set out the basis for the replacement of those units on a one-for-one basis in that local authority area. Other forms of affordable tenure result in a loss of housing stock, such as with shared ownership in which households can 'staircase out'; where a LA has agreed a MoU, the Rentplus model would secure the replacement of units in accordance with the terms of the MoU in order to continue meeting local needs over the longer term through continued housing stock replenishment. This is an important consideration at a time when Right to Buy is being further encouraged, and established rented tenures no longer have permanence.
- 6.21 The availability of funding for the product also makes this model potentially attractive on stalled developments where this model could improve scheme viability. As the model has readily available private funding, it is also easily translated to high volume output which could assist in areas of particular need or where housing land supply could benefit from being boosted.

Conclusions and Recommendations

- 6.22 There is a significant shortfall in affordable housing nationwide and the availability of grant funding has steadily declined over the past decade. The Rentplus product has a wide pool of prospective households for whom saving towards a home purchase is not currently possible due to falling outside eligibility for current affordable housing stock. The private rented sector offers no security, and security of tenure for traditional affordable housing looks likely to be removed by changes in the Housing Bill. The fixed period of tenancy at affordable rents in Rentplus dwellings before the point of purchase offers a significant benefit to households who will have the ability to save for a deposit - on the home they have rented - for the first time. Rentplus homes will be excluded from Pay to Stay policy, offering further certainty to those households wishing to save for home ownership.
- 6.23 Rentplus therefore offers a new product to those households whose needs are not already met by the market, whilst also diversifying local housing stock and contributing to the development of mixed and balanced communities.
- 6.24 In order for Local Planning Authorities to enable those households for whom access to social rented housing is not suitable, and whose needs are not otherwise met by affordable and intermediate tenures to enter the housing market it may be necessary to review affordable housing policies in the Local Plan, or to consider revising model conditions and clauses for S106 agreements.

6.25 The Government has pledged to significantly raise the numbers of affordable homes being delivered during this Parliamentary session, and to meet the diverse needs of those in need. This includes a significant drive towards meeting families' aspirations to home ownership. The Autumn Statement included a commitment to remove constraints that prevent private sector organisations from delivering affordable homes to deliver this promise. CLG has had its housing budget doubled and will over the period of this Parliament be focused on the delivery of at least 400,000 affordable homes, including 10,000 Rent to Buy homes. As supported by the Government, the Rentplus model would make a valuable, NPPF-compliant contribution towards significantly boosting housing supply, and most importantly in meeting need for affordable housing without further recourse to public funding.



McCarthy & Stone

The UK's leading retirement housebuilder

Sadiq Khan, Mayor of London
Greater London Authority City Hall
The Queen's Walk
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SE1 2AA

27th February 2017

To the Rt. Hon Sadiq Khan, Mayor of London,

**McCARTHY & STONE RETIREMENT LIFESTYLES LTD.
RESPONSE TO CONSULTATION ON THE DRAFT AFFORDABLE HOUSING AND VIABILITY SUPPLEMENTARY
PLANNING GUIDANCE**

Thank you for the opportunity to comment on the consultation papers for the aforementioned document. As the UK's leading retirement builder, McCarthy & Stone Retirement Lifestyles Ltd considers that with its extensive experience and expertise in providing development of this nature it is well placed to provide informed comments on the Mayor of London's Draft Affordable Housing and Viability Supplementary Planning Guidance (SPG), insofar as it affects or relates to housing for the elderly.

McCarthy & Stone is a member of the Home Builders Federation (HBF) and as such has been actively engaged in the discussions and meetings on the Draft Supplementary Planning Guidance. Our view accords with those of the HBF and we support the concerns detailed in their representation. This representation aligns with that of the HBF and elaborates on aspects of the Draft SPG which we feel will have a more marked impact on the delivery of specialist older persons' housing in London.

NATIONAL POLICY

The National Planning Policy Framework stipulates that the planning system should be '*supporting strong, vibrant and healthy communities*' and highlights the need to '*deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. Local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community...such as...older people*' [emphasis added].

The National Planning Practice Guidance reaffirms this in the guidance for assessing housing need in the plan making process entitled '*How should the needs for all types of housing be addressed?*' (Paragraph: 021 Reference ID: 2a-021-20140306) and a separate subsection is provided for 'Housing for older people'. This stipulates that "*the need to provide housing for older people is critical given the projected increase in the number of households aged 65 and over accounts for over half of the new households (Department for Communities and Local Government Household Projections 2013). Plan makers will need to consider the size, location and quantity of dwellings needed in the future for older people in order to allow them to move. This could free up houses that are under occupied. The age profile of the population can be drawn from the Census data. Projections of population and households by age group should also be used. The future needs of older persons housing broken down by tenure and type (e.g. Sheltered, enhanced sheltered, extra care, registered care) should be assessed and can be obtained from a number of online tool kits provided by the sector. The assessment should set out the level of need for residential institutions (use class C2). But identifying the need for particular types of general housing, such as bungalows, is equally important.*" (emphasis added).

The recently published 'Housing White Paper: Fixing our broken housing market' clearly states that additional guidance for Local Authorities on the meeting the needs of older persons' in their Local Plans is forthcoming:

'Offering older people a better choice of accommodation can help them to live independently for longer and help reduce costs to the social care and health systems. We have already put in place a framework linking planning policy and building regulations to improve delivery of accessible housing. To ensure that there is more consistent delivery of accessible housing, the Government is introducing a new statutory duty through the Neighbourhood Planning Bill on the Secretary of State to produce guidance for local planning authorities on how their local development documents should meet the housing needs of older and disabled people. Guidance produced under this duty will place clearer expectations about planning to meet the needs of older people, including supporting the development of such homes near local services⁸². It will also set a clear expectation that all planning authorities should set policies using the Optional Building Regulations to bring forward an adequate supply of accessible housing to meet local need. In addition, we will explore ways to stimulate the market to deliver new homes for older people.' (Para 4.42).

The provision of adequate support and accommodation for the increasingly ageing population has clearly been identified as a significant challenge in existing and emerging national planning policy legislation and guidance. Unless the needs of older people are properly considered and planned for there is likely to be a serious shortfall in the delivery of specialist accommodation for the older population, which will have a knock on effect in meeting the housing needs of the whole area and wider policy objectives.

LONDON PLAN

Much of this is recognised in the London Plan (2015) which identifies the growing number of older Londoners as one of the most important emerging planning issues for the capital. This issue is addressed in sub-clause e) of *Policy 3.8 Housing Choice* and considered more comprehensively in paragraphs 3.50-3.51 of the corresponding justification.

The London Plan identifies that the number of 'over 65s' is anticipated to grow by 64% between 2011 and 2036 and that the number of individuals aged over 90 could grow in number by 89,000. Accordingly the Plan advises that 3,600 to 4,200 units of specialist older persons' accommodation will need to be delivered per annum between 2015-2025 and this figure is supplemented with an annualised strategic benchmark target for every London Borough to inform performance indicators for specialist accommodation for older people in Table A5.1 of Annex 5.

Annex 5 of the London Plan includes an annualised target for specialist housing for private sale, intermediate sale and affordable rent. With the exception of the London Boroughs of Hackney, Islington and Southwark, the number of private units needed for sale to exceeds (and in many cases significantly so) the numbers required to meet intermediate and rental needs combined. Additionally over 50% of Boroughs have no need for older person's affordable housing for rent.

This imbalance partly results from the fact in London public sector models and funding has been and remain achievable whereas private sector models and funding have struggled. The delivery of specialist housing for older people is currently falling significantly short of the London Plan's target of 3,900 units per annum – we would estimate the current rate of delivery is closer to 200 units per annum.

McCARTHY & STONE

In its 40 years of existence, McCarthy & Stone has been able to develop very few schemes in London compared with the home counties and has failed to reach inner London areas.

We currently have circa 500 units of specialist accommodation across 19 sites for sale or under contract in the GLA area and are planning and increased rate of investment across the London Boroughs in the years to come, to meet this identified need so long as circumstances are such that it is possible to do so in financial and risk terms.

In light of the recognised existing and projected need for specialist older persons' accommodation it is imperative that emerging policy and guidance does not jeopardise the delivery of these forms of housing.

Regrettably it is our view that aspects of the proposed viability methodology detailed in the draft SPG will have a disproportionate detrimental impact on the delivery of older persons' housing. We set the rationale behind this position in the remainder of this representation.

THE WEIGHT OF THE SPG

The SPG consistently advises that *'it does not and cannot introduce new policy'* and that it is a refinement of the existing viability testing methodology. The use of this methodology is mooted in the SPG as being voluntary, with the Borough's simply *'strongly encouraged'* to take account of the SPG and with the option to retain their local approach towards viability. Boroughs that wish to opt out of the SPG methodology are however required to justify their position to the Mayor and provide evidence that their local approach will deliver an average of more than 35% affordable housing (para 2.7).

This implies that the Mayor can reject a borough's wish to continue with their local approach which contradicts the 'voluntary' credentials of the SPG. It is unclear whether or not the London Boroughs will have the option to opt out of the Mayor's 'call in' of planning applications.

We support the HBF's position that the London Plan clearly states that it is the responsibility of the Boroughs to identify affordable housing targets and policies. We concur that it is inappropriate for the Mayor to establish a minimum threshold rate of 35% on that grounds that it is contrary to London Plan policy and that doing so through a non-examined SPG would fail to have regard to the specific circumstances in each of the London Borough's.

We also consider that the vagaries of the weight of the SPG once adopted will lead a number of London Boroughs to adopt a 'pick and mix' approach to the proposed viability methodology. We are concerned that some Boroughs will use the 'Route B' approach, or aspects of this approach, to pursue affordable housing targets in excess of the 35% threshold (e.g. Lambeth Council has a 50% affordable housing requirement). This will inevitably cause uncertainty, delays and significant additional costs for developers and will act as an impediment to the delivery of development accordingly. This would fundamentally undermine the SPG's stated aspirations of *'making the viability process more consistent and transparent'* (para 1.3) and be in direct conflict with the abovementioned well-intended policies of the London Plan.

THE THRESHOLD APPROACH

The SPG sets out a 'Threshold' approach towards viability whereby schemes that meet the Mayor's conditions relating to affordable housing contributions, principally that they exceed 35% affordable housing without public subsidy are not required to submit viability information. Developments that meet the threshold are subject to a more expedient route through the planning process (referred to as 'Route A'). This effectively incentivises developers to provide affordable housing contributions in accordance with the criteria of the 'threshold'.

Where development is unable to meet all the Mayor's criteria then it will be subject to a more intensive and uncertain assessment of development viability (referred to as 'Route B'). This, it is assumed, is intended to penalise developers not conforming to the threshold requirements and to ensure that the basis for doing so is 'genuine'.

The Home Builders Federation provides a thorough assessment of advantages and disadvantages associated with the Mayor's threshold approach. McCarthy & Stone's views accord with those of the HBF and in the interest of brevity we do not consider it necessary to re-iterate the concerns expressed in the representation accordingly.

We do however consider that the 'threshold criteria' for Route A in the SPG is particularly problematic for specialist older persons' accommodation due to the nature of the developments proposed. Of particular concern is the mandatory requirement that off-site and cash in lieu affordable housing contributions must, as a matter of principle, be subjected to the Route B methodology (paragraphs 2.48 to 2.53).

This is extremely problematic for developers of older persons' housing as the delivery of on-site affordable housing is rarely achievable due to the nature of the development itself.

There are inherent difficulties in providing on-site affordable housing apartments within older person's housing because of the communal facilities within retirement housing and the on-going service and maintenance arrangements which results in a weekly service charge. Housing associations are unable or unwilling to meet these charges and thus it is not practical to have mixed tenure affordable housing within an open market retirement housing development.

Mixed tenure specialist developments of older person's accommodation cannot sustain, either economically or physically, independent facilities such as two residents' lounges, two regimes of development staff etc. unless the site is large enough and of suitable configuration to accommodate two separate developments each of substantial size. This is rarely the case on suitable edge-of-centre sites in constrained urban location typically developed for these forms of housing in Greater London.

If there is shared/dual management there will undoubtedly be conflict between the requirements of the Housing Association and those of the private management company. For example, would the communal facilities be shared and, if so, who manages, maintains, replaces and pays for what? There can only be one management regime and we have proof that Registered Social Landlords do not want to manage like this.

In light of the above it is assumed that the punitive methodology of Route B will be applied to the overwhelming majority of specialist older persons' housing subjecting a disproportionate impact on a niche housing sector that the London Plan has hitherto sought to encourage.

THE VACANT BUILDING CREDIT

The Mayor is effectively proposing to abolish the Vacant Building Credit. The Government successfully reinstated the Vacant Building Credit at the Court of Appeal and it has been further established through the Planning Practice Guidance (Paragraph: 021 - 023 Reference ID: 23b-021-20160519).

It is appreciated that the existing guidance on the application of Vacant Building Credit is presently limited and further guidance from Government is sought on this matter. In the absence of this guidance the Mayor is effectively filling the vacuum writing his own legislation. Such an approach would be inappropriate in a Development Plan Document, let alone a Supplementary Planning Guidance Document.

The Mayor's Guidance is to effectively exempt the VBC in the London Boroughs overwriting National policy.

- The building is not in use at the time the application is submitted
- The building is not covered by an extant or recently expired permission
- The site is not protected for alternative land use
- The building has not been made vacant for the sole purpose of redevelopment.

To demonstrate that the building has not been made vacant for the sole purpose of redevelopment, the relevant buildings will need to have been vacant for a continuous period of at least five years. This effectively ensures that CIL relief and VBC are mutually exclusive as is explicitly stated in paragraph 2.64.

We support the HBF's position that the section relating to the revocation of the Vacant Building Credit in the Draft SPG should be removed.

CALL IN MECHANISM

The criteria listed by the Mayor for 'calling in' an application for determination in paragraph 1.16 are wide ranging in scope and vague in its application. Contrary to the 'call in' approach by the Secretary of State, which is reserved for planning decisions of more than local significance, it is not unreasonable to conclude based on the SPG as drafted that consider that any affording housing contribution subject to 'Route B' will be determined by the Mayor rather than the LPA simply on the basis that it has not achieved the required 35%.

This raises a number of questions and a significant level of uncertainty for both the developer and the LPA who it is assumed would continue to function as the initial assessor for the viability assessment. At what point in the determination process would an application deemed necessary to be 'called in' by the Mayor? How long will the Mayor take to issue a decision? Who will pay for the Mayors reappraisal, given that the developer will have most likely funded the independent viability assessment by the Borough?

All of the above questions appear likely to cause delays which are costly for developers and will also have a detrimental impact on the viability of the scheme - the greater the delay, the lower the contribution may become.

Should a developer and the LPA reach agreement on the extent of AH contributions then this could effectively be disregarded by the Mayor who would then seemingly re-appraise the scheme independently. This wastes both resources and time for all parties involved in the 'initial appraisal' and would accordingly act for as a disincentive for the requisite parties to meaningfully engage on the matter of affordable housing. Additionally, it is evident from the wording of paragraph 1.16 that the determination of an application by the Mayor will be based solely on the extent of affordable housing contributions. This disregards all of the other material benefits that a development may provide and will have been considered by the borough's case officer during the currency of the application.

REVIEW MECHANISMS

Due to the nature of McCarthy & Stone's developments they are single phase schemes and as such would be subject to 'Advance Stage Review Contribution' detailed in Formula 3 (Annex A) when they are inevitably assessed via 'Route B'.

This approach would introduce a review mechanism which would be triggered upon the sale of 75% of all units. Any uplift in value is proposed to be split 60/40 in favour of the Local Authority. This review mechanism allows for an additional financial contribution equivalent to the Mayor's strategic 50% affordable housing target. This effectively creates a two tier system whereby developments assessed via 'Route A' are subject to an Affordable Housing requirement of 35% and those assessed by 'Route B' of 50%. This effectively sets a higher affordable housing requirement for forms of development, such as specialist older persons' housing, that are inherently unable to meet the requirements for 'Route A' detailed in the SPG.

This is further exacerbated by the premise that the review mechanism could also be used to contribute to other policy contributions which may not have been viable according to the initial assessment i.e. that it functions as a 'clawback' mechanism for all planning obligations.

As detailed earlier, specialist older persons' housing developments are obliged to provide the overwhelming majority of affordable housing via a commuted sum. The review mechanism therefore effectively imposes a 50% affordable housing requirement for specialist older persons' housing and a 35% target for all other forms of development.

More fundamentally we consider the requirement for a review mechanism would be in clear contravention of the PPG (paragraph 17) which makes clear that '*planning applications should be considered in today's circumstances*' unless a scheme phases delivery over a medium or longer term. This principle is further confirmed by paragraph 10 of the Government's 'Section 106 Affordable Housing Requirements Review and Appeal' guidance document and RICS Professional Guidance GN 94/2012 Financial Viability in Planning (para.3.6.4.1). We are dealing here with a proposed development of apartments which needs to be built a single phase because of the need for all apartments to have access to common communal areas.

There are a number of recent appeal decisions have make it clear that a planning obligation seeking to require a compulsory reappraisal in these circumstances is not compatible with Regulation 122 of the CIL Regulations.

In light of the above, we consider that the proposed review mechanism if applied to 'single phased' development schemes is both contrary to the PPG and would not accord with the provisions of Regulation 122 of the Community Infrastructure Levy 2010.

Of considerable concern too, is the nature of the review. Whereas in accordance with policy and all good practice in order not to stifle or prevent development, nor to effectively impose a tax on an individual developer and penalise it for its inefficiencies, the initial review appears to continue to be based upon generic costs and values (for example the use of BCIS as opposed to a developer's actual forecast costs), the review is based on actual out turn values and actual achieved costs. This will prove a very considerable disincentive to development, particularly where it carries a high risk, such as housing for older people where build has to be completed 100% before sales are realised.

It is submitted too that this approach effectively creates new policy as it goes beyond the London Plan which itself makes clear that review should only be sought on multi-phase schemes, and prior to implementation as "contingent" obligations. It also breaks the key fundamental planning requirement that planning permissions are attached to land rather than individuals.

This is relevant to, to matters of transparency. Whilst McCarthy & Stone acknowledges that there must be trust and transparency in planning and development it also operates in a high risk and high competition environment. Transparency is not an issue if costs and values are presented in accordance with current proper practice that is based on generic values and industry benchmarking. If it is not, then the opposite is true. Additionally too, two different "systems" being open to scrutiny by all, will only, in McCarthy & Stone's view be open to confusion and delay.

BENCHMARK LAND VALUES

Again, McCarthy & Stone supports the view expressed in the Home Builder's Federation representation (pages 11-12) that the Mayor is prescribing an approach to viability which conflicts directly with both the NPPF and the PPG.

The property consultants Alder King, have prepared a letter on behalf of McCarthy & Stone detailing how the proposed insistence on the 'Existing Use Value plus' (EUV+) approach will impact specialist older persons' housing more significantly than the wider general housing market. This letter is appended for your convenience.

SUMMARY

In conclusion, McCarthy & Stone considers that the approach proposed by Mayor of London in the proposed Draft Affordable Housing and Viability Supplementary Planning Guidance is contrary to the London Plan, the NPPF, the PPG and the RICS Professional Guidance GN 94/2012 Financial Viability in Planning.

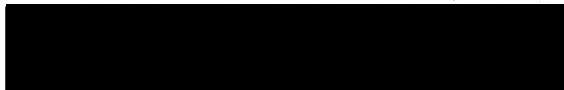
We share the concerns expressed by the wider development industry, property consultants and industry bodies, in particular the Home Builders Federation, that the proposed approach is flawed and will impede the delivery of housing across London. For the reasons expressed above we also consider that the proposed approach will have a disproportionate adverse impact on the delivery of specialist older persons' housing.

Thank you for the opportunity for comment.

Yours sincerely,



Gary Day
Land & Planning Director
McCarthy & Stone Retirement Lifestyles Ltd.



Draft Affordable housing and viability SPG 2016

Response: Post Implementation Reviews are inconsistent with London Plan Policy 3.12 and new policy
cannot be introduced in SPG
09 December 2016

1. SPG must be supplementary to development plan policy and cannot be used to introduce new policy.
2. London Plan policy LP 3.12 deals with negotiating affordable housing. Part A requires that authorities seek the maximum reasonable amount of affordable housing. Part B then states that
“Negotiations on sites should take account of their individual circumstances including development viability, the availability of public subsidy, the implications of phased development including provisions for re-appraising the viability of schemes prior to implementation (‘contingent obligations’), and other scheme requirements.”

The policy refers to re-appraisal in relation to ‘phased development’ and ‘prior to implementation’. The explanatory text at 3.75 adds:

“In making arrangements for assessing planning obligations, boroughs should consider whether it is appropriate to put in place provisions for re-appraising the viability of schemes prior to implementation. To take account of economic uncertainties, and in respect of schemes presently anticipated to deliver low levels of affordable housing, these provisions may be used to ensure that maximum public benefit is secured over the period of the development.”

3. The London Plan policy therefore refers to ‘phased development’ and ‘pre-implementation reviews’ and there is no development plan policy for post implementation review on single phase schemes.
4. The NPPG includes the following advice in regard to changes in values :-
“Viability assessment in decision-taking should be based on current costs and values. Planning applications should be considered in today’s circumstances.

However, where a scheme requires phased delivery over the medium and longer term, changes in the value of development and changes in costs of delivery may be considered. Forecasts, based on relevant market data, should be agreed between the applicant and local planning authority wherever possible.”

The first paragraph makes it clear that the approach is to assess viability at the time of the application based on the circumstance at the time and the second refers to phased development.

5. This is echoed in the current Mayor’s SPG at 4.3.3 and 4.3.4.
6. If a new policy for ‘near end development review’ is to be advanced by the Mayor this must be done through changes to the London Plan and subjected to the scrutiny and consultation that applies to new policy.
7. All references to ‘near end development review’ must therefore be deleted from the SPG as they are contrary to policy.

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Date: 27 February 2017

Our ref: JP

By Email (housingspg@london.gov.uk) and Post

Dear

Homes For Londoners: Draft Affordable Housing and Viability SPG 2016

Consultation Response by Meyer Homes Ltd

Meyer Homes

Meyer Homes Limited (MH) is an operating business, established by the Meyer Bergman, Vanke UK and AiMCo Joint Venture, to design and develop out the Meyer Homes Portfolio. That portfolio principally comprises 13 residential sites acquired from Tesco in 2015, 11 of which lie within Greater London.

Several sites have planning permission granted. We have recently secured permission for a mixed use scheme in Hounslow, providing 300 dwellings. Construction is underway on our residential schemes in Fulham and St. Albans, and sales have been completed in New Barnet. Planning permission is being sought for the remaining sites and is expected to be obtained in 2017/18. MH anticipates delivering 3,000 new homes in London in the next five years, through schemes ranging in size from c.50 to c.1,000 new homes, mostly within residential-led mixed use redevelopments.

Draft SPG Review

We have, therefore, considered the Mayor's draft Supplementary Planning Guidance (SPG) in the context of our experience of providing affordable housing within our residential schemes and commissioning viability assessments as part of the planning application and decision-taking process.

Accordingly, we make comments on certain aspects of the draft SPG which, drawing on our experience, we hope will assist the GLA to finalise the guidance in a manner consistent with the Mayor's main aim for the SPG (para 1.3) - delivering more affordable homes for Londoners.

Part 1 – Background and approach - Transparency of Information

We understand the GLA's aspirations for greater openness and transparency in the preparation, submission and review of **viability assessments** (VAs), such that assessments are submitted and reviewed as any other planning application document.

However, there is sometimes information within VAs which is **commercially sensitive** and which should remain out of the public domain. We consider the approach taken should reflect national Planning Practice Guidance (PPG) on how to assess viability, and be consistent with the National Planning Policy Framework (NPPF) (para. 173).

Part 2 - Threshold Approach to Viability

We support the **Mayor's main aim**, to accelerate and increase the amount of all forms of housing throughout London and to speed up the planning process (SPG para. 1.3). It is important that this SPG, in seeking to increase the amount of affordable housing, does not serve to undermine that aim and the securing of sustainable viable development consistent with the NPPF (para 173).

We concur that the introduction of a **'threshold approach'** to viability should, in principle, provide greater certainty and consistency to the application of affordable housing policy. However, it would not do so, though, if there is to be a single threshold at the **35% level**. That pan-London threshold is overly ambitious and wholly unrealistic in our experience, such that virtually all residential planning projects would be 'Route A Applications' requiring viability testing – as is the case now.

None of **our projects** have been or are expected to be capable of funding 35% affordable housing (whether on or off-site), whilst simultaneously delivering community infrastructure levy (CIL) and s106 contributions.

We are clearly not alone. We note that **13%** of all homes permitted in London in **2014/15** were affordable (para.1.2, 1.7). And that average presumably includes all social housing providers and public housing schemes.

There is no **evidence** to demonstrate that anywhere near 35% affordable housing (without public subsidy), with a policy compliant tenure split and meeting all other policy requirements and obligations, as required in Application Route B, is achievable in London.

The draft SPG (para. 2.14) **rationale** refers to an analysis of past completions and approvals having informed the figure, but there is not any transparency as the evidence base has not been provided. Indeed, the recognition of different levels of affordable housing viability across London (as well as significant variation within individual boroughs), suggests that there is a need for more than one threshold for different parts of the capital – as is the case, for example, with Mayoral CIL.

Setting a threshold at a 35% level would severely reduce housing delivery and, we believe, must be revisited. If there is to be a **pan-London** figure, then past delivery rates indicate a threshold of **15%** being more appropriate. The figure ought to closely relate to the average affordable housing delivery across different parts of London.

Whatever the threshold figure(s), we consider it is important not to remove **flexibility** from local planning authorities' (LPAs') and the GLA, if they find that there are site and scheme specific circumstances where application proposals are acceptable and can be supported as part of determining the overall planning balance, so as not to prohibit otherwise sustainable development of previously developed land in London from proceeding.

The introduction of the **Mayor's preferred tenure mix** of 30%+ low cost rent, 30%+ intermediate products, and with the remaining <40% being determined by the LPA (2.28) is also overly prescriptive and, again,

unrealistic. It would not serve to secure a viable affordable housing provision which would best meet local affordable housing needs. Greater flexibility is required, either by stating that the Mayor's preference should be taken as the context for local delivery and needs, or by removing the percentage breakdown.

Furthermore, allowing **LPAs to choose** the affordable tenure of 40% of the affordable housing provision creates uncertainty and is likely to lead to additional viability issues due to that uncertainty. It is also inconsistent with the wider range of affordable and market housing products encouraged in the Housing White Paper.

Viability Assessment Guidance

First, if an application does not meet the 35% threshold, then the draft SPG proposes a 'standardised and accessible format' (page 15) for Route A applications. We consider that, whilst the **format** can be accessible, it is not standardised, so as to allow viability experts to determine the appropriate approach to each scheme. A fixed requirement would also conflict with the PPG, which clearly states that there is no single approach for assessing viability.

Secondly, we do not agree that the Mayor's **Existing Use Value plus approach** is usually the most appropriate (SPG 3.46) for determining the benchmark land value. In reality, the alternative use value is a substantial influence on the price at which vendors are willing to sell land and that is not solely based on where an alternative use has the benefit of planning permission (3.45). The likelihood of an alternative use, or a mix of uses, obtaining planning permission, having regard to the Plan allocation and policy framework, also informs the land value and should be taken into account.

Finally, we note that the draft SPG proposes a more prescriptive approach to applying **review mechanisms** to all Route A schemes and for each phase of phased schemes (3.50-3.54). If this were to occur, we consider that such reviews must be capable of being both 'upward' and 'downward', so as to accommodate the financial circumstances prevalent at the time of each review, so as not to impede housing delivery. They should also be capable of being bespoke, so as to relate to any one scheme or its phases, in order to accommodate site specific conditions or triggers, rather than the reviews being simply prescribed 'early and near end review'. The reviews need to be project specific so as to not unnecessarily increase the financial uncertainty in the delivery of residential projects.

Concluding Remarks

We, Meyer Homes, ask that the Mayor gives careful consideration to our comments above and amends the draft SPG accordingly, so as to enable more affordable and all housing tenures to be delivered throughout London. In particular, the threshold approach necessitates a more realistic threshold of 15% pan-London or a series of thresholds close to current average affordable housing delivery rates.

Yours sincerely



Meyer Homes Limited

Paul Robinson

From: [REDACTED]
Sent: 01 March 2017 12:21
To: Housing SPG 2016
Subject: Affordable Housing & Viability SPG consultation

Please note below the considerations by Pieter Zitman of Mix Developments.

If you have any queries please do not hesitate to contact me.

Affordable Housing and Viability

Supplying the exiting large house builders with more land opportunities will only exacerbate the problem as their focus is on maximising the Open Market housing. They have only marginally increased the supply of housing despite substantial land options being passed to them and as the DCLG figures show, minimising the supply of affordable housing.

Affordable homes suppliers should be provided with assistance and priority to secure land and development opportunities. For too long the primary house builders have been given this advantage. We need more affordable housing SME's to enter the market. Help from the Government and Local Authorities is essential to making it work. Without opportunity land, at a price that makes the model work to its best advantage, we will not be able to redress the imbalance in the housing stock.

The Department for Communities and Local Government's (DCLG) figures for Affordable Housing Supply in England (2015-16) shows that the supply has fallen to the lowest level for 24 years. Of the 32,110 affordable homes build in England, only 3,430 were for affordable home ownership and 22,100 were affordable or social rent. The net additional dwellings for the same period were 189,650 which means that of all the new homes delivered, only 1.81% of them were for affordable home ownership.

Numerous studies, including the Redfern Review commissioned by John Healey MP, have shown that the housing problems are worst for younger people. They have been hit by three significant things that affect their ability get into housing on their own, University fees, a decline in earnings and an increase in housing costs, both rental and to buy. In contrast, the economic conditions for owner occupiers is getting stronger.

The NAO goes on to state that for existing homeowners, housing has become more affordable in recent years, but for first-time buyers it has become less affordable. Since 2008, the proportion of owner-occupiers who spend at least a quarter of their disposable income on housing has halved, falling from 40% to 19% of people with a mortgage. Today, first-time buyers pay deposits of 21% on average, compared with 13% in 1990. The amount that first-time buyers have to borrow to buy their first home has risen from 2.3 times the average income in 2000 to 3.2 times income in 2014.

Since 2006, the cost of private rented accommodation has broadly followed changes in earnings across England. The opposite has been the case in London, where private rents rose by 32% and average earnings increased by 16%.

At present planning requirements mean that for any typical development over the threshold in London will have a split of 65% Open Market homes, with 35% as affordable. This range is determined by the Toolkit Assessment despite the planning guidance requiring up to 50% of homes as affordable. Of the affordable units, there is either a 60/40% or 70/30% split between rent and ownership. This produces around 65% of the homes as Open Market, 21% or 25% as Social or Affordable Rent and 14% or 10% as Intermediate. Most often the latter are Shared Ownership homes where the buyer pays off a portion of the developer's debt through their mortgage and services the rest of the debt through renting.

Conclusion? - Alternative evaluation models to the Toolkit need to be actively pursued to redress the imbalance of housing typologies so that people from a range of income bands can afford to buy or rent a home of their own without having to rely on support. Mix have addressed this and can show that competitive land values can be achieved yet increase the proportion of affordable homes over open market homes.

The Redfern Review goes on to quantify and illustrate that an increase in new supply does not directly improve the home ownership rate. The stumbling blocks, particularly for younger people, are affordability and opportunity. So if London is to accommodate the next generation it will have to do something substantial about it.

Affordability + Opportunity

Both these aspects sit hand-in-hand and both need resolving. Opportunity is affected by a lack of product as well as the cost of the homes. Looking at just the mortgage is ignoring the real costs of owning a home - it includes the deposit, mortgages, mortgage fees, Council Tax, legal and surveyor's fees, moving costs and building maintenance charges and running costs.

In recent years models have been established to try and resolve this problem, but only a few address it in a more holistic and sustainable way that not only attempts to resolve the current issues, but also look at the effects of what they are doing in the longer term. Sadly too many fall shy in one aspect or another.

The problem at 1st round sales – In many cases the price of new homes, exacerbated by increased construction costs, is beyond the reach of most buyers. There is therefore a tendency, and for the affordable developer, a need to sell all their homes at the highest level – normally 20% discount to the local market. This means that the only people who are able to buy are those who have family who can support them or have generally had to make huge sacrifices to save up for a deposit. People on more moderate salaries, but doing jobs that are vital to us all (nurses, teachers, gallery and museum workers, etc.), are excluded.

The problem at 2nd round sales gets worse as data suggests that in the current market the sales price of discounted homes has gone up significantly. By way of example, a scheme in Westminster, illustrates how quickly things can change. Since the flats were first sold in February 2012, so between 43 months and 55 months later, sales prices increased from an average of sales price of £180,000, by 68-91%. That averages out at an increase in value of £3,167 per month or £156,250 per flat. Now at an average price of £343,333 per flat for single buyers, that puts the affordability up to the upper level income set by the mayor of £77,000 and out of reach to the majority of people.

In shared home ownership models, the right to buy the remaining equity in the flat can be exercised taking these homes out of the market sector for good. In some developments, such as Pan Peninsula in the Docklands there are no longer any shared ownership homes.

It is clearly not good enough to produce affordable housing that starts off by excluding workers vital to London or becomes unaffordable to second or third round buyers. Better protection for this kind of housing is needed if London is to have a balanced housing supply.

Without anywhere to go, the younger generation of people are forced to stay at home, whether in private or social housing, or move into homes that are overcrowded or a long way from their jobs. As families are leaving it later to downsize, there is a greater demand for larger family homes and affordable or social rent homes. Added to this dilemma is that there are so few homes suitable for the growing elderly population.

If homes are unaffordable to all but a few, people are forced to rely on their Local Council to house them if they cannot find homes for their families; or they have to move to the outskirts of London if not further.

Likewise, people in Council Housing are also unable to move on as they cannot afford to do so. All this adds pressure to the affordable housing stock. We need to create the conditions for people to make choices that frees up much needed affordable housing. They too should have the advantages that the older generation have had. The only way to do this is; substantially increase the number of intermediate homes and at the same time create more affordable homes.

We need to come up with ways of making sure that the intermediate homes are as far as practicable kept in that sector and affordable to people on different incomes.

Kind regards,

[REDACTED]

[REDACTED]

Mix Developments Ltd

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

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By post and email

Affordable Housing SPG
FREEPOST LON15799
GLA City Hall, Post point 18
The Queen's Walk,
London SE1 2AA

27 February 2017

Dear Sir / Madam,

Representations on the Mayor of London's Draft Affordable Housing & Viability SPG ("SPG")

This letter sets out the views of our business on your SPG.

Mount Anvil's vision is to be Central London's most respected residential-led mixed-use developer. This year, we celebrate 25 years of building homes and communities across London through partnership. We have delivered over 5,000 London homes to date. We have a pipeline of c.1000 new homes and have the capacity and ambition to treble our output to c.1500 new homes each year.

Statement of support

Mount Anvil welcomes the opportunity to comment on the Mayor's SPG.

We support the Mayor's aim to boost the supply of new affordable homes by making the planning system clearer, quicker and more consistent.

We support the Mayor's proposed move away from protracted and uncertain viability negotiations by introducing a 35% threshold approach to affordable housing on mixed-tenure schemes through the SPG.

We support the Mayor's objective to improve openness and transparency and disclose viability information, where viability negotiations are required.

New guidance on applications which do not meet the 35% threshold ('Route A')

We have no representations to make on the proposed guidance for schemes which deliver lower levels of affordable housing.

New guidance on applications which meet or exceed the 35% threshold ('Route B')

We support the certainty and consistency of the 35% threshold approach set out in 'Route B', whereby applications that meet or exceed delivery of 35% or more affordable housing on site without public subsidy will not be required to provide viability information, nor be subject to review mechanisms if agreed level of progress is made within two years of the permission being granted.

We support the Mayor's statement that he "*strongly encourages*" LPAs to take account of this SPG. For consistency, all London Boroughs need to adopt this approach, including the application of the threshold being based on habitable rooms, as set out in this SPG.

We recommend that one of the three requirements for 'Route B' is removed – the requirement for the application to "*meet all of the other relevant policy requirements and obligations*". In our experience – and that of the many consultants we work and speak with – very few developments ever comply with all policy requirements. The existing planning system is already set up to deal with departures from specific policy requirements on a case by case basis, so no further changes are needed.

We recommend that the requirement to agree Benchmark Land Value with the LPA before determination of any planning application should be removed. In our experience this process can be extremely protracted and requires significant negotiation and the involvement of a variety of external consultants. This additional delay and cost should be avoided where schemes are delivering 35%+ affordable housing.

By post and email

London homes, the Mount Anvil way



Affordable Housing SPG
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The Queen's Walk,
London SE1 2AA

27 February 2017

We recommend that post-consent review mechanisms are not imposed where schemes are delivering 35%+ affordable housing. To ensure that permissions are built out quickly, we recommend instead that shorter planning permission lifespans are imposed, for example 24 months instead of current 36 months, in-line with the proposal recently put forward by the Department for Communities and Local Government in their February White Paper "Fixing our broken housing market".

We recommend that the SPG provide a flexible approach on the tenure of affordable housing to ensure that 'Route B' remains viable. If sufficient flexibility is not afforded on tenure mix this will reduce the attractiveness of 'Route B' and/or the ability for developers to meet/exceed the 35% threshold with consequential delays, potential reduction in the level of affordable homes delivered and a protraction of the planning process.

We would be delighted to discuss any aspects of our representations with you and/or your team.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'KH' followed by a stylized flourish.

Killian Hurley
Chief Executive
Mount Anvil

One Chapel Place
London
W1G 0BG

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Your ref:
Our ref: 3893030v1

Email: housingspg@london.gov.uk

28 February 2017

Dear Sir / Madam

DRAFT AFFORDABLE HOUSING AND VIABILITY SPG – NATIONAL GRID PROPERTY REPRESENTATIONS

I am writing on behalf of National Grid Property (NGP) to make representations to the Draft Affordable Housing and Viability Supplementary Planning Guidance (SPG) 2016.

The representations are made in the context of the land holdings across London, these are explained in more detail below.

National Grid Property

NGP owns and manages the former gas works which make up National Grid's surplus property portfolio. NGP also manages historic contamination on operational sites across the UK.

National Grid is currently assessing the potential to decommission its fleet of gas holders across the UK. Technological advancements and an increase in the capacity of underground gas storage mean that above ground gas storage is no longer required. This has resulted in the release of many additional acres of former operational land. Many of these sites are located in town centre/city locations close to existing transport nodes and are ripe for redevelopment.

NGP is looking carefully at its portfolio of sites to understand how best to realise the development potential and is currently working collaboratively with a number of the London Boroughs in this regard.

There is a significant opportunity to provide for a large number of homes on this brownfield land and it is in this context that below representations have been made.

National Grid has created a joint venture partnership with Berkeley Homes known as St William. St William is seen as the vehicle for the delivery of homes. It is likely that a significant number of the NGP London sites be delivered as part of the St William joint venture. With this in mind, the Berkeley Group is also likely to submit representations to the SPG.

Abnormal Costs

The proper treatment of abnormal costs is important to understand from National Grid's perspective, as all of the sites in its portfolio are unique in respect of their industrial past. There will be significant abnormal costs associated with their redevelopment and bringing the sites back into beneficial use.

The use of modern technology means that the complex site clearance works involving gas holder demolition and the remediation of former gas works can be carried out effectively to allow residential development to exist on these sites. However, these site clearance works are typically expensive, and in some cases, potentially prohibitively expensive. Therefore, it is vital to ensure that the provision of affordable housing and other infrastructure requirements are properly assessed and are sufficiently flexible to respond to challenges in viability. If not, there is a risk that development might not come forward because there is no financial incentive to do so.

It is with this background in terms of the NGP landholding and also the significant abnormal costs that representations to the Draft Affordable housing and Viability SPG are made below. The comments relate to the Chapter headings used within the SPG document itself.

NGP Representations

Background and Approach

Paragraph 1.3 of the document states that the SPG "does not and cannot introduce new policy." However, it could be argued that the SPG does actually introduce new planning policy within the document.

The SPG provides two routes and options, which effectively set a minimum affordable housing rate (35%) across London. If applicants do not achieve this threshold, then there is a proposed requirement to submit a viability assessment to justify a provision of affordable housing which either falls below this threshold or does not meet the criteria set out in the SPG.

Whilst it is acknowledged that viability assessments are a common tool to justify the level of provision of affordable housing, the option to not require an assessment above a provision of 35% does appear to introduce new planning policy. With this in mind, there is a question as to whether it would be more appropriate to introduce such a change through a full or partial review of the London Plan. This would allow for these policy shifts to be tested more thoroughly through an Examination, rather than through an SPG which would have a limited amount of consultation and independent review.

There is also a view that the absolute control of affordable housing provision should be considered and controlled by planning policy at the Local level to ensure the relevant London Boroughs' who fully understand their housing need and requirements are able to directly influence the level and type of provision accordingly.

Notwithstanding the above, we have made further more detailed comments in the context of the SPG below – to ensure that NGPs views around the detail are understood and can be considered either through the evolution of this SPG document or as part of a wider London Plan review or partial review.

Approach of the Guidance

The intention of the SPG is to try to make the guidance "clear and more consistent". It attempts to do this through the introduction of a 35% threshold approach, below which, there is a requirement to carry out viability appraisals to support planning applications.

Paragraph 1.12 explains that the further any development falls short on the affordable housing offer, the greater the burden should be to demonstrate why a lower level of affordable housing is necessary for the scheme to go ahead, and the more that should be done to increase the affordable housing contributions through the implementation of the scheme should viability improve. Whilst the logic behind the approach is

understood, on sites where viability is a particular and genuine issue (i.e. on gas work sites, which have a unique set of constraints and abnormal costs to overcome), this could end up creating additional burden on these complicated brownfield sites, that the Mayor is seeking to encourage to come forward to help meet the shortfall in both market and affordable new homes.

Viability and Planning

Reference is made to the relevant sections of the NPPF, which cites the need to ensure that development plans are deliverable. It also helpfully flags that negotiations to reduce obligations based on site specific viability considerations should only be necessary where the site circumstances suggest exceptional or abnormal costs (including high levels of contamination requirement to divert major utilities, poor ground conditions etc. – all issues which are prevalent on NGP land). However, the footnote on page 10 references the impact of these issues on land value and that the policy is trying to embed the need for affordable homes within future land values. The suggestion being that the reduction in affordable housing should not necessarily be born through a reduction in planning obligations.

This could potentially cause problems on land with high abnormal costs owned and managed by utility companies, as there is a danger that 'building in' this requirement for affordable homes into land values, reduces the incentive for future development partners to take on board this risk. It could ultimately serve to prevent development coming forward on these sites at all.

This is not an end result that would be desirable for any of the parties involved, including the landowner, a potential developer, the local authority, and any future potential residents in London or indeed the GLA. So the process for these particularly difficult and complex sites should be managed and considered carefully.

Many of these former industrial sites have operational equipment that needs to be relocated to facilitate a deliverable housing environment. It is extremely difficult, even through extensive due diligence, to identify accurately all the abnormal costs in relation to geotechnical quality of the ground, but also in relation to remediation costs as well as the cost of removing and relocating operational equipment.

Rather than speeding up the process, the additional prescriptive nature of the SPG proposals for sites that do not meet the 35% threshold, would appear to be more onerous than is currently the case. This could simply have the unintended alternative impact of putting further 'red tape' in the way of these complicated sites coming forward for development.

Threshold Approach to Viability

Route A sets out the details requirements for schemes that do not meet the 35% threshold. There is a requirement to submit a standardised set of viability information to support an application of this kind.

In addition, review mechanisms are required where progress is not made on site within two years of permission being granted and towards the end of the process to be applied once 75% of the units are sold.

The review within two years could be problematic should unforeseen issues occur in the details when discharging conditions precedent to allow development to start on site. Local authority resourcing is already stretched and it is not unrealistic to expect delays in the determination of condition discharge submissions. Therefore, the two year restrictions could still cause problems for progress to be made up to a certain point. Perhaps it would be more sensible to ensure that a start/an agreed level of progress is made at a point in time following the discharge of the relevant pre-commencement conditions? This could prevent more unnecessary work to be carried out, which could further slow-down the delivery of housing on these complicated sites.

Despite the incentive of the threshold, we believe that NGP sites (and many other complex sites in London), will struggle to justify the provision of 35% affordable housing – so it is vital that the correct mechanisms and procedures are in place to encourage these sites to come forward also. It should not be seen as a

'punishment' for these sites where viability is justifiably an issue and the incentive should remain to bring new homes forward on these sites where viability is a challenge.

Route B avoids the need for a viability appraisal to be submitted with an application should the scheme deliver 35% or more of affordable housing (without public subsidy) as long as the Mayor's tenure split requirements are met within the on-site provision.

It seems odd that an early review would be required of a Route B scheme if certain progress (to be defined in the S.106) is not made within two years. It is acknowledged that there is scope for flexibility and negotiation over what the 'agreed level of progress' is. However (as mentioned above), surely the trigger should be at a point when all the conditions precedent are discharged and there is genuinely no further hurdles in the way of starting or making good progress on site? A distinction should be made here between a scheme that is 'implementable' and a scheme that has planning permission.

In addition, it would be helpful if the SPG could be clearer on what is likely to be acceptable as an agreed 'level of progress', as this is open to interpretation and could be applied wholly differently from one local authority to another.

Tenure

Route B also has a requirement to ensure that as well as meeting the 35% threshold the applicant also meets the tenure split requirements set out in the SPG. These are set out between paragraphs 2.27-2.31.

London Plan Policy 3.11 expects 60% of affordable homes to be provided either as social rent or affordable rent and 40% for intermediate rent or sale. However, this SPG seems now to be setting its own preferred mix, which suggests it is setting out a new planning policy approach, which appears to conflict with the adopted London Plan.

The SPG requires the split to include:

- 30% low cost rent (social or affordable rent).
- 30% intermediate products – London Living Rent or shared ownership.
- 40% - to be determined by the relevant LPA.

Given that the advice here is different to the London Plan and a LPA is likely to have its own ideas on what the appropriate mix is within its own Borough boundary, this could cause confusion over how this is to be implemented, which could in turn further slowdown the process – rather than providing the clarity that the Mayor is seeking in order to speed it up.

It could also take time for the relevant Local Authorities to set out their own preference on tenure and this would almost certainly need to be included in their Local Plan process. At present it is difficult to see how each LPA could alter their own requirements to suit the new Mayoral SPG that is not robustly supported by an amendment to the London Plan.

Overall, this lack of clarity could end up forcing all schemes down Route A, which is exactly what this SPG is seeking to try and avoid.

Viability Assessments

Paragraph 3.25 states that the presence of abnormal costs would normally be expected to influence land value – the applicant should have been aware of any abnormal costs prior to purchasing the site. Therefore, the SPG concludes that it should not be assumed that abnormal costs will be offset at the expense of compliance with the Development Plan. However, this needs to be considered very carefully in the context of NGP sites because the sites form part of an existing portfolio, which have an industrial legacy and in many cases are contaminated and require operation kit to be relocated at significant expense in order to bring the

site forward for high quality development. They have not necessarily been sold on for development and therefore the 'abnormal' element has not yet been taken into account in its land value.

Therefore, it is critical that the abnormal elements are properly factored in to any viability assessments to ensure that there is the incentive to bring this sort of site forward for development. Otherwise, there is a danger that they stagnate and do not come forward at all, which would be detrimental to the provision of housing generally in London, whether that be for market or affordable provision.

Approach to Opportunity Areas and Housing Zones

Paragraphs 3.55-3.57 seem to advocate an approach to reviewing these particular sites with a degree of flexibility and encourage a bespoke response to what can be a complicated set of circumstances.

NGP supports the acknowledgement that these sites often require significant investment in infrastructure and that they can often create fundamentally new places and communities. In this instance, it seems that the focus is given back to the LPAs to determine what they are looking for within an Opportunity Area or Housing Zone. This is supported by NGP, but it is vital that before LPAs formulate their own policies on these sites, that they fully understand the costs and constraints in detail before drafting an alternative planning policy approach for these locations.

An increased level of certainty around the expectations for these areas would help to accelerate delivery.

Conclusions

Overall, NGP is grateful for the opportunity to be able to comment on this SPG document. However, at present it does have some concerns over the direction of the document. In summary these include:

- Is an SPG the correct forum for promoting changes to planning policy? Should these alterations be considered and reviewed independently as part of a partial or total review of the London Plan?
- NGP sites by their very nature are complicated and one of the first hurdles to overcome is viability and therefore, there is a high chance that these sites will not be able to take advantage of 'Route B'. It is hoped that sites that are genuinely challenged from a viability point of view are not penalised by this proposed system.
- It is vital that the methodology for reviewing viability on complicated gas work sites is factored in to ensure that there is enough incentive for a developer and the landowner to take on board the necessary risk to promote residential development on these sites.
- The review mechanisms for both Route A and Route B seem overly onerous at this stage and further clarity should be provided in relation to what 'level' of work is required on site to satisfy need to not have to revisit viability. In addition, the two year period needs to be clarified and our suggestion would be to ensure that this time period starts when a planning permission is 'implementable' rather than simply when planning permission is granted.
- The tenure requirements for Route B appear to add a third tier of policy to the existing policy of the London Plan and Local Plan documents – there is a danger that this further complicates matters and simply means that Route A is followed more often than not, thus diluting the main purpose of this document (to promote Route B by reducing the level of detail required for an application which meets the 35% threshold).

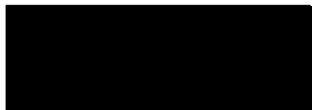
I trust you will find the above representations to be helpful. If you have any questions or should you like to discuss our representations in any further detail, please do not hesitate to contact me at the above address.

In the meantime, I would be very grateful if you could keep us informed of any further progress with this document.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'Alister Henderson', with a long, sweeping horizontal stroke extending to the right.

Alister Henderson
Partner



About Peabody

Peabody was established in 1862 by the American banker and philanthropist, George Peabody. We're one of the oldest and largest housing associations in London. Our enduring mission is 'to make London a city of opportunity for all by ensuring that as many people as possible have a good home, a real sense of purpose and a strong feeling of belonging.'

We work solely in London, with a presence in the majority of London boroughs. We own and manage over 29,000 homes, providing services to over 80,000 Londoners. Last year we built 1,080 new homes, 812 of which were affordable, and our development activities are set to grow with a pipeline of 8,000 new homes across the capital. We also have ambitious plans for the regeneration of Thamesmead in southeast London, a new town with the potential for up to 20,000 new homes.

We recently agreed to merge with another housing association called Family Mosaic. The new single housing association will still be called Peabody and, on completion of the merger, will provide 55,000 homes to 111,000 residents across London and the South East. The combined scale of the new organisation will enable us to increase our capacity to develop new homes and provide cost effective resident services.

Our Response

1. Background and Approach

- 1.1 We welcome the opportunity to comment on the Mayor's Draft Supplementary Planning Guidance and look forward to engaging further following publication of the Mayor's draft London Plan for review later this year.
- 1.2 London's continued success as a city combined with a historic undersupply of new homes has put increasing pressure on the capital's housing market, with those on low and middle incomes facing the greatest pressures in terms of affordability. A lack of transparency and certainty regarding affordable housing requirements and viability assessments has often hindered or delayed efforts to increase the volume of affordable housing delivered in the capital. The approach adopted in the Supplementary Planning Guidance helps provide greater certainty on affordable housing requirements and viability assessment requirements and has the potential to avoid such protracted and uncertain viability negotiations.

2. Threshold Approach

- 2.1 We support the introduction of a threshold approach. Increasing the supply of affordable housing is one of our strategic goals and proposals to reduce the level of information required from developers who commit to a higher proportion of affordable homes is welcome, particularly an

exemption from the need to submit viability information for schemes which deliver above 35%. We believe developers will soon start to actively consider this new approach in their assessment of bids for land and applications for planning.

- 2.2 The relationship between the threshold approach contained in the Supplementary Planning Guidance and the availability of grant through the new Affordable Homes Programme will help provide an incentive for developers to increase the number of affordable homes. This is particularly the case where schemes have the potential to reach the 40% threshold where grant will be available for all of the affordable homes. It is also likely to encourage private developers to engage with registered providers at an earlier stage to deliver such higher levels of affordable housing.
- 2.3 We would request further flexibility in the use of the review mechanism for applications that meet or exceed the 35% threshold without subsidy. In certain cases, incorporating additional affordable housing on-site may disrupt the proposed design of the site, potentially leading to a lower quality scheme where units are added post facto. As such, there should be opportunities to negotiate over the provision of additional affordable units offsite.
- 2.4 We support the proposed tenure split contained within the guidance and believe it is correct that the GLA should not be overly prescriptive regarding tenure requirements. This provides the necessary scope for local planning authorities to adjust the tenure mix in accordance with local housing needs and political priorities.
- 2.5 Whilst we recognise that shared ownership values of £600,000 and over are unaffordable to many households, we do not feel that it would be practical to impose this as a limit. If this was to be enforced it would prevent the delivery of shared ownership units in many local areas, particularly within Inner London. This will also limit the potential of London Living Rent where tenants are encouraged to purchase their home on a shared ownership basis. We would welcome further discussions about the future role of intermediate products in meeting housing need high value areas, including potential for off-site delivery and/or negotiations over the type and level of affordable housing in such cases.
- 2.6 The Supplementary Planning Guidance would benefit from a clearer position on the availability of grant to cover the replacement of affordable homes, including estate renewal. Whilst we welcome the commitment to ensure that developments do not entail the loss of existing affordable housing, the provision of new better quality homes is still likely to require some level of public subsidy.

3. Viability Assessments

- 3.1 We support the process for viability assessments outlined in the guidance and believe that this will encourage early engagement between developers and registered providers. The ability for the Mayor and LPAs to investigate high assumed payments for affordable housing is also to be welcomed and should encourage developers to more reflect their value assumptions more accurately within the price paid for affordable housing units.
- 3.2 The guidance suggests that development on land designated as Strategic Industrial Land should produce higher levels of affordable housing in light of expectations around increased value. As such, it could be clearer in stipulating the requirements around development, particularly to prevent any resulting increases in value being captured solely by the land owner.

4. Build to Rent

- 4.1 We recognise the part played by Build to Rent in catering to the needs of a particular demographic that often values the flexibility of renting and whose preferences are not met effectively by the current housing market.
- 4.2 The guidance is correct to state that Build to Rent properties differ from the traditional build for sale model, especially in terms of their long-term management and maintenance. The delivery of London Living Rent and other intermediate rented products on site may be more appropriate to the design and management of this product. The inclusion of London Living Rent as an affordable product in perpetuity on such schemes is also to be welcomed.
- 4.3 Whilst we support attempts to increase the capacity of this sector in response to growing demand, we are concerned that any exemptions do not bring unintended consequences. We are concerned that developers could seek planning for build to rent units in order to offset their affordable requirements. Equally, in the event of a market downturn developers may opt to develop build for rent instead of private sale, effectively depriving the capital of the share of new homes for affordable or social rent, which would otherwise have been included in the planning requirements.

For further information about our response, please contact:

[REDACTED], [REDACTED]
[REDACTED]
[REDACTED]



24 February 2017

Sadiq Khan (Mayor of London)
Affordable Housing SPG
FREEPOST LON15799
GLA City Hall Post Point 18
The Queen's Walk
London SE1 2AA

By email to housingspg@london.gov.uk

Dear Mr Khan,

Homes for Londoners – Draft Affordable Housing and Viability SPG 2016

I wish to commend you on the excellent Draft Affordable Housing Affordability SPG 2016 (hereafter referred to as the Draft SPG). It lays out a very practical and workable strategy that I hope will produce the much-needed uplift in the delivery of affordable housing in Capital.

Pocket has been committed to the delivery of affordable housing in London for 13 years. The company has been able to accelerate its delivery of unit numbers thanks to an innovative funding agreement with the GLA. Since the GLA loan was agreed, the company has increased its output from c.30 homes a year to over 200 and there are discussions ongoing with GLA officers and James Murray, the Deputy Mayor for Housing and Residential Development, to increase this to over 400 homes a year.

During Pocket's history, it has experienced some policy changes trying to clarify the intermediate affordable sector but which have had the unintended consequence, of making it harder to deliver diversity in the sector and therefore hamper output. Pocket believes that the Draft SPG could be successful in making it easier for developers to deliver schemes with 35% affordable housing provision, but fears that it may inadvertently make it harder for those trying to deliver over 50%, of which Pocket is one. Pocket's business model is based around 100% affordable homes on a discount market sale arrangement, with open market sale only on an exceptional basis to ensure viability on certain sites. Pocket is sure that this isn't the intention of the Mayor, but the current drafting could make the task of delivering Pocket homes to Londoners, substantially harder if the wording in the Draft SPG is not adapted to provide some clear incentives to deliver affordable homes beyond 35%.

14 Floral Street, London, WC2E 9DH

www.pocketliving.com

An additional concern is the Draft SPG's exclusive focus on Shared Ownership and London Living Rent as the clear preference in terms of acceptable intermediate affordable housing tenures. It has taken many years for planning policy officers to understand where Pocket fits into the affordable housing mix as an in-perpetuity discount market sale product for first time buyers and this exclusive focus and lack of any mention of flexibility, will inhibit the delivery of innovative housing products like Pocket. This is especially relevant given the GLA's financial backing of Pocket homes and unless amended, could seriously jeopardise the delivery of our agreed programme. One of Pocket's chief concerns is that intermediate housing is precisely the area of the housing market where a range of affordable options needs to be encouraged to maintain the economic and social health of London as a world city, particularly post Brexit.

We would therefore hope that that you would consider amending the current Draft SPG in the following ways;

1. To include the mention of all London Plan compliant intermediate housing products as acceptable (not just Shared Ownership and London Living Rent) including a specific reference to in-perpetuity discount market products such as Pocket.
2. To make clear that schemes that voluntarily deliver over 50% affordable housing should be afforded further flexibility than those only delivering 35% in the following ways:
 - a. No viability assessment required
 - b. Flexibility on tenure of affordable homes provided with guidance that a single tenure may be acceptable where developers are providing high proportions of affordable homes
 - c. Flexibility around the mix of unit sizes provided in the affordable unit allocation
3. Finally, that smaller schemes (under 100 units) with high percentages of affordable housing (over 70%) should be permitted to deliver a single type of affordable tenure and even mix.

These are the main alterations that we would hope you would consider during the consultation process. Below are some of the specific examples and the suggested changes required:

- 2.24 – The exclusive statement of engagement with a RP to progress a scheme, should be broadened to "the provider of the affordable homes" since not all affordable housing is delivered by RPs (Eg. Pocket and Dolphin Living)
- 2.28 – This should include guidance for greater local flexibility on the mix and tenure for schemes that deliver over 50% affordable housing. The prioritization of LLR and Shared Ownership excludes the delivery of other forms of affordable housing and will make it harder to deliver schemes like Pocket's even though they often deliver 100% affordable housing.

- 2.29 – The second bullet point should be amended or deleted, as it clearly prioritises two forms of affordable housing over any other and requires the local authority to deliver extensive work to provide the “robust evidence.” This would appear to be a perverse requirement as it could be harder for local authorities to support 100% Pocket affordable schemes compared to a 35% affordable scheme and therefore produce fewer affordable homes.

It is already a challenging process to deliver 100% affordable Pocket schemes in many London LPAs and yet the company still contributes many homes to meet local authority needs. The Draft SPG needs to encourage new SME providers into the affordable housing sector to help deliver more affordable homes for Londoners. Currently, the Draft SPG is so focused on getting more out of those developers that try to deliver too few affordable homes, that it inadvertently penalizes those that try to deliver many. Pocket would be very happy to provide more information on any of the above or to meet with officers to explain our thoughts in more depth.

Kind regards,



Marc Vlessing
Co-founder & CEO Pocket Living

CC: James Murray, Deputy Mayor for Housing and Residential Development.



Affordable Housing SPG
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By email only – housingspg@london.gov.uk

27 February 2017

Dear Sir/Madam

Homes for Londoners – Draft Affordable Housing and Viability SPG 2016

Please accept this letter as Quintain's response to the Draft Affordable Housing and Viability SPG. With our vision at Wembley Park, our representations focus specifically on Part 4 of the Draft SPG dealing with Build to Rent.

Quintain's Vision at Wembley Park

In December 2016, Quintain secured planning permission for its new Masterplan at Wembley Park. The Wembley Park development will deliver 7,000 new homes, more than a third of which will be affordable. This represents nearly 50% of Brent's target for new homes delivery up to 2025 and, with 1 million sq.ft of new Grade A offices and start-up workspaces, it will also create the opportunity for more than 7,000 new jobs. The Masterplan is providing £140 million of investment into new community infrastructure across Wembley and Brent including a new three form entry primary school and nursery, a new GP's surgery and community meeting spaces.

In February 2017 Quintain announced that Wembley Park will be the largest single-site purpose built Build to Rent development anywhere in the UK. 5,000 homes for rent will be available at Wembley Park, all under Quintain's ownership, and will be delivered in phases over the next seven years. The new homes will be delivered at a pace not seen at any other London development site with 3,000 homes under construction by the end of 2017. This rate of delivery, and the investment and community infrastructure it supports, can only be achieved as a result of Quintain's decision to follow a Built to Rent business plan. Had the Build to Rent Pathway as described in the Draft SPG been available as policy, our program would have been able to accommodate more homes at a lower rent while integrating affordable rent homes under a single management platform.

It is essential that the planning system positively plans for Build to Rent to ensure developers and councils can work together to deliver these homes for London as quickly and successfully as possible.



The Draft SPG and the recent Housing White Paper have set very solid foundations which now need to be built upon.

The need for Positive Guidance

Over the past 12 months, the GLA has taken the lead in preparing guidance to support the delivery of Build to Rent in London and we welcome the continued support within the Draft SPG. However, due to the developing nature of Build to Rent, there is currently a lack of appropriately focused planning guidance and precedent for these schemes at local level and applications are typically assessed under policies created for market sale housing, which are often unsuitable.

If Build to Rent is to make a significant contribution towards London's housing targets it is crucial that the SPG is adopted as soon as possible to inform local councils in their statutory plan making and decision taking duties and developers when preparing planning applications.

The SPG should provide clear support for a developer elected build to rent route. With clear and robust guidance this will help ensure that local councils recognise the advantages of Build to Rent but also acknowledge the inherent differences from market sale housing and therefore how these schemes should be assessed and brought forward.

With support and guidance from the GLA and local councils, developers and investors will have the confidence to bring forward high quality and innovative Build to Rent schemes in numbers that will provide a significant boost to London's housing targets and offer homes tailored for Londoners, operated professionally. In order to achieve this, we set out the key areas where we considered the SPG should provide greater clarity and certainty to both developers and local councils. Whilst the Draft SPG recognises that flexibility should be applied to design standards when assessing Build to Rent schemes, we consider it should go further and include clear guidance to which councils can refer when preparing development management policies or assessing planning applications. Without this, the formation of policy will be ad-hoc and inconsistent and decisions on schemes may be delayed through the planning process, with the ultimate outcome that Build to Rent fails to deliver to its full potential.

The Build to Rent Model and Viability

As recognised by the Draft SPG, Build to Rent schemes rely on a different investment model which requires more capital up front to secure a long-term cashflow rather than the short-term capital returns of market sale housing. These differences need to be recognised when assessing the viability level of schemes, considering affordable housing provision (amount and tenures) or setting borough-wide Community Infrastructure Levies for Build to Rent developments.

Tailored viability models need to be developed that include specific Build to Rent inputs and outputs. This will ensure Build to Rent schemes can be fairly assessed and make appropriate contributions to affordable housing provision, s106 obligations and Community Infrastructure Levy charges.

Further guidance should be provided within the SPG on how the viability of Build to Rent schemes differs from market sale housing. Without this clear guidance, market sale housing models may be used. These fail to recognise the distinct economics of the sector and the consequence is to require unviable contributions from schemes.



Unit Mix

Build to Rent appeals to a very broad demographic and this is reflected in the diverse mix of units we are designing, building and leasing at Wembley Park. However, market sale housing policies generally seek a greater proportion of larger units to be delivered than would typically be expected from Build to Rent. If conventional housing unit mix policies are rigidly applied to Build to Rent schemes this leads to a mix that is less attractive to residents, more marginal in terms of viability and ultimately provide less affordable housing.

Build to Rent should be recognised as a distinct residential product. The SPG should provide greater support towards the delivery of more studios and 1 bed homes so that councils have the lead to prepare similar policies through their Local Plans or SPGs. As recognised by the ULI Build to Rent Guide, Build to Rent is particularly suited to young people who often find it more difficult to buy or rent from the traditional housing stock. Well-designed studios offer the most broadly affordable form of private space; a demonstrably preferable product to the HMOs and other options currently available.

Unit Sizes

Quintain has worked hard with its design teams to deliver exemplary, high quality units that meet, and often exceed, tenants' expectations whilst making the most of the internal space in an innovative manner. This approach is particularly important in the Built to Rent schemes where tenants are highly focused on securing the most efficient units that meet their specific living requirements and budget.

We therefore welcome the Draft SPG's acknowledgement that design and space standards set out in Policy 3.5D of the London Plan should be applied more flexibly for Build to Rent where innovative designs meet identified need and are of an exceptional standard. We would encourage the GLA to set out specific areas of tolerance and flexibility to ensure local councils have helpful guidance on these matters to give them the confidence to prepare similar policies at local level.

Being able to test and challenge the nationally described space standards allows developers to provide greater differentiation within the unit mix, which appeals to different tenants, widens the market and accelerates absorption and therefore delivery.

As an example, a growing Build to Rent design option for centralized utility delivery obviates the need for much of the 'kit' typically housed in a utility store. A unit can therefore be equally or better designed at a smaller size, and therefore at a lower cost, and ultimate rent. We encourage the SPG to empower local councils to recognize and enable the potential of such design innovations to bolster affordability.

Amenity Space

Provision of high quality amenity space is an essential part of Build to Rent schemes. These spaces take many forms including balconies, private gardens, private terraces, screening rooms, club houses, sky gardens, gyms, children's soft play areas, meeting rooms and dining rooms. However, how this space is provided within a Build to Rent scheme will vary widely depending on the developer, unit mix, target market and location. There is not a "one size fits all" solution.

For some renters the provision of private amenity space in the form of a balcony or terrace is important and will be a valued feature. However, for those on lower rental budgets, these features



are unnecessary and add disproportionately to the cost of renting. These residents are far more likely to be attracted by and use the high quality communal amenity facilities within the development.

These communal spaces are highly successful at fostering a community spirit within the scheme, allowing tenants to meet their neighbours and build a network of contacts and friends. This leads to extended tenancies and reducing the transience often seen in more traditional rented products. Therefore where a developer demonstrates that a good level of high quality communal amenity space is provided by a scheme, private amenity space policies should be applied more flexibly, allowing renters the option and not the requirement of paying for more private amenity. Not only will this provide a more affordable product, it will ensure schemes are more viable and deliverable and of course results in more affordable housing provision.

Another consideration in favour of greater flexibility in the provision of both private and common (outdoor) amenity is that Build to Rent landlords are incentivised by the business model to curate and care for these spaces much more actively. For example, schemes may provide generous common facilities such as barbeques that can be privately hired from time to time, thus providing more high-quality amenity for private use. By removing the obligation to provide a common minimum for every unit, a scheme can more affordably deliver higher-quality spaces – available for private use when so demanded.

Units Serviced from a Core

The current guidance around the number of units to a core was prepared for market sale housing schemes to ensure residents felt they had a degree of ownership of the communal area and would know other residents on their floor.

In Build to Rent schemes tenant interaction and networking occurs within the amenity spaces that are provided within the development. Lift lobbies, cores and corridors are also well-designed and more typically generously sized, often with natural daylight, break out areas with soft furnishings and facilities. This allows the cores to successfully service more units, many of which will also be smaller units with lower occupancy.

Being able to service more units from a single core also helps drive up operational efficiencies while facilitating better active and passive surveillance. Through such design and operational efficiencies the Build to Rent operator can better provide and manage the communal amenities that foster communities to be delivered whilst ensuring the scheme remains viable.

Affordable Housing

The provision of affordable housing is a priority at Wembley Park with over a third of the units being provided as affordable dwellings of both social and intermediate tenures. This provision was based on a traditional build for sale model and was agreed with the London Borough of Brent as the maximum reasonable amount of affordable housing the development could provide.

However, as recognised within the Draft SPG, providing affordable housing within Build to Rent developments will often require a different approach to ensure the unified ownership and management of all homes is maintained, a core element of the Build to Rent model. This can only be achieved through the provision of Discount Market Rent units, which can be managed by the Build to Rent provider, unlike other forms of affordable housing.



Our direct experience of the delivery of affordable housing via traditional methods within Build to Rent schemes at Wembley reflects the advice in the draft SPG. It has proven to be inefficient in layout and management. Quintain therefore supports the GLA's approach which is also carried through into the Government's recent Build to Rent consultation and, where possible, will be looking to agree this approach with the London Borough of Brent at Wembley, with affordable dwellings managed under its Build to Rent operating business Tipi.

Concluding Remarks

Quintain welcome the GLA's commitment and support toward Build to Rent within the Draft SPG. With this new guidance in place and the continued strong support from London Borough of Brent, Quintain look forward to delivering significant numbers of Build to Rent homes for Londoners at Wembley.

However, as set in these representations, as councils are still forming their views and policies on Build for Rent we would like to see the guidance expanded upon and strengthened to ensure all parties are properly informed on how schemes should be assessed specifically relating to viability, unit mix and size, amenity space, units served from a core and affordable housing. Finally, the SPG should contain clear support for a developer elected build to rent route.

Once these principles have been established, Build to Rent will be able to make a significant and sustained contribution to London's housing market.

Yours faithfully

Brett Harbutt

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27th February 2017

Dear Sir or Madam,

Representations in relation to the Draft Affordable Housing & Viability SPG

Thank you for giving us the opportunity to comment on the above document. The representations set out below are made on behalf of Redrow London, a division of Redrow Plc. who are a national housebuilder with a strong track record of delivery across London and the United Kingdom over the past 42 years.

Background

Redrow London currently has 14 sites across the Capital that are either under construction or recently completed with a number of others in the planning pipeline. You may be aware that we were recently selected through the London Development Panel as the development partner for the Alton Estate, which will deliver approximately 1,100 new homes within the LB Wandsworth.

Across London, we expect to deliver 1,000 new homes within the next 5 years, which therefore makes us a significant contributor to the London property market. With our various developments at differing stages in the planning process and with our need for additional sites, we naturally have a very keen interest in the formulation of policies that have the potential to have serious implications for delivery of homes in London.

Viability issues have been at the heart of negotiations during the planning process on many of the sites that we have delivered so far in London over recent years. It has been a growing concern for some time that those negotiations have not always gone smoothly and in some instances added many months of delay to the planning process.

In order to keep building, it is critical that the planning system is able to adapt to uncertainty and not place additional burdens on the development process which have the unintended consequence of reducing delivery of homes.

In terms of the Mayor's intentions set out within the draft SPG, we understand and support his overarching objectives of increasing affordable housing provision and making the viability process more consistent and transparent. We do however, see a number of practical

difficulties with the SPG as currently drafted and the formal representations are set out below.

Policy Background

The requirements for ‘Ensuring viability and deliverability’ in plan making is set out within **paragraph 173** of the National Planning Policy Framework, which states:

“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”

General Approach

Our overarching concern with the draft SPG, is that it is introducing a change in policy direction by trying to introduce a threshold for viability. The rules relating to the use of SPG’s are very clearly set out in **paragraph 153** of the NPPF, which states:

“Any additional development plan documents should only be used where clearly justified. Supplementary planning documents should be used where they can help applicants make successful applications or aid infrastructure delivery, and should not be used to add unnecessarily to the financial burdens on development.”

Paragraph 028 (Local Plans) of the PPG also confirms:

“Supplementary planning documents should be prepared only where necessary and in line with paragraph 153 of the National Planning Policy Framework.

They should build upon and provide more detailed advice or guidance on the policies in the Local Plan. They should not add unnecessarily to the financial burdens on development.”

Without a doubt, the SPG is introducing a new policy direction which will increase financial burdens on development.

We are becoming increasingly concerned about a growing trend for viability guidance being published (such as the London Borough Viability Protocol November 2016, Viability and the Planning System January 2017, and other borough level SPG’s) that seek to evolve national and development plan requirements. Some of these documents have received no consultation or where there have been comments made, they have been largely ignored. Nevertheless, some boroughs are placing undue weight upon their contents when making decisions on applications.

Viability is such a fundamental aspect of the planning process that any documents which may influence approach should be subject to independent examination to ensure wider compliance with the development plan. It is not at all helpful in giving clear guidance to the industry for such documents to be produced.

Sufficient detail on viability is provided within the Planning Practice Guidance (PPG) and has given Inspectors a reliable framework for decision making. No further detail on viability is required in this SPG or any other planning policy or guidance document.

We would request that the Mayor desist in pursuing this SPG and rely on the perfectly adequate guidance set out within the PPG.

Notwithstanding comments already made, an SPG is not the appropriate route for introducing such a radical change in policy direction and it should be done through consultation on a new London Plan.

The introduction of a 35% threshold has not been subject to any testing or evidence, as far as we are aware, to demonstrate that it is achievable for many sites. We would strongly recommend that the Mayor not look to pursue this as an SPG and instead spend the time building a thorough and robust evidence base to test if most sites across London could realistically deliver 35% affordable housing. This can then be put forward via the proper process as part of amendments to the London Plan.

Part 1 – Background and Approach

Paragraph 1.10 of the SPG states that Local Planning Authorities (LPA's) are "strongly encouraged to, follow the approach set out in this guidance". Notwithstanding other comments made about the SPG below, when the SPG is adopted in final form, it is vital it has the unanimous buy in of all LPA's. It would cause significant confusion and difficulty to reaching an agreement if the GLA were to adopt one set of standards and the LPA's continue to pursue their own individual targets.

Paragraph 1.12 suggests that the further individual schemes are away from the 35% target level, the greater the burden of scrutiny to demonstrate why a lower level of affordable housing is acceptable. This requires further explanation and qualification as to what this statement means in practical terms i.e. what would be the difference in level of scrutiny between a scheme that produces 30% and a scheme that produces 20% or even 15%.

Paragraph 1.16 infers that the Mayor may become more involved with planning applications using his powers of 'call in' or directing refusal.

We would be concerned about any proposals that could increase the timetable for determining planning applications or add bureaucracy to an already long and unpredictable process. No clarity has been provided about the process and how a 'typical' application would be assessed. Furthermore, the SPG has not provided any detail how the Mayor intends to resource this process and whether there would be a cost to the applicant. Both are significant issues that need to be clarified.

In relation to the requirements for the Transparency of Information, set out in **paragraph 1.17 to 1.23**, we do have concerns about information being made publicly available. The Draft SPG encourages LPA's to make public all information relating to viability at each and every stage of viability testing. For Route A as currently proposed that would require publication of such information at three stages in the process (initial appraisal, early review and final review) and even on Route B there would be a requirement to provide such information in relation to Benchmark Land Values in the S106.

In practice this could mean publication of a developers full cost plan and development appraisals and the LPA's independent review and the Mayor's review at multiple stages. We think this is unnecessary and unreasonable and contest this on the basis that:

- Such information is commercially sensitive to developers informing negotiations with commercial contractors and landowners;
- Without the necessary expertise, the full detail of this information will be largely meaningless to the general public and therefore open to misinterpretation or force them to employ specialist advisors to review on their behalf. Developers will be forced, in turn, to expend great resource in educating the public.
- There would be significant scope for delay to planning determinations whilst information is scrutinised and potentially challenged during determination or post determination.
- Such a requirement may, in certain scenarios (e.g. existing tenants info), be counter to the overriding statutory obligations under the Data Protection Act.

We do not believe that greater transparency is in the public interest where viability information is already being scrutinised by an independent adviser on behalf of the LPA and would further be scrutinised by the Mayor's Viability Team.

A far more reasonable approach would be for Applicants to publish more meaningful summary information. The detailed information would then remain confidential and protect the developer's intellectual property. This is an approach being used currently by some Planning Authorities.

Part 2 – Threshold Approach to Viability

In summary, this section of the draft SPG confirms the Mayor's intention of introducing a threshold of 35% affordable housing within schemes and if this threshold is achieved no viability information will be required.

One of our overarching concerns with this threshold approach is it will create a two-tier land market. Development proposals that can afford to meet the threshold will not be subject to scrutiny or later viability review mechanisms and will therefore be able (in theory) to more readily achieve planning permission. What this in reality means is schemes that deliver significant community benefits (our Colindale Gardens development) but deliver reduced affordable housing to compensate will be punished by having to be subject to lengthy viability assessments and future viability review clauses.

We believe the quality of future development proposals could suffer as a result of this policy approach and the wider package of community benefits will be significantly reduced, simply to ensure an arbitrary affordable housing threshold is met.

Paragraph 2.1 confirms that the SPG “does not and cannot set a fixed target for affordable housing in developments”. Though in effect that is exactly what the SPG is trying to do.

This is the first time that the Mayor has identified a specific percentage target for individual sites since the inception of the London Plan, the previous iterations of which were consistent with the current version and achieving maximum reasonable levels of provision. It is acknowledged that the 2004 and 2008 versions had a 50% regional/ strategic affordable housing target.

We are concerned that a site specific target is being introduced through supplementary planning guidance, rather than within development plan policy. It would be our view that such a step change in approach needs to be subject to proper review and examination by a Planning Inspector.

As set out above, we are becoming increasingly concerned about a growing trend for viability guidance being published that seek to evolve national and development plan requirements. The lack of consultation and/ or transparency around these documents is a significant concern, and is effectively allowing some planning authorities to make up its own rules without scrutiny. Nevertheless, some boroughs are placing undue weight upon their contents when making decisions on applications.

Viability is such a fundamental aspect of the planning process that any documents which may influence approach should be subject to independent examination to ensure wider compliance with the development plan. It is not at all helpful in giving clear guidance to the industry for such documents to be produced.

In relation to the proposed target, we are concerned that 35% is overly ambitious, bearing in mind that in 2014/2015 only 13% of units were provided as affordable housing across London (**see paragraph 1.8 of the SPG**). It is acknowledged that some of this delivery would have included schemes that benefitted from office to residential permitted development rights and from smaller sites, which do not necessarily have affordable housing policy requirements. However, many of these schemes will have had affordable housing requirements and therefore been subject to viability assessments, which require the maximum reasonable level of affordable housing to be delivered. Furthermore, some of these schemes will also have been development on Council owned land and/ or estate regeneration, which would be delivering significantly higher proportions of affordable housing.

It is therefore difficult to see how such a significant jump in affordable housing delivery is likely to be achievable bearing in mind current planning requirements are to deliver the 'maximum reasonable' level.

Whilst certainty and consistency is welcomed, we believe 35% affordable housing is likely to be unachievable on many sites and therefore the policy is doomed to fail. It is therefore likely that most applications would continue via the 'Route A' approach. We would therefore question whether the Mayor has sufficient resources in place to scrutinise the number of viability assessments in referral schemes. It is our significant concern that this will simply delay determination of planning applications.

Paragraph 2.6 states that the SPG is looking to apply the affordable housing threshold approach to applications for sites which can deliver 10 or more units. However, the Planning Practice Guidance is clear in that the threshold for affordable housing contributions from development should be 11 units or more. This paragraph of the draft SPG should be amended to accord with National Guidance.

Paragraph 2.7 allows the potential for boroughs to pursue their own individual affordable housing threshold requirements, subject to the approach being agreed with the Mayor. This raises further concern in relation to points already made about an application for an individual site being caught between the borough requirements and those of the Mayor. This has significant potential for delaying decisions on applications.

It is not at all clear how the Mayor's scrutiny of a viability assessment is going to work with that undertaken by the boroughs, the timing for when this is going to happen and what happens when there is a difference between the borough and GLA assessor.

We welcome the approach set out in **paragraph 2.8** that confirms affordable housing requirements should be considered on a habitable room basis to ensure delivery of an appropriate unit mix.

Our concerns in relation to the Threshold approach have been set out above and we therefore do not consider that the Route B approach will be deliverable for the vast majority of sites, which is demonstrated by pan London affordable housing delivery set out in the latest version of the London Plan AMR. It is our expectation that land owners will maintain their expectation of land value on the basis that the Route A approach is available. Comments in relation to viability review mechanisms are set out below.

Paragraph 2.14 says that the rationale for a 35% threshold has been informed by analysis of past completions and approvals.

Considering affordable housing delivery rates set out in the London Plan AMR, this figure seems wholly unrealistic and no London wide evidence has been produced to show that this is deliverable. In accordance with the guidance set out within the NPPF it is essential that such a fundamental part of development viability has been subject to testing from a robust evidence base.

The paragraph states that the approach will “start to embed affordable housing requirements into land values across London”. No evidence has been provided to demonstrate that the target has been set at a level that would continue to encourage development to come forward. It is our experience that most landowners do not give significant consideration to planning policy, if any at all, and will only release land if they believe there is sufficient financial incentive to do so. In our view it is likely that it would significantly constrain land being released for development if land owners are not sufficiently incentivised.

We believe that trying to embed such a significant viability constraint into land value will only work when there isn't a land supply deficit. We anticipated that trying to impose such a constraint will simply mean that many land owners will exercise their optionality and not release their land to come forward for development. Only when the supply of land increases to meet demand can such a significant constraint be imposed.

Indeed, we are aware of the Mayor having to direct TfL in 2016 to sell land at Kidbrooke station below market level in order for 50% affordable housing to be delivered on the site. This clearly shows that over ambitious affordable housing targets can, in some cases, significantly impact land value.

It is our view that the proposed threshold of 35% is not realistic and should the Mayor wish to pursue a threshold target that it be lowered to a level that stands a reasonable prospect of being deliverable.

Increasing Affordable Housing to 50%

Comments set out in **paragraphs 2.17 to 2.19** are noted but we remain highly sceptical that a 35% affordable housing target, let alone a 50% target will be deliverable in current market conditions. The Mayor needs to first demonstrate he can deliver 35% before contemplating higher targets

Grant

Availability of grant will be a key factor in maximising the delivery of affordable housing and historically, schemes could deliver higher levels of affordable housing because of this subsidy.

We are supportive in principle of using grant to deliver higher levels of affordable housing on our sites and would happily explore the potential for delivering additional homes supported by subsidy.

We are aware of the £28,000 per unit of grant that is being made available, the details of which are set out in the Affordable Homes Programme 2016-21, Funding Guidance. However, in order for this to translate into affordable housing delivery, this needs to be passed directly to the developer to provide a genuine incentive for increasing affordable housing delivery. This should not be passed through an RP, who may 'hide' some of the subsidy within its bid so that its full benefit is not realised.

Tenure

In our experience, flexibility in the type of tenure provision can have significant impacts on the overall level of affordable housing within an individual scheme. We would encourage the Mayor to allow flexibility in any adopted SPG, especially if it remains the intention of a threshold approach.

The quantum of affordable housing that a scheme can deliver overall improves significantly when a greater proportion of intermediate accommodation is provided in favour of affordable/social rent.

We are concerned about the Mayor's approach set out in **paragraph 2.29** and the potential flexibility for LPA's to identify their preferred tenure for 40% of the affordable housing offer. This may produce dramatically different results between the boroughs, which will inevitably affect land value. Ultimately, any uncertainty about boroughs tenure requirements makes it very difficult to assess scheme viability at acquisition. It may also cause issues for sites that straddle borders that have different target requirements.

As a business we have made representations on this issue in the past, which confirms that we fully support the principle of mixed and balanced communities. However, we do feel that the Mayor has a greater role to play in taking a pan-London view on affordable housing.

It is often the case that in high value areas, it is incredibly difficult to deliver social/affordable rent. Subsidy from schemes in higher value areas could be used to deliver significantly more affordable housing in lower value areas within London we would strongly urge the Mayor to consider looking at a pan London fund that could be used to deliver more affordable housing overall.

This approach may result in a significant increase in net affordable housing delivery in the London region and we would urge the Mayor to give this further consideration.

Definition of London Living Rent

We welcome the Mayor giving consideration to alternative forms of affordable tenure. We would ask that the Mayor revisit the comment made in **paragraph 2.33** which sets a maximum household income of £60,000, but allowing it to apply to single people, couples or households with more than one person. The implication is that a single person earning £60,000 could qualify for London Living Rent whereas a couple that earns £30,500 each taking them to a combined household income of £61,000 wouldn't qualify.

We look forward to being consulted on further details of London Living Rent in due course.

Affordability of other intermediate products

We are concerned that the Mayor is seeking to reduce the qualifying threshold for intermediate accommodation from £90,000 to £60,000. Whilst we understand, that there are affordability issues associated with intermediate housing products at the higher end, we do believe that this has the unintended consequence of closing off the opportunity for home ownership for those at the higher end that do currently qualify.

In fact, we would go further than this and would say that the draft SPG is focused on only helping those on lower incomes and would turn its back on households on middle incomes that also struggle to access the housing market. It is our view that housing affordability and access is an issue for many and policies should do more to tackle the challenge across a range of incomes and needs.

We would strongly urge the Mayor to look at affordability and access to housing for those households on middle as well as lower incomes and that 'affordable housing' need is actually for a broader spectrum than currently addressed within the draft SPG. This is a key point in providing genuinely mixed and balanced communities which we do not feel the SPG adequately addresses.

Starter Homes

We note the Mayor's comments in respect of this and look forward to receiving further detail on starter homes in due course. In principle, we support this initiative and may help to address comments already made about affordable housing products for a wider variety of need.

We trust that as and when further detail comes forward the Mayor will ensure that starter homes are included within the affordable housing definition.

Off-site and Cash in Lieu

We welcome the Mayor's recognition that, in some circumstances, off-site affordable provision or cash in lieu can deliver the best solution. The majority of our London sites deliver affordable housing provision on site and this is expected to be the case moving forward.

The opportunity for off-site payments for certain circumstances must remain as an option.

Vacant Building Credit

We note the Mayor's comments in relation to Vacant Building Credit (VBC), which are in our view unnecessary. Sufficient detail is provided within the PPG in relation to the operation of VBC and there is therefore no need for any further qualification.

Part 3 – Guidance on Viability Assessments

As a general comment, and consistent with the points made above we are slightly frustrated, with the seemingly continuous publication of documents of varied status commenting on viability approach.

Clear and detailed guidance is provided on this within the Planning Practice Guidance. This guidance sets out the approach in very clear terms for viability assessments and has been relied upon by Planning Inspector's in recent appeal cases.

If it is the Mayor's aim to speed up housing delivery in London, we would strongly advocate reducing the amount of unnecessary/ repetitive planning policy and guidance, including this SPG and refer to the already clear advice provided by Central Government.

Paragraph 153 of the NPPF clearly states:

"Supplementary planning documents should be used where they can help applications make successful applications or aid infrastructure delivery, and should not be used to add unnecessarily to the financial burdens on development."

Whilst the Mayor may take the view that this SPG would aid delivery, it is in fact our view that it has the opposite effect of creating uncertainty and slowing down and/ or creating a barrier to delivery.

Build Costs

It is commonplace now that any viability assessments submitted with planning applications are supported by a detailed Quantity Surveyors report. We note that the SPG makes various references to the BCIS as a potential source of costs information.

Whilst the BCIS can provide a useful high level guide, I'm sure we are all aware of its limitations in that it takes account of costs nationally and relies on historic data. In all cases, a site specific QS cost plan should be preferred.

Developer Profit

Paragraph 3.35 identifies that an 'internal rate of return' (IRR) approach of measuring profit, can be used, however states that this is an approach which is typically associated with a long term development programmes and not expected to be appropriate as a measure of return to be used on schemes providing fewer than 1,000 units.

We fundamentally disagree with this as an assumption, as it should not just be considered an appropriate measurement of profit when looking at outputs from a single development project, but should be considered when assessing the overall viability of a business. The

industry as a whole already considers IRR to be a key measure of viability and should not therefore just apply to large sites.

Benchmark Land Value

In our experience it is this element of the viability process that often proves to be the most controversial. We would therefore re-iterate the comment made elsewhere in these representations that, to avoid creating uncertainty, the clear guidance provided in the PPG is sufficient and further commentary in this or any other SPG is not helpful or necessary.

The key component for housing delivery in London is sufficiently incentivising land owners to sell their land to allow it to come forward for development. Without a supply of land coming forward, then there will be no housing delivery.

Paragraph 3.42 to 3.47 sets out the approach in relation to adopting Existing Use Value + (EUV +) approach as a benchmark. Many of the viability assessments that we have been involved with have relied on the EUV + approach. However, the key area of debate will be in relation to the + amount, which the second bullet point of **paragraph 3.45** of the SPG identifies as normally being within 20-30% of EUV. Again, this seems about right in relation to some sites we have been involved with but would strongly disagree that there are likely to be many or any circumstances where it could be considerably lower.

However, there will be some circumstances when the + needs to be higher than the 20-30%, where a site happens to have a particularly low existing use value, to sufficiently incentivise the developer to bring it forward for development. This is consistent with the NPPF which states that viability should consider:

“...competitive returns to a willing landowner and willing developer to enable the development to be deliverable. This return will vary significantly between projects to reflect the size and risk profile of the development and risk to the project. A rigid approach to assumed profit levels should be avoided and comparable schemes or data sources reflected wherever possible.

A competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value or the land or its value of the land or its value for a realistic alternative use that complies with planning policy.”

We have underlined above the allowance for referring to comparable schemes or data sources, which is also included as the third limb of **paragraph 014** of the Viability section of the PPG, which states in relation to land value:

“be informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly about the market norm, they should not be used as part of this exercise.”

The requirement of the other two limbs of **paragraph 014**, including the need to reflect policy requirements is fully noted and understood.

I'm afraid we do not agree with comments made in **paragraphs 3.48** in relation to the market value approach and that it introduces circularity. We are strongly of the view that this must remain an option for benchmarking land value in certain circumstances. This is consistent

with the clear guidance within the PPG identified above and the requirement to take account of policy requirements is already embedded into this. Indeed, this has been the basis under which many appeal decisions have been determined recently. To not allow for the market value approach would be a clear departure from National guidance.

Paragraph 3.49 contemplates the application of an alternative use value (AUV), which we do consider to have merit in certain circumstances. We do not agree that where an AUV is being used that ‘there is no requirement for an additional ‘plus’ element’. Clearly if it can be demonstrated that there is additional planning benefit for a scheme over and above a scenario created under an AUV, but the returns are the same or similar, the planning system should allow for a sufficient surplus to capture the benefit. An example of this could be in relation to a site that benefits from the use of office to residential permitted development rights against the benefits of a new application, which could deliver better standard of design, public realm, landscaping, unit space/ and mix standards, sustainability standards etc. Clearly if a developer is not incentivised to go for the scheme that has additional time and risk, but delivering planning benefit it would not do it.

Whilst the SPG does not if a developer is not incentivised to go for the scheme that has additional time and risk, but delivering planning benefit it would not do it.

Contingent Obligations and Review Mechanisms

As a matter of general approach we are concerned about the use and consequences of viability review mechanisms. There have been a number of instances in recent years where they have not been able to move forward with land acquisitions on smaller sites of less than 150 units that benefit from planning permission because they are subject to viability review mechanisms.

Quite simply, and despite best intentions the review mechanism creates a potential trap door to securing the necessary profit and is preventing the delivery of some schemes. As a national developer, we take on significant risk when we buy a site without planning permission and it is essential that risk is capable of being rewarded by the potential for an ‘upside’. Review mechanisms seek to remove that upside and therefore significantly dilute the attraction for developers to take on risk. It is likely that continued use of viability review mechanisms will prevent some land coming forward for housing delivery.

Should the GLA insist on pursuing viability review mechanism, then it should not operate as a ratchet, particularly in the current political climate, and should allow the potential for a reduction in affordable housing delivery. It cannot be right that planning authorities take development upside without any risk. If they want to remove the potential upside from a developer, then they need to share in the potential downside.

Again, the approach being advocated within this draft SPG is not consistent within the PPG and specifically **paragraph 017** of the viability section, which states:

“Viability assessment in decision-taking should be based on current costs and values. Planning applications should be considered in today’s circumstances.”

However, where a scheme requires phased delivery over the medium and longer term, changes in the value of development and changes in costs may be considered. Forecasts, based on relevant market data, should be agreed between the application and the local planning authority wherever possible.”

The advice set out above is clear that review mechanisms should not apply to smaller schemes and the continued imposition will result in lost delivery of new homes.

The Mayor will be very aware that just because a site has planning permission, this does not guarantee delivery and there are a significant proportion of projects that are stalled in the pipeline 250,000.

We would strongly recommend that the SPG is amended in accordance with the PPG, but as a worst case scenario, if it is absolutely essential that viability mechanisms are included, ensure that they are prior to implementation and if a development has not started on site within two years of the grant of permission. Some flexibility should be allowed around the timing to take account of any site specific circumstances.

Approach to Opportunity Area and Housing Zones and Strategic Industrial Locations

The above locations will provide significant sources of supply of housing to London over the coming years. We note with some concern the comment made in **paragraph 3.59** which states:

“Existing use values are generally lower within SIL and a change of use can significantly increase land values – thereby allowing higher levels of affordable housing and new social infrastructure to be provided.”

Whilst it is recognised that current values may well be lower in these locations, landowners will have expectations from the designations allowing changes of use. It will therefore be important to ensure that landowners are properly incentivised to release their land for development, in accordance with the guidance in the PPG. Given that some of these areas will be key delivery zones for housing, releasing land for development is essential.

Summary

We are extremely committed to the delivery new homes in London and helping the Mayor address the significant supply issues. We are also committed to providing homes for all within our developments, within a range of tenures.

However, a 35% affordable housing target is overly ambitious considering recent delivery rates set out in the London Plan AMR. Given the lack of supply of available land for development coming forward in London, trying to embed affordable housing requirements into land value is likely to result in supply restriction as land owners exercise their optionality.

We do not consider that the introduction of an SPG in this form will assist in delivering new homes. More fundamentally, we do not consider the SPG is necessary and that perfectly adequate viability advice is contained within the PPG. This is more than sufficient for decision making and any further attempts to introduce further guidance is just causing confusion and uncertainty.

Levels of affordable housing should be negotiated on a scheme by scheme basis in accordance with planning policies at borough level and we believe this draft SPG fails all the tests of soundness set out in paragraph 182 of the NPPF.

Furthermore, the Mayor has provided no evidence that boroughs will support the approach set out which leads to yet further uncertainty. This combined with the extra administrative

resource needed for the proposed viability testing and end of scheme viability reviews will mean many developers will seek to invest elsewhere where risks are less onerous.

Redrow strongly supports the overarching goal of delivering additional affordable homes in London, however in its current form we believe this SPG will have the unintended consequence of slowing down the supply of new homes by dis-incentivising landowners, adding to viability confusion, increasing planning uncertainty and by causing a greater administrative burden upon City Hall.

Should the Mayor insist on pursuing the approach set out in the document, this approach should only be promoted through the review of the London Plan where it can be tested at independent examination. This will need to be supported by thorough and robust evidence to demonstrate that a threshold approach is deliverable on the majority of sites.

We look forward to confirmation that these representations have been received and to the Mayor's response.

Yours sincerely,



Giles Martin

Planning Director
Redrow Homes London

To:
Sadiq Khan,
Mayor of London
City Hall
The Queen's Walk,
London
SE1 2AA

17th March 2017

Dear Sadiq

I hope you remember me from our time together in Parliament, but today I am writing to you in my capacity as Chair of Retirement Housing Group (RHG). The RHG is a trade group which aims to increase housing choices for older people by advancing and promoting the case for sustainable retirement housing. I am keen to see how RHG members can work pro-actively with the GLA and the London Boroughs to increase the supply of housing for older people in London.

London has been in the forefront of using planning policy to encourage provision of older persons housing. The 2015 Further Alterations to the London Plan (FALP) took a major step forward by setting borough based targets by tenure for delivery of older persons housing. RHG members have been delighted to work with London Boroughs to facilitate provision of retirement housing in London. However we believe that more could be done to raise the profile of this very important form of housing provision across the city.

Looking at specific initiatives RHG believes that the GLA (and the Boroughs) should monitor delivery of retirement housing against the targets set out in FALP and successor plans and this information should be a Key Performance Indicator which is picked up in the GLA Annual Monitoring Report.

We believe that the GLA should either itself provide (or fund others such as EAC or Age UK to provide) an advice service to Older Londoners about housing and care options available to them by tenure, type and location – this may be as simple as requiring all local libraries and GP Surgeries to advertise the EAC First Stop website in a prominent position and for libraries to provide free internet access to the EAC website.

We are aware that some retirement housing providers have expressed concern that the draft affordable housing and viability SPD proposes a move from alternative use value (AUV) to existing use value (EUV) when looking at benchmark land values against which to undertake viability appraisal. This could potentially cause problems for the types of sites which come forward for retirement housing, many of which, such as former barracks, have no meaningful existing use value. We are also concerned that in order to circumvent low existing use values developers and landowners will find it commercially worthwhile to go and get planning permission for alternative uses before then submitting the application they wanted to submit for residential development. This will waste time and result in land values very close to those which would have prevailed under an AUV based system. We would be happy to work with you and your team to see how this potential problem can be resolved.

Finally I would like to draw your attention to the 2017 RHG conference which takes place at Trinity House London EC3 on 28th September 2017. This event is free for local authorities and it focuses specifically on how local authorities can use the planning system to provide additional high quality

housing for older people. Invited speakers this year include DCLG and the Law Commission and we would be delighted if the GLA was able to provide a speaker who could summarise the many initiatives which the GLA has taken to meet the needs of older Londoners. For the 2015 event the GLA also kindly provided a list of all London Borough local Plan contacts who could be invited to take up a free place at the conference and it would be most helpful if you would do the same thing again.

Kind regards

A handwritten signature in black ink, appearing to read 'Stephen Ladyman', with a horizontal line underneath.

Stephen Ladyman
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Submitted to:

RICS' response to the GLA's Draft Affordable Housing and Viability Supplementary Planning Guidance (SPG)

The Royal Institution of Chartered Surveyors (RICS) welcomes this opportunity to respond to the Draft Supplementary Planning Guidance put forward by the Mayor of London.

RICS is the leading organisation of its kind in the world for professionals in land, property, construction and infrastructure. As an independent and chartered organisation, RICS regulates and maintains the professional standards of over 91,000 qualified members (FRICS, MRICS and AssocRICS) and over 50,000 trainee and student members. There are around 17,000 members in London.

RICS regulates and promotes the work of these property professionals throughout 146 countries and is governed by a Royal Charter approved by Parliament, which requires it to act in the public interest.

RICS members, working across the spectrum within the property sector, have sight of the issues being addressed in the draft SPG. In formulating this response, we surveyed our members as well as considered National Planning Policy as well as

In October 2012 following extensive consultations the RICS released RICS Guidance Note "Financial Viability in Planning" (GN 94/2012) which was produced as sector led professional guidance and intended as an objective and impartial best practice document. GN 94/2012 is widely cited in policy making, planning decisions (including section 106 Agreements), Appeals and high Court decisions.

Planning Practice guidance, as well as RICS guidance reflects those policies.

We would like to invite the Mayor and relevant colleagues in the GLA to discuss this response in further detail. Please contact [REDACTED], London Policy Manager on tel: [REDACTED] if you would like to discuss further.

General comments

RICS recognises the significant shortfall in housing delivery in the area of the GLA particularly at levels which would be regarded as affordable by Londoners on median incomes. We welcome initiatives which can effectively redress the shortcomings in housing delivery of all types at the scale now necessary.

Measures to speed up and make the development management process more effective at delivering policy are to be encouraged. These however can only be part of a much broader set of direct delivery measures to make a material impact on the levels of housing being built. These have been identified by the Mayor as investing in public housing and bringing forward more public land for affordable homes.

Regarding supplementary planning guidance, it is important to ensure that there is clarity about how it is to be effectively implemented without adding further complexity or ambiguity to an already complex system.

Regarding development of further policies, RICS would like to invite the Mayor and the GLA to engage with us to develop these. Particularly in the context of the next iteration of the London plan. Such policies seeking to achieve the aspirations of the SPG would be worth exploring in more detail and would need greater scrutiny to ensure they would deliver on expectations and factor in possible unintended consequences.

Planning Policy Hierarchy

As stated in the preamble the draft SPG is not intended to bring about a change in planning policy, it is intended to make existing planning policy work better. It is important therefore to recap at the outset the hierarchy of existing planning policy and planning guidance. Fundamentally this means that London Plan policies and associated guidance are required to be in conformity with the NPPF and recognise the government's Planning Practice Guidance.

Planning policy hierarchy in Greater London Authority area

Planning Policy	Planning Guidance
National Planning Policy Framework	Planning Practice Guidance
London Plan	Supplementary Planning Guidance
Borough Plans	Supplementary Planning Guidance
	London Borough Viability Protocol

The departure point of the SPG is that at 13% the level of affordable housing being achieved in the GLA area (2014/15) is significantly below the 50% target level set to be

achieved borough-wide. It aims to accelerate overall housing delivery and increase the amount of affordable housing delivered through the planning system. It is intended to:

- (1) embed the requirement for affordable housing into land values
- (2) make the viability process more consistent and transparent
- (3) Speed up the planning process for schemes which are delivering more affordable housing

The SPG therefore proposes a number of approaches to ensure that existing policy is as effective as possible. It is however an overarching requirement of both national and GLA policy that residential development as a whole should be encouraged and not restrained.

It is important at the outset to clarify ‘what is required in terms of affordable housing delivery’ to be compliant with planning policy. Not being clear about what this means will make it more difficult to assess the effectiveness of the proposed measures in the SPG to improve performance to achieve policy compliance.

Subject to certain tests and on the basis of site specific conditions, in accordance with Government policy and London Plan policy, affordable housing delivery can be **policy compliant at a range of levels**, up to the maximum target of 50% across the boroughs, inclusive of publicly delivered 100% affordable housing sites. Planning Appeal decisions in accordance with NPPF have shown the acceptability of a wide range of affordable housing delivery rates, as indeed have local planning authorities to satisfy a borough wide target of up to 50% affordable from all sources.

This SPG provides some clarity on how the Mayor aims to realise his ambitions and contains some welcome commitments around transparency in the viability process and recognition of the distinct economic characteristics of Build to Rent (BtR) model.

We are however concerned that, as drafted, the SPG in parts is not be compliant with National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). This particularly relates to the Existing Use plus Premium Approach (EUV+) if the premium is not determined based on comparable transacted market based evidence.

The SPG directly quotes RICS published research that identified a problem of circularity when using market value of land in viability negotiations. The research however does clarify that this is primarily due to misapplication of GN 94/2012.

RICS is currently considering the advice we provide to members on undertaking financial viability assessments and particularly in demonstrating that a reasonable, objective and impartial outcome, without interference, has been undertaken by both the originator and reviewer on behalf of the applicant and authority respectively.

Furthermore, we are required to reflect government guidelines which states that assessment of land and site value must be 'be informed by comparable, market-based evidence wherever possible.' PPG (para. 014) We also note that guidance requires that land prices 'reflect emerging policy requirements and planning obligations...', however the complications arises due to the fact that Affordable Housing Obligations are not fixed but are negotiable.

In terms of the central issue of increasing the levels of affordable housing and embedding that into land values, flexible policies are unlikely to have as much of an impact on land prices as mandatory ones. However, mandatory policies do not make allowances for site specific issues and if not set at achievable levels, will simply mean stalled developments or a landholder holding onto sites hoping for policy change, as has happened in the past.

Moreover, members raised the issue that different people give weight to different guidance creating inconsistencies in application of policies leading to greater uncertainty and conflict in the planning system, further complicating the delivery of housing and affordable housing in particular.

The mayor should work with industry and government to create a long term stable policy framework for the capture of planning gains. Such an approach would need cross party consensus, be flexible enough to take account of market cycles and provide incentives for development and disincentives for land speculation, whilst recognising the needs of developers to plan for the long term with access to a pipeline of land.

Response

Part 1: Background and approach

We welcome the long term strategic approach to housing and planning. However, to overcome political cycles and to create certainty over the long term, the mayor must work to build political consensus in order to sustain such a long term strategy.

Introducing a long term goal of achieving 50% affordable housing whilst admirable, is a considerable challenge, given the current level cited was at 13% of affordable housing.

Provided the right level of supports in the form of grants, low interest loans and public sector land release, as well as a stable policy framework, we would expect progress to be made.

1.13 - 1.15 Viability and planning – The key national policy and practice advice relating to viability and planning are contained in the NPPF and the PPG. Although the policies are plan led, the delivery system is heavily reliant on a market economy. For this reason the NPPF and the PPG advise reliance on market signals to ensure delivery. There is evidently tension between what is deemed necessary in strategic policy terms based on local need and what is considered ‘viable’ on a site by site basis given market conditions. This can lead to setting of unachievable affordable housing targets which impact on the delivery of market housing as well as affordable housing. The Housing White Paper made reference to tightening the definition of what evidence is needed to support a sound plan, which could potentially clarify this matter.

1.16 The Mayor and referable applications - we welcome this clarity provided by the mayor on which applications may be called in, we would hope to see further clarifications on criteria for the exercise of this power.

1.17 - 1.23 Transparencies of information – RICS is supportive of transparency in development viability appraisals. There will however be circumstances where information should not be made public because of commercial sensitivity. We seek clarification on the criteria required for applicants to justify withholding commercially sensitive data, which is critical to a competitive market, but fully support the Mayors aim of openness and transparency in the planning process.

RICS would support a further step to making development viability appraisals more comprehensible to the general public by introducing a requirement for applicants to also provide a short summary of the applications main points as well as a narrative to the development which would situate it within the wider community. This should be written in laymen’s terms and should provide the bases for further public engagement.

In our forthcoming advice the RICS is considering how to strengthen guidance for practitioners advising in this area.

Part 2

Threshold approach to Viability

RICS note this fresh approach to viability. Given the discrepancy between the 13% affordable housing being delivered at present and the ambitious 35% target, the anecdotal evidence from members suggests 20-25% being more of an objective deliverable overall target threshold. There are however many sites that fail to meet this level.

There are concerns however that the mechanisms introduced to capture 'Surplus profits' does not appropriately reward investors by reflecting the level of 'rick' taken. This has the potential to deter investment. Any agreement to capture surplus profits should be made before investment takes place.

Route B - no viability pathway - We would like to note that the review process would require the establishment of an underlying Site Value which is often the central matter to agree for most viability assessments.

2.24 - 2.26 Registered Providers and public owned land - we welcome the suggestion that on public sector land, land value may be traded for affordable housing, which may be seen as a form of subsidy. The RICS' guidance on disposal of land at less than best consideration will be pertinent to this.

2.55 - 2.65 Vacant building credit - The SPG needs to provide guidance on the application of national policy as set out in the PPG. The RICS question whether national policy provides local authorities discretionary powers over vacant building credit application.

PART 3

GUIDANCE ON VIABILITY ASSESSMENTS

3.10 - 3.12 Development Values RICS welcomes the GLA's reference at 3.11 to the importance of reference to up-to-date transactions and market evidence in accordance with the NPPF and PPG.

3.13 Growth Assumptions

The SPG encourages appraisals to be undertaken on a present day basis, but with a growth appraisal as a scenario test. No guidance is given under what circumstances this should be undertaken other than it being particularly relevant where a traditional appraisal appears to suggest that little or no affordable housing is viable but the applicant is offering an element of affordable housing as part of the application.

Growth (forecasts) are specifically provided for in the PPG. Use of growth based appraisals should be decided upon on a case by case basis i.e. for longer-term/phased schemes with build periods of over three years or in the case of capital intensive schemes particularly in dynamic markets.

Costs

3.32 - 3.35 Developer Profits

The RICS agree that developers seek a competitive return which is scheme specific. Evidence should be provided to justify proposed rates, albeit this can be hard to derive empirically. Instead it could be stated that the onus is on the applicant to justify the target rate of return having regard to the “risk profile” of a scheme. There is a direct relationship between risk and return, i.e. riskier schemes will require a greater return.

Target profit levels should be appropriate to current market conditions and will reflect the level of risk taken. It however is not fair to suggest that currently levels in general would be expected to be lower than levels that were typical following the financial downturn of 2008/09. Margins moved out immediately post-Brexit as we know, due to uncertainty. An explanation of required returns should be provided on a case by case basis and it should be noted that these do change by definition over time.

The RICS questions the reference to lower levels of return would normally be expected for commercial and private rented accommodation. Are these more or less risky than private sale residential? In essence they will be dependent upon market/location, quantum (a mixed use scheme heavily weighted towards commercial may be just as if not more risky than a single use residential scheme) and circumstances (could be pre-let so less risky). Conversely a lower return on commercial space in a residential-led scheme with a small commercial component may be expected in some instances. Again it is emphasised this is scheme and case specific and generalisations can be misleading.

Private rented accommodation has a different risk profile than that of private for sale residential. It will therefore have a different return profile. Developers will not simply have a lower return requirement for PRS as again this will be dictated by the individual economics on a scheme, its location and target market. Further, costs may be higher for a PRS scheme but arguably units may let quickly. Separation of the returns should be noted (the PRS GDV return and the development appraisal target rate of return).

The RICS notes the Mayor will normally measure return by way of profit on cost or profit on value. Whilst this is normal for present day analysis, notwithstanding academic criticism of these profit measures, for larger schemes and in use with growth based appraisals the Internal Rate of Return (IRR) measure may be a better metric. It is often used for long term phased development projects. The RICS agrees that a full justification for development programme should normally be provided.

The RICS note that the Mayor would not expect IRR to be used on schemes providing fewer than 1,000 units. This appears to be both an arbitrary threshold and in any event shows a lack of understanding of the correct use of the IRR particularly in dynamic markets. Depending on nature of scheme, phasing etc., IRR metrics are often used on schemes of less than 1,000 units. In essence the use of IRR should be more to do with construction approach and timings rather than number of units. The latter is therefore incidental. If using a growth model, IRR should always be adopted as it has regard to the time value of money. Profit on value/cost as a present day return proxy is less meaningful as it does not have regard to the time value of money and tends to get distorted. IRR is also used as the key return proxy for PRS schemes.

3.36- 3.49 Benchmark Land Value

The Draft SPG follows those produced by Islington SPG (January 2016), Mayoral Housing SPG (March 2016), and London Borough Development Viability Protocol all cite the research undertaken by Neil Crosby and Peter Wyatt and published by the RICS in 2015 as “Financial Viability Appraisal in Planning Decisions: Theory and Practice” (FVA Research 2015). In particular the SPG documents all refer to identified flaws in the application of the Market Value approach of the RICS GN (2012) and in particular “circularity” which encourages developer’s to overpay for sites.

The SPG’s suggest either caution in application, or general non-acceptance in favour of Existing Use Value plus (EUV plus) being appropriate for planning purposes. The SPG’s do not however refer to the FVA Research 2015 in that it considers EUV plus is at best a blunt instrument and at worst inappropriate in arriving at a Site Value.

In early cases, one approach was to adopt EUV plus a premium to persuade landowners to release the land. However, this takes no account of the substantial variations in the uplift from EUV to RLV. For example, a planning consent to allow residential development on a greenfield site can generate a very large uplift in land value whereas a consent to change the use of a brownfield site from commercial to residential land use might generate a much smaller uplift from EUV. The greenfield site would require very

substantial premiums to persuade a landowner to sell. In a number of the appeal cases, EUV was above RLV even before any planning obligations were deducted. In these cases no planning obligations were required. Effectively the EUV plus a premium approach is confounded by the heterogeneity of development sites.” (our emphasis)

The FVA Research 2015 concludes:

A possible solution lies in the use of existing use value but, if that is not related to the development in any way, it becomes a very blunt instrument that takes no account of a landowner’s perspective when deciding to bring a site forward for development.”

It follows that contrary to the preference expressed in the SPG’s above of the benefits of EUV plus, the FVA Research 2015 notes the flaws in the application in both over and under valuing, land and property, and the arbitrary nature of the “plus” element. This is due to the lack of relationship with a development in anyway and therefore the market. The RICS GN identifies the same issue at paragraph 3.4.1 where it states:

“The residual land value (ignoring any planning obligations and assuming planning permission is in place) and current use value represent the parameters within which to assess the level of any planning obligations. Any planning obligations imposed will need to be paid out of this uplift but cannot use up the whole of this difference, other than in exceptional circumstances, as that would remove the likelihood of the land being released for development.”

CUV/ EUV therefore represent the lowest value a site would sell for development. The amount paid in excess of this figure needs to reflect for the landowner an incentive to sell. Unless the uplift over CUV/ EUV is at a level that is acceptable as a competitive return to the landowner it is unlikely that the land would be released for development.

The RICS GN does seek to show how EUV plus can be reconciled with Site Value and therefore consistent with the “competitive return” to the willing seller as set out in the NPPF and PPG. Having identified the Site Value benchmark by reference to market based comparable evidence which is not significantly above the market norm and reflecting policy (thereby complying with all three limbs of the PPG – paragraph 023), the competitive return to the willing seller can be disaggregated into its “EUV” and “plus” components. The RICS GN notes that practitioners will see significant variance in the “plus” element which is echoed in the FVA Research 2015. Even the EUV of the site as noted by the RICS GN and FVA Research 2015 cannot by definition reflect the planning status of the land/property. It follows that the components of “EUV” and “Plus” are

notional in calculating the competitive return to the willing land owner but in aggregate can be reconciled with a Site Value.

Assessing what this uplift should be is complex and will vary from site to site and scheme to scheme. The approach of quoting a percentage uplift over EUV stemmed from a number of planning appeal decisions between 2007 and 2009, which were specific to those schemes and market conditions. These pre-date the NPPF and the PPG. The sites in each appeal case had relatively high current use values in comparison to development value for residential development and therefore analysis by reference to CUV/ EUV appeared to be a convenient way to demonstrate the uplift. However, it was always problematic adopting this approach on greenfield, cleared brownfield or 'sui generis' sites because of the lack of connection between CUV in these circumstances and the potential development land value.

Government guidance emphasises the need to encourage and not restrain development. The requirement for a competitive return for the landowner that reflects planning policy and be informed by comparable, market-based evidence stresses the relevance of market evidence. Unless a benchmark site value assessed as an uplift over CUV/ EUV can demonstrate that it is comparable, market based, it would not comply with government guidance

AUV should be in accordance with policy requirements. A premium should not be placed on top of an AUV as AUV can be synonymous with Market Value, therefore the competitive return is already accounted for in the Site Value.

It is however too onerous a requirement that an AUV will only be acceptable where there is an existing implementable permission for this use. Assuming this means planning permission, this goes against common valuation practice and theory. There is no absolute requirement for planning permission to be secured in order for an AUV to be adopted as the basis for Site Value. The correct test for AUV is whether there is a reasonable prospect of securing planning permission for that use which is as recognised by PPG.

This concern about circularity raised in the SPG's in respect of the use of Market Value derives from a lack of understanding of how comparable market evidence should firstly be analysed and then secondly applied. In considering market evidence, the valuer should take account of all relevant factors that affect the Site Value and reach an informed and balanced valuation judgement in respect of the subject site. The comment is therefore inconsistent with valuation methodology and should be removed from the

SPG. PPG states that the valuation of land is also a matter of balanced judgement based on market evidence and other considerations including reflecting planning policy and not that just confined to affordable housing. Clearly there is also a need to distinguish between discretionary and mandatory policy requirements and an overall requirement to come to a balanced decision in determining applications. Notwithstanding this policy is just one of the considerations that the market will take into account when valuing land. PPG (para. 023) summarises this in terms of the three equally weighted strands of: reflecting policy; a competitive return to a willing seller of land; and by reference to comparable evidence not being significantly above the market norm. Again we are concerned that the SPG is seeking to remove the balanced judgement element that is fundamental to land valuation and an acknowledged dynamic market in London.

In summary the correct basis for the assessment of Site Value that is in accordance with the NPPF and PPG is as set out in the RICS Guidance Note (RICS GN). This is evidenced in recent planning appeal decisions, including the King Street decision and Parkhurst Road. The RICS GN states: *“Site Value should equate to the Market Value subject to the following assumption: that the value has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan.”*

An approach not in line with PPG and NPPF could result in confusion, uncertainty and lead to sites not coming forward, which is contrary to the aims of the draft SPG. As currently drafted the SPG’s Benchmark Land Value section would lead to a decline in land being delivered up for development which is contrary to the NPPF, PPG and indeed the aims of the draft SPG.

Finally the RICS have taken advice from Leading Counsel concerning various matters related to GN 94/2012 including the interaction between the GN 94/2012 and the PPG (and in particular paragraphs 023 and 024) and also the SPG in respect of Site Value. Leading Counsel has advised:

1. It is requirement to accurately reflect all policy requirements. Basing land value on "requirements" of the plan which are not properly understood could result in a misapplication of the guidance in the PPG and paragraph 023. If for example there is a borough wide aspiration to provide 35% affordable housing from all sources including 100 pc from some sites, but a site specific requirement to encourage rather than restrain housing overall and to provide the reasonable maximum provision of housing subject to viability, it would not be appropriate

when considering individual sites to ascribe a land value in every case, based on a requirement of 35% affordable housing since 35% affordable housing is not a requirement of the plan in relation to individual sites and it would not be appropriate to embed the assumption in comparable site analysis;

2. Both paragraphs 023 and 024 refer to “transacted bids” and “price” in considering evidence and the competitive return to the land owner. This is a clear reference to the unadjusted actual workings of the market being the competitive return a willing seller of land would require;
3. Transacted bids and prices significantly above and below the market norm should be disregarded;
4. “EUV plus” as drafted in the SPG does not comply with paragraph 023 of the PPG. The “plus” element cannot be prescriptive and if applied should be in accordance with the GN 94/2012 and the Site Value definition which in itself is in accordance with the PPG;
5. The SPG as drafted does not comply with paragraph 024 of the PPG; and
6. Site Value is a matter of valuation judgement based upon the evidence available and all market signals including an accurate interpretation of all planning policy requirements. This will include a consideration of transacted bids and prices including that of the subject site as well as evidence of other bids, if any, for that site.

Part 4 Build to Rent

RICS agrees that the Private Rental Sector (PRS) has a distinct economic characteristic to the Build for Sale model. We support the Mayor’s acknowledgement of this and the alternative pathway provided for PRS to go through the planning system. RICS is in the

process of producing guidance on the valuation of 'Build for Rent' developments and will be happy to forward this to the Mayor's office on completion.

4.12 - 4.15 Clawback

Though GN 94/2012 this states:

The practice is not considered appropriate as it cannot take account of risk, uncertainty and funding at the point of implementation. If re-appraisals are to take place, the guidance recommends this is undertaken prior to implementation.

Whilst GN 94/2012 is specific in respect of PRS having regard to the above clawback proposals for PRS are considered inappropriate.

4.36 - 4.37 Management Standard

We encourage the Mayor to work with RICS to ensure that existing standards are adopted and that new standards are developed in consultation with all relevant stakeholders. This will increase confidence in BtR as a product and make use of existing standards without duplicating work unnecessarily.

Paragraph Ref.	Response
10	Support is given for a range of tenures across London and where appropriate across major development sites. However the Draft SPG should reflect the new definition of affordable housing in the White Paper which supports a range of types of affordable home and not just a restricted range of rented, shared ownership and the new London Living Rent.
11	Encouragement to developers who provide in excess of 50% affordable homes on a site with or without grant should be made.
Part One Background and Approach	
1.11	Support is given to the Mayor's proposed approach to schemes which meet or exceed the 35% threshold not having to undertake viability assessment. It is considered that in addition there should be reference to schemes which exceed significantly the 35% threshold but which may not have a policy compliant tenure mix also not requiring viability assessments. This is because schemes which are already delivering in excess of 50% affordable homes on site provide significant public benefit and assist the Mayor in meeting his affordable housing target. Flexibility on the overall mix and tenure is important to assist such schemes to be delivered and boroughs should encourage such schemes to come forward.
Part Two Threshold Approach to Viability	
2.3	Support is given to the Mayor's proposed approach to schemes which meet or exceed the 35% threshold and which do not require public subsidy not having to undertake viability assessment. It is considered that viability assessments should not be sought for schemes which exceed significantly the 35% threshold but which do not have a policy compliant tenure mix and/or where a developer who receives public subsidy but delivers in excess of 50% affordable homes This is because schemes which are already delivering in excess of 50% affordable homes on site are providing significant public benefit and flexibility on the overall mix and tenure and Councils should encourage such schemes to come forward.
2.5	Whilst the principle of schemes using public subsidy having viability assessments undertaken is supported this should only be where such schemes do not deliver 50% of the homes as affordable. Greater provision of affordable homes should be incentivised and encouraged and does not need to be tested through viability.
2.7	Boroughs with thresholds above 35% should be encouraged to support innovation and a range of tenures in their schemes.

2.8	Support the use of habitable rooms as a mechanism for assessing the provision of affordable homes.
Route A	Route A should not be applicable to developers who deliver in excess of 50% affordable homes even where public subsidy is used. It should not be applicable where a scheme delivers in excess of 50% affordable homes but there is a non-policy compliant approach to tenure mix. Support for the early review being two years following permission.
Route B	Route B should be applicable to developments which deliver in excess of 50% affordable homes even where public subsidy is used. It should be applicable where a scheme delivers in excess of 50% affordable homes but there is a non-policy compliant approach to tenure mix.
2.11	As noted previously flexibility to allow schemes which deliver in excesses of 50% to use Route B must be given.
2.14-2.16	Broad support for the 35% threshold.
2.18 – 2.19	Greater support should be given to developers who are already delivering in excess of 50% and who are contributing to delivering more homes for Londoners without public grant.
2.24	Commentary within the paragraph should note that in certain circumstances RP's are not required where a developer is delivering in excess of 50% affordable homes and the developer provides homes which meet the definition of affordable housing and are secured as such through a legal agreement.
2.26	Support for the use of high densities on appropriate sites to deliver more affordable homes. This advice should be expanded on to assist boroughs and developers in assessing means of delivering the maximum provision of affordable homes.
2.27	It is considered there should be reference to the emerging definition within the NPPF as set out in the White Paper. This provides support for a broader range of affordable housing products.
2.28	The Mayor's preferred approach of 30% rented, 30% shared ownership or London Living Rent and 40% to be determined locally is in principle welcomed across London but there has to be the opportunity for boroughs to take a more flexible approach if a developer can deliver significantly more affordable housing. Guidance to boroughs should be given that a single affordable tenure is acceptable where developers are delivering in excess of 50% of homes as affordable.
2.28	Whilst the introduction of London Living Rent is supported, it is considered that

	reference to shared ownership being the default tenure should be deleted as it forms one of a number of intermediate products which can be delivered and there is now wide recognition across London that the provision of intermediate housing solutions needs to be on a broad basis to account for the wide variety of needs in different parts of the Capital. Furthermore shared ownership is often not an appropriate product due to concerns about affordability and 'stair-casing' which can remove housing from being affordable. The current definition of intermediate housing within the London Plan supports a range of differing products and (with the exception of London Living Rent for larger schemes) no emphasis should be given to one particular product.
2.29	It is considered that the second bullet point should be deleted as it serves to delineate between forms of intermediate housing (all of which meet the London Plan definition) based on subjective assessments of affordability with the default position being shared ownership and London Living Rent (LLR). The situation across London is far more complex and a range of intermediate products (for rent and sale) are required to address London's housing crisis. This wording within paragraph 2.29 will lead to a two tier system of intermediate housing with boroughs referring within the development plan policy to a limited range of affordable products which are 'preferred'. This will mean other intermediate products which meet the definition of affordable homes in the London Plan are rejected. This will lead to a lack of flexibility in the choice of housing that is available and overall will lead to a reduction on the amount of affordable housing.
2.30	As noted previously the Draft SPG is not providing guidance on the position where a developer delivers in excess of 50% affordable homes on a site but where this tenure is not meeting that set out in paragraph 2.28 or within LPA policy.
2.31	Please see response on paragraph 2.30.
2.32	Broad support is given to the principle of London Living Rent as an intermediate product which is provided throughout London as part of a range of choice of intermediate products available to Londoners.
2.35	Broad support is given the Mayor's objective that those in London Living Rent accommodation move towards home ownership.
2.37	The Mayor's objectives for a range of affordable incomes to afford intermediate homes are supported. However where local income thresholds are applicable, flexibility must be applied by boroughs to allow for a range of incomes within the upper range set out in the London Plan/AMR and these ranges should be able to be amended where local demand and affordability apply.
2.38	Support is given to the £60,000 income threshold being applicable to intermediate products for rent however the current £90,000 maximum income threshold must remain for low cost homes for sale and other intermediate

	products for sale which meet the definition of affordable housing in the London Plan.
2.41	<p>Whilst a range of affordable homes is required for London with greater emphasis on larger social/affordable rented accommodation the demand for intermediate housing is principally focussed on younger persons either seeking to live and work in London and seeking their first home. The introduction of LLR is considered to be a positive step for many young Londoners who struggle to pay private rents across the capital. As noted within the Draft SPG there should be encouragement for those younger Londoners on LLR to move towards home ownership and other intermediate products can help achieve this goal.</p> <p>Whilst there is an undoubted need for a range of unit sizes for those seeking intermediate homes it is evident from the policies of the London Boroughs and the Strategic Housing Market Assessments undertaken across London that the overwhelming demand for intermediate homes is focussed on smaller one bed or two bed accommodation. The delivery of more one bed and two bed homes is important to meet the need for Londoners to either pay an affordable rent or buy their first home. Certain boroughs across London do not reflect this within their policies and this can thwart the supply of new affordable homes for London.</p>
2.43	Reference to 'studios' should be removed as the London Plan reference for space standards relates to one bed one person.
2.44	The need for eligibility in affordable housing to be secured through a legal agreement is supported.
2.45	The need for perpetuity or recycling of funds in affordable housing to be secured through a legal agreement is supported.
2.46	Following the release of the Housing White Paper and the revised status of Starter Homes will need to be addressed in the Draft SPG. It is considered that further wording be issued in regard to Paragraph 2.46 and further time given to consultation on this point.

Affordable Housing SPG
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The Queen's Walk,
London SE12AA



Sainsbury's Supermarkets Ltd
Coventry Store Support Centre
Draken Drive
Ansty Park, Ansty
Coventry
CV7 9RD

23 February 2017

By email: housingspg@london.gov.uk

Dear Sir or Madam,

**AFFORDABLE HOUSING AND VIABILITY SPG CONSULTATION RESPONSE ON BEHALF OF
SAINSBURYS SUPERMARKETS LTD**

This consultation response to the draft Affordable Housing and Viability SPG has been prepared by Indigo Planning on behalf of Sainsbury's Supermarkets Ltd.

Sainsbury's has an established track record of delivering large scale mixed use developments across London. In recent years Sainsbury's has delivered 1637 new homes across London through the redevelopment of key sites in their existing portfolio. This has provided Sainsbury's with modern replacement and expanded retail space to serve their customers and has also seen the development of much needed quality new homes.

Sainsbury's are progressing strategic sites and regeneration with a capacity to deliver 3400 homes. These include stores at Whitechapel and Ilford. In addition, Sainsbury's have examined their portfolio of stores across London and estimate significant redevelopment opportunities. Sainsbury's are in active discussions with the GLA regarding redevelopment of their Whitechapel store, and would welcome broader discussions regarding the delivery of affordable homes in general.

Sainsbury's starting point is that they already have a busy trading stores on their sites and any redevelopment opportunity has to account for the loss of trade that would be incurred during closure or caused by disruption. This represents a significant initial costs to the business and potential permanent loss of customers in a competitive market. They are not starting from scratch. A key barrier to redeveloping many of Sainsbury's existing stores is viability and the potential contributions ahead which when added to the loss of trade make the 'do nothing' option the most sensible one for their primary business which is retailing. The schemes noted above have been possible through a recognition of this and a pragmatic and realistic approach by local authorities and the GLA when considering viability and contributions and affordable housing provision.

Overall Sainsbury's welcome the Mayor's commitment to speeding up planning decisions and increasing the level of affordable housing. This letter of representation summarises Sainsbury's position on the threshold approach to viability and detailed guidance on viability assessments set out in the draft guidance.

Threshold Approach to Viability

Sainsbury's acknowledge the Mayor's introduction of a threshold approach to affordable housing and viability assessments, where schemes that deliver 35% and a policy compliant tenure mix will not be required to submit viability information.

Sainsbury's note Paragraph 1.10 of the draft guidance and the requirement for Boroughs to take account of supplementary planning guidance when implementing London Plan affordable housing policies 3.11 and 3.12.

Where Local Development Plan affordable housing policy is not met Local Authorities will require viability assessments to be submitted, and the maximum reasonable level of affordable housing to be delivered. This creates a tension between the Mayor's threshold approach and viability negotiation at Borough level. This will undermine the Mayor's objective of speeding up affordable housing delivery. Sainsbury's would, therefore, welcome further clarity on how the threshold approach will be enforced by the Mayor, preventing viability assessments being required locally and negotiated by Boroughs on a case by case basis.

To ensure consistency we recommend that the Mayor strengthens the guidance wording set out in paragraph 1.10:

'In order to increase the delivery of new and affordable housing, increase transparency in decision making, and to help better implement Policies 3.11 and 3.12 of the London Plan, the Mayor will, and Local Planning Authorities (LPAs) ~~are strongly encouraged to~~ should, follow the approach set out in this guidance.'

Tenure

The Mayor's preferred tenure mix set out in paragraph 2.28; 30% low cost rent and 30% intermediate is noted.

Sainsbury's await further clarity on the remaining 40% through the GLA's consultation with the Boroughs including the requirement for Starter Homes introduced by the Housing and Planning Act 2016.

Transparency of Information

Sainsbury's recognise the Mayor's drive to standardise viability assessments and make viability information relevant to planning publicly available.

Sainsbury's projects frequently involve re-development of existing stores, which remain operational throughout the build programme. Part 3: Guidance on Viability Assessments should acknowledge the commercial sensitivity of store turnover and growth in expenditure information.

We suggest therefore that the guidance should reference standardised turnover and growth in expenditure estimates. This approach would be consistent with the established principle of using benchmark turnover figures, such as those from Mintel, Experian or Verdict, when producing retail impact assessments.

Clawback

The guidance proposes a two stage review process; comprising an early review where an agreed level of progress on implementing the permission is not made within two years of planning permission and a second stage review on 75% of private completions.

Sainsbury's support the Mayor's intention to speed up construction starts. We, however, consider an early stage review is not required given the life of planning permission and the statutory requirement for applicants to implement full planning permission within three years; or two years as advocated in the recent Housing White Paper: Fixing Our Broken Housing Market, February 2017.

Furthermore, despite Government's intentions to expedite the planning process, including deemed discharge of planning conditions; through amendments to the DMP0 (2015); implementation is frequently delayed.

Deemed discharge does not apply to EIA development and remains subject to the prior approval process. Accordingly, early review mechanisms should not be required, without first addressing delay associated with pre-commencement conditions.

Sainsbury's consider the requirement for a two stage review on 75% too prescriptive and should be applied flexibly on a case by case basis in response to specific circumstances.

Viability Assessments

In section 3.42 the guidance advocates an Existing Use Value Plus (EUV+) approach for establishing benchmarked land value. This methodology is considered too inflexible. In determining the benchmark, regard should also be had to Alternative Use Value (AUV), as a site will trade on the open market with a degree of Hope Value; which AUV disregards. It is recommended that further clarity is provided in the final sentence of para 3.49.

Where an underutilised site; that has scope for significant development, is assessed on an EUV+ basis, sufficient incentive should be applied to reflect Open Market Value. The '+' element should, therefore, not be capped as proposed in paragraph 3.45.

We are concerned that the draft guidance is aimed at vacant sites or buildings that are underutilised. It does not consider development proposals that seek to deliver increased housing numbers on sites with existing trading assets. Bringing development forward in scenarios such as this incurs extraordinary and exceptional costs. As such the GLA should treat the proposals, and their associated viability assessments, as a special case.

Where mixed use development is proposed and an existing store is re-provided, recognition of the loss of earnings over the duration of the store closure should be accounted for within the viability

assessment. Moreover, where an existing store trades successfully, the cost of replacing and fitting out a new store on site needs to be acknowledged. These costs result in no significant up lift in sales. This situation makes developing existing Sainsbury's stores inherently less profitable, and consequently reduces the ability to support higher percentages of affordable housing.

The draft guidance includes a requirement for applicants to submit growth assumptions as a scenario test. This should apply to large scale sites, which are subject to review mechanisms only. Growth assumptions should apply only at review stage, and on a case by case basis, to reflect site specific circumstances.

Sainsbury's are keen to work with the GLA through both the SPG adoption process and the wider London Plan review and we would be happy to discuss any aspect of our response to the draft guidance.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Bruno Moore', with a stylized, cursive script.

Bruno Moore

Head of Town Planning and Highways
Sainsbury's Supermarkets Ltd.



Consultation Response on Homes for Londoners: Draft Affordable Housing and Viability Supplementary Planning Guide 2016

Paragraph	Item	Comment
2.27	London affordable rent	SAY welcomes the Mayor's Draft Affordable Housing and Viability SPG, his recognition that existing affordable housing is often not affordable to many and his understanding of the different challenges that PRS has to overcome.
2.29	Justification for an alternative intermediate product	<p>There is some concern amongst PRS developers and investors that in the long term, London Living Rent (LLR) could cause the unintended consequence of reducing the supply of affordable rental options available in London. The LLR effectively limits rents to one third of a borough's median income. Whilst the spirit of this affordable rental policy is welcome, the consequences of such a policy should be considered further. The increased restriction on investor margins as well as increased regulation on PRS developers that the LLR policy may cause, could discourage investors and developers from bringing forward land to develop PRS products on.</p> <p>The calculation of LLR is also cumbersome and confusing for both the potential Landlord and the potential resident. It also seems to encourage areas with average lower quartile incomes to house new residents in LLR with people on the same low incomes and not enable people on lower incomes to move into areas at the higher end of the income spectrum.</p> <p>Instead, SAY would call upon the Mayor to prioritise the micro- level salary-linked rental model that can coexist within the existing regulatory framework, or at a minimum include this model as an intermediate product option.</p> <p>Our model for personalised salary-linked rents, targets rent at a maximum of 35% of gross household income, this is in line with Dolphin Living and L&Q's affordability approach and is not too dissimilar from LLR, which is effectively 1/3 of local average earnings.</p>

		<p>A total discount “fund” is to be established for the salary linked affordable units, which will then be proportionally shared out between the salary linked units year on year. Rents and subsequently discounts are to be reviewed annually at the start of the fiscal year to coincide with the issuance of tenants’ p60 slips and to account for variations in tenants’ salaries. As this model is intended to be operational into perpetuity, households can remain as tenants at a discount, as long as their finances qualify for the assistance. If their financial circumstances significantly improve they can remain in their homes at a full market rent.</p> <p>This path holistically ensures that the personalised salary linked model offers a genuinely affordable housing option to households in the capital.</p> <p>The enhanced benefits of a salary linked model over LLR and discount market rent is the direct link between individual household income and rents, which will enable a broader community of residents to be housed in the capital. As a traditional intermediate product, LLR is academically focused on average households with average incomes, whilst discount market rent fails to bear any resemblance to actual incomes earned. Contrastingly, the salary linked model, although considered an intermediate product, redistributes the affordable discount more effectively, thereby viably targeting lower income households (see Appendix 1 and Appendix 2).</p>
2.29	Proposed affordable housing tenure split	<p>SAY proposes that salary linked rents become the preferred option for Build to Rent schemes that require an affordable contribution. The split must be dependent on viability but would be in line the GLA’s and the borough affordability requirements i.e. 35% of the total number of units. If the scheme is broken up and sold at the end of any PRS Covenant, the value of the discounted units would be calculated based on a pre-agreed formula and they could be converted to an alternative intermediate tenure such as shared ownership.</p>

Appendix 1

Chart 1 -Example of Salary Linked Rents

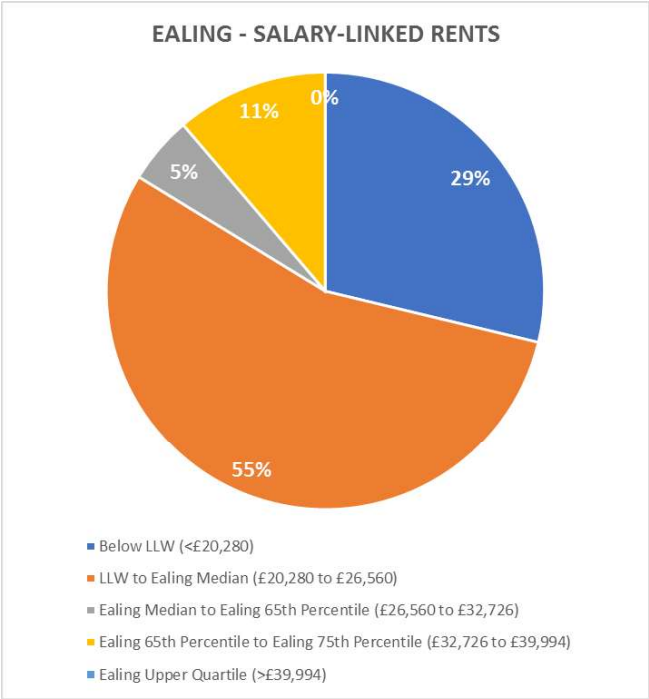


Chart 1 illustrates the minimum household incomes required to lease a salary linked rental unit in the borough of Ealing. Of the affordable rental units available 29% would be affordable to households earning below the London Living Wage (annualised income).

Chart key

- Below LLW (<£20,280)
- LLW to Ealing Median (£20,280 to £26,560)
- Ealing Median to Ealing 65th Percentile (£26,560 to £32,726)
- Ealing 65th Percentile to Ealing 75th Percentile (£32,726 to £39,994)
- Ealing Upper Quartile (>£39,994)

Chart 2 – Example of Market Discount Scheme in Ealing

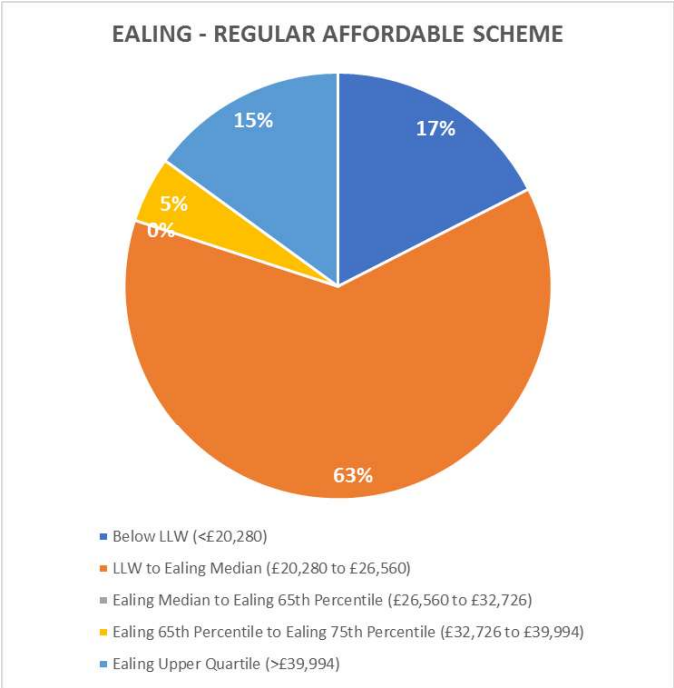


Chart 2 illustrates that under a traditional discount market rent scheme a smaller proportion (17%) of affordable rental units would be available to households on an annualised London Living Wage when compared to the salary linked rents.

Chart key

- Below LLW (<£20,280)
- LLW to Ealing Median (£20,280 to £26,560)
- Ealing Median to Ealing 65th Percentile (£26,560 to £32,726)
- Ealing 65th Percentile to Ealing 75th Percentile (£32,726 to £39,994)
- Ealing Upper Quartile (>£39,994)

Appendix 2 – Illustrative Example of Household Income Required to Rent in Ealing [Salary Linked Rents Compared to Discount Market Rent.]

Table 1: Income Bracket for Salary Linked Rents in Ealing

Income	Count of RESIDENTS
£14,400	3
£18,000	15
£18,480	3
£18,514	2
£21,600	1
£22,200	1
£22,800	4
£23,503	1
£26,229	37
£26,743	4
£38,571	9
Grand Total	80

Table 2 Income Brackets for Discount Market Rent in Ealing

Income	Count of RESIDENTS
£14,400	3
£16,457	2
£19,200	9
£20,571	12
£24,686	38
£32,914	4
£41,143	12
Grand Total	80



**REPRESENTATIONS FOR THE DRAFT AFFORDABLE HOUSING AND VIABILITY
SUPPLEMENTARY PLANNING GUIDANCE (SPG)**



SPACES PROPERTY GROUP

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28 February 2017

Affordable Housing SPG
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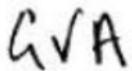
Dear Sirs,

**DRAFT AFFORDABLE HOUSING AND VIABILITY SUPPLEMENTARY PLANNING GUIDANCE (SPG)
REPRESENTATIONS SUBMITTED ON BEHALF OF SPACES PROPERTY GROUP**

On behalf of our client Spaces Property Group ('Spaces'), we are pleased to submit representations in response to the draft Affordable Housing and Viability SPG ('SPG') which the Mayor of London published for consultation in November 2016.

We look forward to receiving confirmation of receipt of these representations and being notified of any further consultation or relevant publications in relation to the SPG. Please do not hesitate to contact [REDACTED] at this office should you have any queries.

Yours Sincerely



GVA
Acting on behalf of Spaces Property Group

OVERVIEW

These representations are structured as follows:

1. Spaces Property Group
2. Spaces Coliving
3. Coliving and the London Plan
4. Coliving and Affordable Housing
5. The role of coliving in London
6. Summary
7. Next Steps

1. SPACES PROPERTY GROUP

Spaces was founded in Southwark ten years ago by Shazz Bhunnoo, a local businessman frustrated by his personal experience of poor-quality rental accommodation. His aim was to provide an alternative choice for high-quality living accommodation aimed at young professionals that is safe, affordable and desirable.

By focusing on customers' needs, Spaces has grown from one initial buy-to-let property in Elephant and Castle to an active portfolio of more than 450 units providing homes for thousands of Londoners. Its average customer is 26 years old, with an annual average salary of approximately £35,000. The company asks itself every day: how can we make their lives better?

Spaces currently employs approximately 50 people, providing a range of jobs, from office-based staff to on-site housekeeping and maintenance contractors, all based from the hub of its operation in Southwark..

THE VISION

The Spaces Coliving vision is to deliver high-quality, affordable rental accommodation for young professionals in central London. Spaces Coliving achieves this through the established principle of sharing amenities to optimise efficiency and enhance quality.

The core values of Spaces Coliving are as follows:

1. Integrating with, and contributing to, the existing local community

Spaces Coliving creates a collaborative environment that allows like-minded individuals within Southwark to come together to live, work and socialise.

2. Providing true affordability

The company recognises that rent is the single biggest expense in anyone's budget and the fastest-growing housing tenure in London is rented accommodation. The economics of Spaces Coliving means that by sharing, London's young renters can enjoy a superior standard of living that is aligned with income levels rather than market rates.

3. Maintaining housing quality through professional management

Spaces Coliving is designed to provide an amazing living experience at every touch point. It provides higher-quality accommodation for an identified and underserved section of the market.

It maintains the entire experience of living, community and quality through professional operational management, ensuring consistently high levels of service.

4. Providing healthy living environments

Spaces Coliving has put resident experience and wellbeing at the heart of the emerging design proposals.

5. Offering central London locations

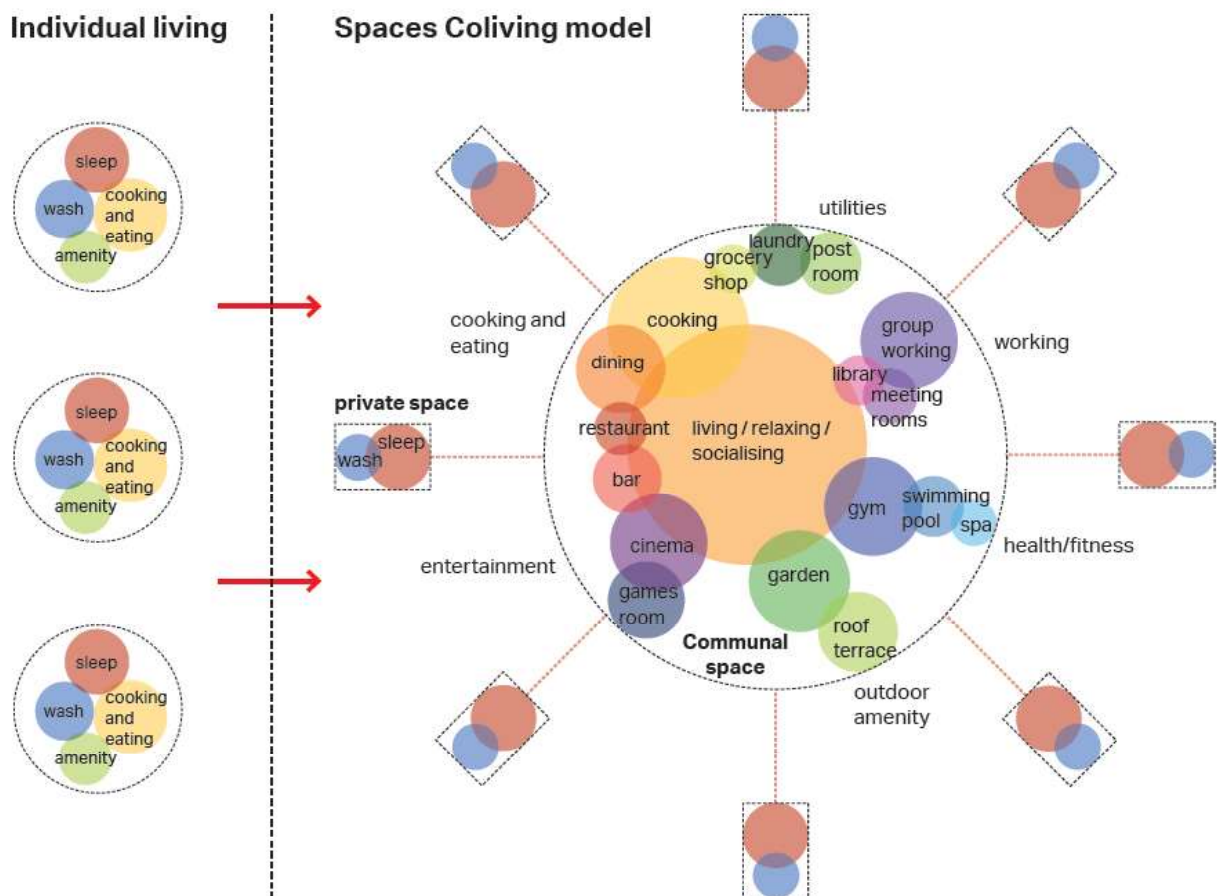
Spaces Coliving helps maintain the diverse mix of residents in Zone 1, and provides an active and energetic community for the leisure, retail and culture offer that drives the central London economy.

6. Delivering an innovative housing option

The Spaces Coliving innovation provides freedom of choice to renters. They have a viable alternative living option without compromising on price, quality or location.

2. SPACES COLIVING

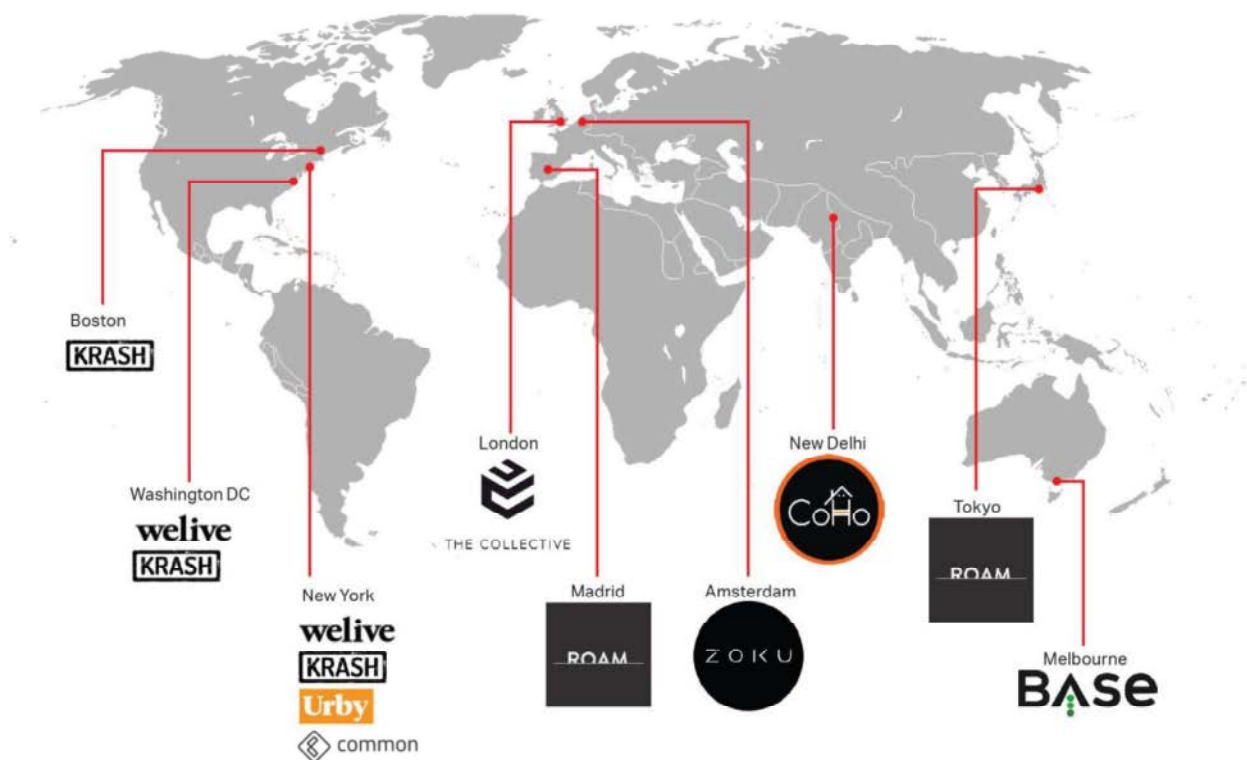
The Spaces Coliving concept comprises of bedrooms of a variety of sizes, with a wide mix of communal spaces for cooking, socialising and interaction provided at every level. As demonstrated in the graphic below, Spaces Coliving aims to unlock social amenity value through openness, sharing and collaboration.



Bedrooms typically range between 11 - 19sqm, each are provided with a double bed, ensuite, a desk and storage facilities for clothes and personal belongings. The quality of bedrooms is of the utmost priority, ensuring that each has an efficient layout, access to natural light, generous floor-to-ceiling height and high-quality furniture and fittings. The larger bedroom sizes are capable of accommodating residents who may use wheelchair or require other access arrangement.

Throughout the buildings, specialised amenity spaces will encourage residents to socialise in a number of ways – from cooking and eating to working and exercising. The communal spaces available to residents are diverse and can include kitchen and dining facilities, communal lounge, study spaces, meeting rooms and health and leisure facilities. Residents also enjoy access to dedicated bicycle storage and various services including laundry.

The coliving sector is growing rapidly in response to the rising demands for a greater choice of high-quality housing in the world's greatest cities, including London. The map below demonstrates the emergence of a number of coliving operators across the globe.



3. COLIVING AND THE LONDON PLAN

New housing products, including non-self-contained 'co-living' housing, is recognised by the Mayor of London in the London Plan (2016) and London Housing SPG (2016) as providing a greater variety of housing choice.

In the London Plan (Policy 3.8), the Mayor of London seeks for new developments to *'offer a range of housing choices, in terms of the mix of housing sizes and types, taking account of the housing requirements of different groups and the changing roles of different sectors in meeting these'*

The critical need to provide new housing within London is also recognised by the Mayor of London and the London Plan (Policy 3.3) states that the Mayor will seek to deliver at least 42,000 additional homes across London each year – whilst improving housing choice, affordability and better quality accommodation for Londoners. It is recognised by the Mayor of London that non-conventional types of housing, including non-self-contained accommodation, can contribute to meeting this target.

Expanding on the London Plan, the London Housing SPG (Para 3.5.1) recognises that new approaches to meeting housing need are emerging and where these products are of a high quality and well-designed, *'they can play an important role in meeting housing need and should be encouraged.'* In addition, the London Housing SPG (Para 1.2.48) clarifies that non-self-contained accommodation *'plays a strategically important, if not always fully recognised, part in meeting the needs of different groups of Londoners.'*

The London Housing SPG also confirms that when considering proposals for non-conventional housing schemes (including large scale HMO's), Local Planning Authorities should ensure that schemes contribute the maximum reasonable amount of affordable housing and confirms that *'Neither the NPPF nor the London Plan limits the requirement of affordable housing contributions to C3 housing. Therefore affordable housing can also be sought on residential schemes that fall into other use classes (including sui-generis)'*

In the latest Annual Monitoring Report 2014-15 (July 2016 update), the Mayor of London recognises that *'In order to maximise affordable housing provision boroughs should take account of the most robust available assessment of housing capacity'* including the *'provision from non-self-contained accommodation.'* (Para 3.67)

The London Plan and supplementary planning guidance published by the Mayor of London encourages new approaches to meeting housing need and acknowledges that non-self-contained housing contributes towards meeting the annual housing delivery target of the London Plan. It is further recognised that non-conventional housing schemes should contribute the maximum reasonable amount of affordable housing and that London boroughs should take account of the provision of non-self-contained housing accommodation to maximise affordable housing provision.

4. COLIVING AND AFFORDABLE HOUSING

The Mayor of London expands the definition of intermediate affordable housing as set out in the National Planning Policy Framework (NPPF) (2012). The London Plan (Para 3.61) defines 'intermediate housing' as *'homes available for sale or rent at a cost above social rent, but below market levels. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rent. Households whose annual income is in the range £18,100–£66,000 should be eligible for new intermediate homes.'*

As part of the draft Affordable Housing and Viability SPG, the Mayor of London proposes to limit eligibility for intermediate rent products to households on incomes of £60,000 a year or less. Spaces strongly support the Mayor of London's commitment to delivering a range of genuinely affordable homes for Londoners.

Neither the NPPF nor the London Plan requires affordable housing or intermediate affordable housing to be provided in the form of a 'dwellinghouse' falling within Use Class C3. Nor does adopted planning policy require affordable housing or intermediate affordable housing to be 'self-contained' or 'conventional', as has been referenced in supplementary planning guidance.

As part of the Affordable Housing and Viability SPG (Para 2.42), the Mayor of London proposes that non-self-contained accommodation should not be classed as affordable provision and that non-self-contained housing cannot be classed as intermediate based on the income ranges of those that access the rooms.

Whilst Spaces welcomes the Mayor of London's emerging SPG, we consider strongly that the Mayors proposal for non-self-contained housing not be classed as affordable provision is not consistent with adopted planning policy in the NPPF and London Plan, undermines existing adopted planning policy of the London Plan in terms of recognising the role of non-self-contained housing in meeting the needs of different groups of Londoners and seeks to introduce new planning policy by effectively amending the definition of intermediate affordable housing. It would too be a missed opportunity of providing a greater choice of affordable housing for London.

For the reasons above, we would welcome further clarification from the Mayor that, in compliance with adopted planning policy, affordable housing can be provided in the form of intermediate rented non-self-contained housing.

5. THE ROLE OF COLIVING IN LONDON

The development of a specific housing product catering to a younger demographic is critical to ensuring that Londoners aren't forced out of the capital as a result of an acute shortfall in housing and consequently, the rising costs of living in London. New innovative housing products will be key to providing Londoners with a greater choice of affordable living accommodation. The Build to Rent sector is now playing an increasingly pivotal role in the structure of London's housing market but much more can be done.

Spaces support the Mayor of London's recognition that non-self-contained housing provides a wider choice of housing and is able to meet the needs of different groups of Londoners.

The Mayor of London recognises the opportunity of an evolving housing sector and in the Mayor's Housing Covenant 'Making the private rented sector work for Londoners' (December 2012) confirms that through leveraging in additional investment that would otherwise be directed elsewhere, *'Utilising the PRS in this way also opens up the potential for bespoke PRS building typologies – designed for occupation by renters rather than buyers, and owned and managed by institutions and professional landlords for the long term'*

Whilst non-self-contained housing is recognised for providing a wider choice of housing in London, an indirect policy benefit that should be explored further by the Mayor of London is the extent to which affordable family housing could be released by the provision of accommodation that is dedicated to, and afforded by, London's young professionals.

In the context of adopted planning policy, the opportunity also exists to provide affordable housing in the form of intermediate rented non-self-contained housing. Spaces look forward to working collaboratively with the Greater London Authority and London boroughs to realise the full potential of the coliving sector and ensure the benefits of Spaces Coliving can be enjoyed by all Londoners.

6. SUMMARY

We ask that the Mayor of London consider these representations on behalf of Spaces Property Group and ensure that non-self-contained housing and non-conventional housing such as Spaces Coliving continues to be supported in emerging supplementary planning guidance.

Whilst Spaces generally support the emerging guidance, we consider strongly that the Affordable Housing and Viability SPG should not be adopted in its current form – for the following reasons:


- The SPG seeks for non-self-contained housing not to be classed as affordable provision. This is not consistent with the definition of affordable housing and intermediate housing in adopted planning policy in the NPPF and London Plan
- In seeking to remove the ability of affordable housing being delivered in the form of intermediate rent non-self-contained housing, the SPG undermines the London Plan and its recognition of the role that non-self-contained housing plays in meeting the needs of different groups of Londoners and providing new forms of affordable housing; and
- The SPG seeks to introduce new planning policy by effectively amending the definition of intermediate affordable housing to exclude non-self-contained housing.

Spaces strongly support the Mayor of London's role in ensuring that Londoners have access to a range of housing choices in London – including affordable housing. We would welcome further clarification from the Mayor of London in regards to the contents of this letter and the opportunity to comment on a revised version of the Affordable Housing and Viability SPG.

7. NEXT STEPS

We would welcome the opportunity to work with the London Plan team to ensure that the draft Affordable Housing and Viability SPG, new London Plan and any future amendments to the Housing SPG continue to recognise and support new forms of housing such as coliving. A clear planning policy framework to inform local plan policy making and planning decision making is imperative to ensuring the benefits of innovative housing products such as co-living can be delivered. We would welcome specific policies, guidance and standards that deal specifically with new forms of housing such as coliving, particularly with regards to affordable housing policies.

Response to the Supplementary Planning Guidance

A series of five overlapping, wavy lines in blue, red, yellow, and green that span the width of the page, positioned above the first paragraph.

Home Group welcomes the efforts within the Supplementary Planning Guidance (SPG) and beyond to increase the provision of affordable homes in London. It is one of the most pressing issues facing those who live and work in our Capital, and Home Group are keen to play our part in redressing the issue with long-term solutions.

It will not be enough to simply do 'more of the same'; the scale of the issue requires radical, innovative ideas that directly speak to the issues Londoners' have in finding affordable, high quality and sustainable accommodation.

This is why Home Group have been working hard to develop our 'Flexible Rent' product. A Flexible Rent scheme provides renters with affordable high-quality homes, funded by institutional investors who benefit from the certainty of a defined income stream.

We have attached a short briefing note which discusses the advantages and specifics of a Flexible Rent scheme in more detail. We believe that a Flexible Rent scheme directly supports the London Mayor and the SPG's emphasis upon the need for sustainable Build to Rent schemes, which include significant affordable rent components.

Our response to the SPG is therefore primarily focused upon the ways in which the GLA and the SPG could support a Flexible Rent scheme, and other innovative solutions to Londoner's housing problems. We believe that the SPG offers the chance to: deliver affordable housing for the long-term; increasing viability of housing schemes; make renting a more attractive offer; and continue the conversation about how best to encourage innovative solutions. We set out our views on this in more detail below, and include recommendations of how we feel the SPG could better realise these opportunities.

In order to **deliver affordable housing for the long-term**, we support the covenant approach and would look to adopt the same approach for any Flexible Rent scheme, however we would likely covenant for 25 years, with an option to extend the Flexible Rent covenant at the end of this period. This would deliver the long-term provision of affordable homes. We also support the use of a clawback mechanism through the covenant and would suggest that where units are sold from the Build to Rent sector, 'Option 2' is utilised on 'Day 1' percentage of affordable housing in the calculate. This is attractive for Home Group's Flexible Rent model and will be positive for those investors committed to the covenant but provides liquidity.

This aim is also further supported in a Flexible Rent Scheme, whereby greater certainty over long-term income would drive greater value for institutional investors, as risk premiums are reduced. This greater value can then be translated to stronger viability and therefore the opportunity to further increase the level of affordable provision from the outset. In a rising market, rents would be flexed away from market rent to a discounted market rent as properties become void to equalise the target income. The first option would be to flex to the preferred affordable product, in London, we assume this to be the London Living Rent (LLR). If the value of equalisation didn't support this, the rent could

be set at a higher level which it can support or the equalisation could be delayed until such a time when enough value has been built up to meet the discount required for the preferred rent level (LLR). Similar to the Housing Bank approach, Flexible Rent could commit to the level of affordable housing provision (35%) for five years. After this period, the Flexible element would begin reacting to market performance. This would significantly limit the chance of any loss of affordable housing in the first ten years. Unlike the London Housing Bank, it will continue to deliver affordable housing beyond the first ten years.

We welcome efforts in the SPG to **increase viability of housing schemes** which include increased affordable provision. As such, we support transparency through the expectation of the publication of viability information. We think that the preference for using Existing Use Value Plus as the comparable Benchmarked Land Value is a positive step to remove speculative value from affecting viability and therefore affordable housing provision.

We particularly welcome the focus on **making renting a more attractive offer**, which is affordable and high-quality. This is evident in the SPG's focus upon Build to Rent and London Living Rent (LLR). Again, we believe that our Flexible Rent scheme supports these priorities. This is partly through the flexible rent mechanism itself, but also our wider commitment to creating sustainable rental communities through great design, with a market-leading service offer, including three year tenancies as standard.

To support both Flexible Rent schemes and Build to Rent schemes more widely, we would ask that the SPG encourage local planning authorities to consider variations to the policy compliant unit mix, where well evidenced, for both affordable and private rent units. For example, the traditional social housing and sale policy mix may often not reflect the needs of renters. Any forced provision of units that are not suitable for the market will reduce value and therefore viability. Any such variation would need to be strongly evidenced, particularly in relation to affordability, in order to ensure this is accurately best meeting the needs of residents. We also ask that the local planning authority considers the use of quality internal and external community amenity space as a partial substitute for private amenity. We would not envisage this to be a complete replacement, but this approach would support Build to Rent models, like Flexible Rent, that aim to deliver significantly improved high density living as it will allow for some cost savings that could improve viability.

Additionally, we would ask that the SPG encourage local planning authorities to adopt the threshold approach to affordable housing provision upon completion of a scheme (Day 1) but consider alternative s106 commitments to long-term affordability of a scheme in lieu of a fixed percentage, linked to specific units in the long-term. This would encourage use of the Flexible Rent mechanism and act as a counterpoint to runaway rent growth and the negative effects of gentrification.

We recognise that the SPG includes bold policy measures which seek to lead to substantive change in London's housing market and we believe that **this should continue the conversation about how best to encourage innovative solutions**. For example, we would welcome an outcomes focus upon housing delivery, particularly around increasing housing supply, increasing affordable home ownership or other forms of affordable tenures, and bringing new finance to housing. Such a focus upon stated goals would mean then that sensible discussions around any increased flexibilities that may be needed could happen. For example, Home Group are currently developing a Graduated Ownership product that would support people to buy their own home, for whom this is currently unattainable. This product recognises that the current system does not work for everyone, and so we would welcome discussions about how to increase flexibility in the system to encourage new, innovative solutions. Such flexibilities could include historic grant, certain regulations, and how other policy initiatives interact, such as Help to Buy ISA's and the Right to Buy. It is important to maintain the momentum and deliver the housing solutions that London, and the rest of the UK, need.

our ref: TH/2102017
email: [REDACTED]
date: 28 February 2017



Affordable Housing SPG
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Dear Sir/ Madam,

AFFORDABLE HOUSING AND VIABILITY SUPPLEMENTARY PLANNING GUIDANCE (SPG) PREFERRED APPROACH CONSULTATION – REPRESENTATIONS ON BEHALF OF (APARTMENTS FOR LONDON)

Please find below representations submitted in respect of the London Plan Affordable Housing and Viability Supplementary Planning Guidance (SPG) Preferred Approach Consultation, on behalf of Apartments for London.

Apartments for London (AFL) are a London based property development company who have aspirations to deliver thousands of new meaningfully Affordable Homes across London by 2020. AFL's approach involves utilising their existing arrangements with CIMC, one of the world largest off-site modular construction companies, to quickly produce and erect high quality modular residential buildings as 100% Affordable Housing. AFL's model means that the residential proposals can be: -

- 100% Affordable - provided as Discounted Market Rent with a minimum 20% discount;
- Delivered Quickly - almost twice as fast as traditional residential developments; and
- Exemplar in Quality - benefiting from strict off-site quality control procedures;

AFL are in advanced discussions with a number of public & private sector organisations who own sites across London which, in their current use, significantly underutilise land. The delivery of new homes on these sites is presently constrained by existing financial and/or operational needs. The AFL model however overcomes these barriers by enabling the sites to i) remain in the existing ownership (negating a lengthy OJEU); and ii) remain operational throughout and after the build with the modular homes constructed off-site and then positioned on-site over the existing use. High quality cladding and public realm works ensure the finished development is of the highest standard.

AFL's approach could enable the delivery of thousands of new affordable homes across the capital both in the short term (by 2020) and over the longer London Plan period. The approach is also consistent with the Governments Housing White paper (2017) which for example strongly supports the development of underutilised public (and private) sector land, using a range of construction methods including off-site modular construction and to delivery housing which caters for wider a range of housing need including those



best served by long term rental products (i.e providing access to safe secure good quality housing without the need for an upfront equity deposit).

In view of the above, it is requested that the content of these representations be given due regard and consideration in making the amendments which the GLA deem appropriate before the SPG is formally adopted by the Mayor.

Consultation Responses

Overall the respondent supports introduction of the SPG to provide greater certainty in respect of the application of existing London Plan policies that relate to Affordable Housing and Viability. It is however considered that there is an important opportunity for the SPG to be refined to support the Mayor's objective to boost the overall supply of affordable homes by making the planning system clearer, quicker and more consistent.

In particular, it is considered that the Route B pathway should be amended to enable proposals from providers of Affordable Housing (including non-registered providers) which comprise 100% Affordable Housing to progress quickly through the planning system without the need for detailed viability information or review mechanisms. This would provide a clear incentive for providers to increase the quantum of affordable housing proposed and will enable these schemes to be delivered faster.

More specifically it is considered that a foot note should be added below the Route B box on page 16 to confirm that proposals which are 100% affordable can benefit from Route B where:-

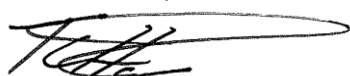
- I. public subsidy and/or land has been utilised; and
- II. the tenure split does not accord with the relevant split suggested within the SPG;

It is also considered that the Route B box should be amended to remove the requirement for proposals to '*meet all other relevant policy requirements and obligations*'. This requirement is open to misinterpretation. Its inclusion risks frustrating the delivery of much needed Affordable Housing, the benefit of which should, in accordance with the London Plan, be given substantial decision making weight when being balanced with material planning considerations including other policy requirements and obligations.

Furthermore, the SPG should clarify that the mayor will take a particular interest in schemes providing 100% affordable housing and, even where schemes are not formally referable, local authorities will be encouraged, in accordance with the London Plan, to seek to determine proposals for 100% Affordable housing quickly.

I trust the above representation are helpful, but if you require further information on any of the representation areas or clarification please do not hesitate to contact me.

Yours sincerely,



Thomas Hatch
Associate

our ref: TH/Q70345
email: [REDACTED]
date: 28 Feb 2017



Affordable Housing SPG
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Dear Sir/ Madam,

AFFORDABLE HOUSING AND VIABILITY SUPPLEMENTARY PLANNING GUIDANCE (SPG) PREFERRED APPROACH CONSULTATION – REPRESENTATIONS ON BEHALF OF AVIVA INVESTORS

Please find below representations submitted in respect of the London Plan Affordable Housing and Viability Supplementary Planning Guidance (SPG) Preferred Approach Consultation, on behalf of Aviva Real Estate Investors.

Aviva have a number of existing commercial sites mainly retail and industrial where they are seeking to deliver residentially led mixed use developments over the next 10 years in Greater London providing circa 7,000 homes.

It is requested that the content of these representations be given due regard and consideration in making the amendments deemed appropriate and/or necessary for the SPG to be formally adopted by the Mayor in accordance with national planning policy and regulations.

Consultation Responses

Overall the respondent supports introduction of the SPG to provide greater certainty in respect of the application of existing London Plan policies that relate to Affordable Housing and Viability. In particular, the respondent supports the introduction of a threshold approach to viability that enables schemes exceeding the threshold to progress quickly through the planning system without the need for detailed viability information or comprehensive review mechanisms. The respondent also welcomes the Mayor's commitment to the provision of more high quality private rented homes and the introduction of a separate Build-to-Rent pathway through the planning system in recognition of the distinct economies of this housing tenure and the important contribution it can make to meeting objectively assessed housing need.

It is however considered that the SPG could be enhanced to further its effectiveness in delivering the Mayors objectives. Detailed comments on specific elements of the SPG are set out below.

- **Background and Approach:** The respondent supports introduction of the SPG to provide greater certainty in respect of the application of existing London Plan policies. The SPG should however be amended to clarify how Local Planning Authorities should apply the guidance and, in particular, its interaction with existing adopted and/or emerging Local Development Plan Documents. As presently



worded LPA's are only 'encouraged' to follow the guidance (1.10). This risks the SPG being ineffective in supporting the Mayors objective to boost the overall supply of new homes by making the planning system clearer, quicker and more consistent.

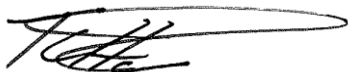
- **Transparency of Information:** The respondent supports openness and transparency as a means to foster trust in the planning system. It is however submitted that some viability information is particularly commercially sensitive and cannot be made publically available. This includes information that could prejudice the commercial position of a developer in respect of a future settlement for development related compensation (i.e rights of light). In the case of Elephant and Caste the First Tier Tribunal General Regulatory Chamber (Information Rights) recognised there needs to be a balance between transparency and commercial confidentiality and found that the public interest favoured withholding the some information (9th May 2014).
- **Routes for Application (Route A):** In respect of Route A, the respondent considers that, consistent with national policy, the inclusion of a near end review mechanism is not always appropriate. including, for instance, where the developer is committing to provide a higher level of affordable housing than is supported by current day viability. The SPG should be amended to reflect this accordingly.
- **Routes for Application (Route B):** In respect of Route B, whilst it is recognised that the intention is for land values to adjust to enable Affordable Housing delivery to increase from 13% (2014/15) to 35%, it is considered that there will be a considerable lag until this is achieved. On this basis, it is submitted that the SPG should include added flexibility for the 35% target to be achieved through a number of means including, for instance, by exploring increased height or density or a change in tenure mix. The requirement for Route B schemes to 'meet all of the other relevant policy requirements and obligations' is open to misinterpretation and should be deleted.
- **Affordable Housing Tenures:** The respondent supports the Mayors' preference for schemes to include 30% low cost rent and 30% intermediate. It is however recommended that the SPG is more explicit that the proposed mix will be subject to the flexibility set out in policy 3.12 of the adopted London Plan (i.e reflecting site specific circumstances and localised housing need etc). In terms of the affordability of intermediate products, it is submitted that the proposed income cap of £60,000 (a reduction from the current £90,000) would exclude a significant amount of London's households who require Intermediate Housing.
- **Starter Homes:** The final version of the SPG should clearly set out how the Route B threshold and preferred tenure mix for each Borough will interact with the government's emerging requirement for a minimum 10% of affordable home ownership products to be delivered on-site.
- **Viability Guidance:** The SPG should not require any information relating to the applicant company' or future occupiers as in line with the NPPG the planning process, which relates to the use of land and buildings only, should not be made applicant specific. This should be made explicit within the SPG.

- Viability Values:** The SPG should note that some Intermediate tenures can be delivered direct by the developer or by another organisation other than a Registered Provider. The SPG should also note that it is not always possible to agree detailed terms with a Registered Provider at the planning stage due to the need for a fixed detailed design.
- Viability Costs:** BCIS rates are based on relatively small pool of data, lag behind the market due to the reporting time periods and do not take account of site specific circumstances. The use of BCIS should not therefore be considered an appropriate replacement for a site specific elemental cost benchmarking exercise undertaken by suitably qualified Quantity Surveyor. This is particularly relevant for more complex developments. The respondent supports the use of a developer's profit which takes into account the individual characteristics of the scheme. The notion lenders require lower profit levels are lower than 2008/9 should however be removed from the SPG. This statement is not substantiated by any evidence and no reference is made to the more recent the global slow down and/or brexit uncertainty.
- Viability Land Value:** The respondent supports the use of a benchmark land value equal to the value below which the land owner (acting rationally) is unlikely to dispose of a site for redevelopment (3.36). It is however considered, consistent with para 024 (Reference ID: 10-024-20140306) of the NPPG, that the approach taken needs to reflect both the current use value of the land or its value for a realistic alternative use that complies with planning policy. This includes extant planning permissions and/or other practically feasible proposals. As presently drafted the SPG suggests that there will be limited justification for any approach other than Existing Use Value plus premium (EUV+). The approach also conflicts with the NPPG (10-023-20140306) which 'the most appropriate way to assess land or site value will vary from case to case'
- Contingent Obligations:** The respondent supports the inclusion of guidance on the use of contingent obligations and review mechanisms. It is however considered that the SPG should recognise that review mechanisms are not always appropriate. As presently worded both review mechanism formulas 1 and 3 in Annex 1 cannot take account of a deficit identified at the application stage assessment. This will disincentive the over provision of on-site affordable housing at the application stage.
- Build-to Rent Definition:** The respondent supports the Mayor's objective to level the playing field with Build-for-Sale by introducing a separate Build-to-Rent pathway through the planning system. The respondent supports the introduction of a clear definition of Build-to-Rent in the absence of a distinct planning use class. In respect of the covenant clawback mechanism, it is considered that the SPG should allow flexibility for the Developer to select either Option 1 or 2.
- Build-to-Rent Affordable Housing:** The respondent supports the SPG's flexibility enabling the affordable housing offer to be entirely discounted market rent as conventional affordable housing tenures cannot feasibly be held within the same investment vehicle as Build-to-Rent. It is however considered that the SPG should recognise that institutional investors will require discounted rents to be market linked (i.e set at a % of market rent). It is not therefore feasible for rents to be set levels published by the GLA (4.22). It is also considered, that the SPG should allow flexibility for rental increased during tenancies to be 'linked' rather than 'limited' to CPI.

- **Build-to-Rent Design:** The respondent supports the inclusion of guidance which clarifies the flexibilities that already existing in the London Plan to support high quality Build-to-Rent developments. It is however considered that the SPG should include more explicit references to the flexibility that is required for long term high quality rental schemes, including:-
 - *Density – greater density than advocated by the London Plan density matrix;*
 - *Dwelling Mix – more 1 & 2 beds than local policy would usually support;*
 - *Unit Sizes – smaller than minimum Housing SPG provided the shortfall is provided in communal amenity space;*
 - *Cores – A range of 10-15 units per core per floor depending on mix;*
 - *Parking – A reduced or NIL parking requirement; and*
 - *Amenity Space – communal spaces provided in lieu.*
- **Build-to-Rent Viability:** The respondent supports the need to recognise the distinct economies of the Build-to-Rent when undertaking viability assessments. It is however considered that the requirement for a post completion review of viability (para 4.33) should be removed in view of the implications for obtaining institutional investment. It is also considered that para 4.35 should be amended to provide a more balanced view on the issues that need to be taken into consideration when assessing a build to rent scheme and should therefore include reference to higher construction costs, lower gross to net efficiency and risk associated with obtaining planning, stabilising the asset (lettings), valuing the asset (limited comparables) and disposing of the asset (limited pool of suitable investors).
- **Build-to-Rent Management:** The respondent supports the Mayor's objective for Build-to-Rent schemes to showcase best management practice. It is however considered that the requirement for providers to have membership of the BPF or RICS should be removed as these organisations are not responsible for maintaining standards in the rental market.

I trust the above representation are helpful, but if you require further information on any of the representation areas or clarification please do not hesitate to contact me.

Yours sincerely,



Thomas Hatch
Associate

our ref: TH/Q70345
email: [REDACTED]
date: 28 Feb 2017



Affordable Housing SPG
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Dear Sir/ Madam,

AFFORDABLE HOUSING AND VIABILITY SUPPLEMENTARY PLANNING GUIDANCE (SPG) PREFERRED APPROACH CONSULTATION – REPRESENTATIONS ON BEHALF OF CROYDON LIMITED PARTNERSHIP (CLP)

Please find below representations submitted in respect of the London Plan Affordable Housing and Viability Supplementary Planning Guidance (SPG) Preferred Approach Consultation, on behalf of the Croydon Limited Partnership (CLP).

The Croydon Limited Partnership ("CLP") represents a joint venture between two of the UK's most successful mixed use developers - Westfield Europe Limited and Hammerson UK Properties Plc.

On 5 February 2014 the London Borough of Croydon granted CLP outline planning permission and conservation area consent (application refs. 12/02542/P and 12/02543/CA respectively) for the comprehensive redevelopment of the Whitgift Centre and surrounding land in central Croydon. The scheme represents an opportunity for an investment in excess of £1 billion into the Croydon Opportunity Area ("COA"), delivering 5,000 jobs and up to 600 homes and transforming the Retail Core. The CLP scheme is widely recognised as the single most important opportunity to kick-start the regeneration of Croydon town centre which has been in decline for over a decade. The CLP scheme will act as a catalyst for the regeneration of the wider town centre and will assist in unlocking the potential of a number of other town centre and COA sites which have failed to come forward in recent years.

It is requested that the content of these representations be given due regard and consideration in making the amendments deemed appropriate and/or necessary for the SPG to be formally adopted by the Mayor in accordance with national planning policy and regulations.

Consultation Responses

Overall the respondent supports introduction of the SPG to provide greater certainty in respect of the application of existing London Plan policies that relate to Affordable Housing and Viability. In particular, the respondent supports the introduction of a threshold approach to viability that enables schemes exceeding the threshold to progress quickly through the planning system without the need for detailed viability information or comprehensive review mechanisms. The respondent also welcomes the Mayor's commitment to the provision of more high quality private rented homes and the introduction of a separate Build-to-Rent



pathway through the planning system in recognition of the distinct economies of this housing tenure and the important contribution it can make to meeting objectively assessed housing need.

It is however considered that the SPG could be enhanced to further its effectiveness in delivering the Mayors objectives. In particular it is considered that there is an opportunity for the SPG to provide a clear incentive for land owners/ developers to intensify existing planning consents which may presently underutilise land. As presently drafted Route B requires the threshold to be applied to all units. In most cases where there is an extant planning consent with a lower percentage of Affordable Housing, meeting the threshold on an intensified proposal would result in an overall reduction in land asset value. Route B should therefore be amended to enable application of the threshold on the uplift in residential units only where there is an extant deliverable planning consent.

It is also considered that, in light of the relative importance of Opportunity Areas to overall housing delivery and meeting localised housing need, the SPG's provision for flexibility within Opportunity Areas should be strengthened as a London wide planning requirement. This should be enshrined within the Route B threshold approach so that schemes within Opportunity Areas can benefit from the certainty and speed provided by the threshold approach including where a different quantum of Affordable Housing or an alternative tenure mix has been agreed with the Local Planning Authority and/or Mayor. There should also be added SPG flexibility within Opportunity Areas for the threshold target to be achieved through a number of means including, for instance, by exploring increased height, density and/or better use of both public and private subsidy.

The respondent also welcomes the Mayor's commitment to the provision of more high quality private rented homes and the introduction of a separate Build-to-Rent pathway through the planning system in recognition of the distinct economies of this housing tenure and the important contribution it can make to meeting objectively assessed housing need.

Further detailed comments on specific elements of the SPG are set out below.

Part 1 – Background & Approach

- *Approach:* The respondent supports introduction of the SPG to provide greater certainty in respect of the application of existing London Plan policies. The SPG should however be amended to clarify how Local Planning Authorities should apply the guidance and, in particular, its interaction with existing adopted and/or emerging Local Development Plan Documents. As presently worded LPA's are only 'encouraged' to follow the guidance (1.10). This risks the SPG being ineffective in supporting the Mayors objective to boost the overall supply of new homes by making the planning system clearer, quicker and more consistent.
- *Transparency:* The respondent supports openness and transparency as a means to foster trust in the planning system. It is however submitted that some viability information is particularly commercially sensitive and cannot be made publically available. This includes information that could prejudice the commercial position of a developer in respect of a future settlement for development related compensation (i.e rights of light). In the case of Elephant and Caste the First Tier Tribunal General Regulatory Chamber (Information Rights) recognised there needs to be a balance between transparency

and commercial confidentiality and found that the public interest favoured withholding the some information (9th May 2014). This balance should be specifically recognised within the SPG.

Part 2 – Threshold Approach

- *Threshold Approach:* As presently drafted, the threshold approach fails to provide sufficient incentive for developers/land owners to intensify existing planning consents which may underutilise land. The threshold approach could result in a reduction in land value where consents are being intensified with 35% Affordable Housing being applied to the total number of units. On this basis, the SPG should enable application of the threshold approach to net additional residential units where there is an existing deliverable planning consent in place. Ultimately though the applicant considers that the viability test is the appropriate approach to confirming what level of affordable housing can be delivered taking into account the history of the site, site specific constraints and other planning obligations.
- *Routes for Application (Route A):* In respect of Route A, the respondent considers that, consistent with national policy, the inclusion of a near end review mechanism is not always appropriate, including, for instance, where the developer is committing to provide a higher level of affordable housing than is supported by current day viability. The SPG should be amended to reflect this accordingly.
- *Routes for Application (Route B):* In respect of Route B, whilst it is recognised that the intention is for land values to adjust to enable Affordable Housing delivery to increase from 13% (2014/15) to 35%, it is considered that there will be a considerable lag until this is achieved. On this basis, it is submitted that the SPG should include added flexibility for the 35% target to be achieved through a number of means including, for instance, by exploring increased height or density or a change in tenure mix. The requirement for Route B schemes to ‘meet all of the other relevant policy requirements and obligations’ is open to misinterpretation and should be deleted.
- *Rationale for 35%:* Whilst it is recognised that the threshold only relates to a different ‘approach to viability’, the respondent is concerned that in the absence of robust evidence which confirms the 35% target is a deliverable pan London target (including within the more constrained Opportunity Areas of which many have deliverable extant planning consents) schemes providing 35% Affordable Housing may be subject to lengthy Judicial Review proceedings brought forward in the context of the London Plan requirement for the maximum reasonable level of affordable housing. The SPG should therefore provide additional reassurance that the threshold approach is legally compliant.
- *Tenures:* The respondent supports the Mayors’ preference for schemes to include 30% low cost rent and 30% intermediate. It is however recommended that the SPG is more explicit that the proposed mix will be subject to the flexibility set out in policy 3.12 of the adopted London Plan (i.e reflecting site specific circumstances and localised housing need etc). In terms of the affordability of intermediate products, it is submitted that the proposed income cap of £60,000 (a reduction from the current £90,000) would exclude a significant amount of London’s households who require Intermediate Housing.
- *Starter Homes:* The final version of the SPG should clearly set out how the Route B threshold and preferred tenure mix for each Borough will interact with the government’s emerging requirement for a minimum 10% of affordable home ownership products to be delivered on-site.

Part 3 – Viability Guidance

- *Viability Guidance:* The SPG should not require any information relating to the applicant company' or future occupiers as in line with the NPPG the planning process, which relates to the use of land and buildings only, should not be made applicant specific. This should be made explicit within the SPG.
- *Viability Values:* The SPG should note that some Intermediate tenures can be delivered direct by the developer or by another organisation other than a Registered Provider. The SPG should also note that it is not always possible to agree detailed terms with a Registered Provider at the planning stage due to the need for a fixed detailed design.
- *Viability Costs:* BCIS rates are based on relatively small pool of data, lag behind the market due to the reporting time periods and do not take account of site specific circumstances. The use of BCIS should not therefore be considered an appropriate replacement for a site specific elemental cost benchmarking exercise undertaken by suitably qualified Quantity Surveyor. This is particularly relevant for more complex developments. The respondent supports the use of a developer's profit which takes into account the individual characteristics of the scheme. The notion lenders require lower profit levels are lower than 2008/9 should however be removed from the SPG. This statement is not substantiated by any evidence and no reference is made to the more recent the global slow down and/or brexit uncertainty.
- *Contingent Obligations:* The respondent supports the inclusion of guidance on the use of contingent obligations and review mechanisms. It is however considered that the SPG should recognise that review mechanisms are not always appropriate. As presently worded both review mechanism formulas 1 and 3 in Annex 1 cannot take account of a deficit identified at the application stage assessment. This will disincentive the over provision of on-site affordable housing at the application stage.
- *Approach to Opportunity Areas and Housing Zones:* The respondent welcomes the added flexibility for the approach to Affordable Housing on specific sites within Opportunity Areas. It is however considered that this flexibility should be 'required' as opposed to being 'encouraged' in light of the relative importance of Opportunity Areas in terms of increasing London wide housing supply and meeting localised housing need.

Part 4 – Build to Rent

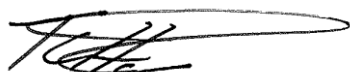
- *Build-to Rent Definition:* The respondent supports the Mayor's objective to level the playing field with Build-for-Sale by introducing a separate Build-to-Rent pathway through the planning system. The respondent supports the introduction of a clear definition of Build-to-Rent in the absence of a distinct planning use class. In respect of the covenant clawback mechanism, it is considered that the SPG should allow flexibility for the Developer to select either Option 1 or 2.
- *Build-to-Rent Affordable Housing:* The respondent supports the SPG's flexibility enabling the affordable housing offer to be entirely discounted market rent as conventional affordable housing tenures cannot feasibly be held within the same investment vehicle as Build-to-Rent. It is however considered that the

SPG should recognise that institutional investors will require discounted rents to be market linked (i.e set at a % of market rent). It is not therefore feasible for rents to be set levels published by the GLA (4.22).

- *Build-to-Rent Design:* The respondent supports the inclusion of guidance which clarifies the flexibilities that already existing in the London Plan to support high quality Build-to-Rent developments. It is however considered that the SPG should include more explicit references to the flexibility that is required for long term high quality rental schemes, including Density – greater density than advocated by the London Plan density matrix; Dwelling Mix – more 1 & 2 beds than local policy would usually support; Unit Sizes – smaller than minimum Housing SPG provided the shortfall is provided in communal amenity space; Cores – A range of 10-15 units per core per floor depending on mix; Parking – A reduced or NIL parking requirement; and Amenity Space – communal spaces provided in lieu.
- *Build-to-Rent Viability:* The respondent supports the need to recognise the distinct economies of the Build-to-Rent when undertaking viability assessments. It is however considered that the requirement for a post completion review of viability (para 4.33) should be removed in view of the implications for obtaining institutional investment. It is also considered that para 4.35 should be amended to provide a more balanced view on the issues that need to be taken into consideration when assessing a build to rent scheme and should therefore include reference to higher construction costs, lower gross to net efficiency and risk associated with obtaining planning, stabilising the asset (lettings), valuing the asset (limited comparables) and disposing of the asset (limited pool of suitable investors).
- *Build-to-Rent Management:* The respondent supports the Mayor's objective for Build-to-Rent schemes to showcase best management practice. It is however considered that the requirement for providers to have membership of the BPF or RICS should be removed as these organisations are not responsible for maintaining standards in the rental market.

I trust the above representation are helpful, but if you require further information on any of the representation areas or clarification please do not hesitate to contact me.

Yours sincerely,



Thomas Hatch
Associate

our ref: TH/230217
email: [REDACTED]
date: 28 February 2017



Affordable Housing SPG
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Dear Sir/ Madam,

AFFORDABLE HOUSING AND VIABILITY SUPPLEMENTARY PLANNING GUIDANCE (SPG) PREFERRED APPROACH CONSULTATION

I am writing in relation to the GLA's Affordable Housing and Viability Supplementary Planning Guidance (SPG) Preferred Approach Consultation to provide comments on behalf of Quod. Quod is a specialist, independent consultancy advising on all aspects of planning, development economics, socio-economics and environmental assessments with offices in both London and Leeds. Our focus is on delivering the right outcomes and we are fortunate enough to work with a wide range of clients on some of the most exciting projects in London and across the country. We represent the public and private sector and we have a range of clients including both developers and land owners - more details on our client base and our projects can be found on our web site.

Many of our clients are submitting representations either directly or have inputted into organisations such as BPF, London First, HBF etc. Nevertheless based on our day to day experience of working within the policies set out by the London Plan across most of the London Boroughs seeking to enable delivery of housing and affordable housing we have set out comments which we consider would benefit from consideration in as the SPG moves towards a final version.

I trust our representations will be given due regard and consideration in making the amendments to the SPG to be formally adopted by the Mayor to ensure the guidance provides supplementary advice to the adopted London plan (2016) and national planning regulations, policy and guidance whilst encouraging a step change in housing delivery in London under the new administration.

Table 1. Consultation Responses

Our Ref:	Topic/ Paragraph	Comments
Part 1 – Background and Approach		
001	London Plan Policy (1.6-1.8)	We supports the Mayor's commitment to maximise affordable housing provision in London but seek to ensure that references to viability sit alongside the further considerations set out in Policy 3.12 of the Adopted London Plan (2016). These criteria, including the need to encourage development that meets local need and promotes mixed balanced communities, should be specifically referenced within the SPG.



002	Approach of the Guidance (1.9 – 1.12)	We welcome the attempt to provide greater certainty in respect of the application of existing London Plan policies that relate to Affordable Housing and Viability but would appreciate clarity on the weight that Local Planning Authorities should give to the guidance, in particular, its interaction with existing adopted and/or emerging Local Development Plan Documents. As presently worded LPA's are 'encouraged' to follow the guidance (1.10). Further clarity is sought in what this means in practice and how the Mayor will address inconsistent application by different authorities and between different schemes in the same authority – it would be helpful if the guidance could specifying those circumstances where there can be flexibility / exceptions examples are set out herewith.
004	The Mayor and referable applications (1.16)	The Mayor's commitment to determine planning applications positively is supported where the opportunity for significant contributions to affordable housing could be missed due to other local planning considerations. It is however considered that, in order to provide clear guidance for local authorities, the SPG should provide examples of the grounds which will be weighed in the balance against affordable housing proposals including, for instance, increased height and/or density. We would also encourage the Mayor to use the SPG to set out examples of where support will be given to schemes and where authorities are encouraged to approach applications positively, for example schemes providing 100% affordable housing, opportunities for intensification, tenure innovation etc.
005	Transparency of Information (1.17 – 1.23)	Quod supports openness and transparency as a means to foster trust in the planning system. Some viability information is particularly commercially sensitive and if made publicly available would risk prejudicing the delivery of the scheme. It is accepted that such information and circumstances may be limited but nevertheless providing consistency in terms of approach would be helpful for Applicants, Local Authorities and Third Parties. Examples include information which may prejudice the commercial position of a developer in respect of a future settlement for development related compensation (i.e rights of light or compulsory purchase), land acquisitions which are underway, CPO etc. In the case of Elephant and Caste the First Tier Tribunal General Regulatory Chamber (Information Rights) recognised there needs to be a balance between transparency and commercial confidentiality and found that the public interest favoured withholding the some information (9 th May 2014). This balance should be specifically recognised within the SPG and specific items identified rather than requiring such items to be proved on a site by site basis and risking differences in approaches between schemes and authorities. The SPG offers the potential for clarity and certainty and we would encourage this to avoid confusion and unnecessary reliance on FOI requests.
Part 2 – Threshold Approach to Viability		
006	Approach to Planning Applications (2.6 – 2.10)	<p>The introduction of a threshold approach to viability represents a change in how the GLA will approach the assessment of applications which it is understood is considered to offer the potential for some schemes, those meeting the requirements of Route B, to progress more quickly through the planning system without the need for detailed viability information or comprehensive review mechanisms.</p> <p>As drafted the threshold approach fails to provide sufficient clarity on how the threshold approach will apply to opportunities for intensification of extant planning consents. The Route B approach needs to apply to the additional residential units / Habitable Rooms if there is to be an incentive to intensify schemes especially for those schemes which have a low baseline affordable housing. This approach would also be consistent with the approach to land value and encouragement for AUV to be</p>

		<p>supported by planning consents. Intensification offers potential for speed in terms of delivery but investment in a new application must be incentivised – there is a risk ‘easy wins’ are being missed.</p> <p>The implication of the threshold approach where there is the potential for intensification could result in a reduction in land value where consents are being intensified with 35% Affordable Housing being applied to the total number of units. On this basis, the SPG should enable application of the threshold approach to net additional residential units where there is an existing deliverable planning consent in place. For reference, as illustrated in the example at Annex 1, if London’s largest residential planning consents were intensified by 20% with 35% Affordable Housing on the uplift this could enable the delivery of up to c.3,600 additional Affordable Homes. With the benefit of Route B these homes could be delivered significantly quicker.</p> <p>More generally we would encourage the GLA to consider if there are opportunities for flexibility to be introduced in exceptional circumstances for Route B, for example where a local authority has undertaken detailed work and has a supporting evidence base to justify a lower proportion of affordable housing to 35% this may include Opportunity Areas or Housing Zones. In such circumstances together the GLA and the Borough could agree variances to the requirements in Route B i.e. a reduction in percentage, a different approach to tenure, unit mix, other planning requirements, affordable terms, grant etc which enable a site to benefit from the expedience of Route B but on amended terms.</p> <p>It is also noted, contrary to para 2.12 of the Draft SPG, that where developments are required to deliver investment in infrastructure this will result in a reduction in affordable housing where this could not have been feasibly reflected in the land value (i.e where land is purchased for its EUV or if the extent of infrastructure costs were previously unknown). This reference should therefore be deleted from the SPG.</p>
007	Routes for Applications Under The Threshold (2.11 – 2.13)	<p>In respect of Route A it is considered that the absolute requirement for the inclusion of a near end review mechanism may not always be appropriate. Exceptions should be allowed where, for example, the developer is committing to provide a higher level of affordable housing than is supported by the viability at the time of the application being determined. Adding this flexibility to the SPG would provide a clear incentive for developers to increase the provision Affordable Housing. The SPG should be amended to reflect this accordingly.</p> <p>In respect of Route B, whilst it is recognised that the intention is for land values to adjust to enable Affordable Housing delivery to increase from 13% (2014/15) to an unprecedented 35%, this adjustment is not possible where there the existing land value is derived from an deliverable planning consent. On this basis, it is recommended that the SPG should include added flexibility for the 35% target to be achieved through a number of means including, for instance, by applying the target to the net additional residential units proposed and/or by exploring increased height, density or a change in tenure mix.</p> <p>It is also recommended that the SPG requirement for Route B schemes to be ‘consistent with the relevant tenure split’ should include flexibility for an alternative tenure mix to be considered Route B compliant where it has been agreed with the</p>

		<p>LPA and/or Mayor in accordance with the criteria set out in policy 3.12 of the adopted London Plan, particularly within Opportunity Areas. Further to this, the respondent considers that the requirement for Route B schemes to <i>'meet all of the other relevant policy requirements and obligations'</i> is open to misinterpretation and should be deleted. Its inclusion risks the frustration of much needed housing delivery considering that some policy requirements will almost certainly need to be balanced in the balance when considering larger more complex sites. Greater flexibility in planning requirements will therefore be needed if schemes are to meet the Mayor's ambitious 35% Affordable Housing target.</p> <p>Finally, in respect of Route B, the requirement for <i>'an agreed Benchmark Land Value'</i> should be removed as it will, in most cases, result in an unnecessary delay to the planning process for the large majority of applicants who wish to quickly deliver their sites. This input should be agreed at the time of the early viability review (if triggered).</p>
008	Rationale for 35% (2.14 – 2.16)	<p>As set out above it is considered that the threshold should only apply to the uplift in residential units where sites have an existing deliverable planning consent to ensure the threshold remains deliverable. It is also considered that there should be added flexibility within the SPG for a lower target be agreed with LPA's and/or the Mayor within Opportunity Areas in light of their overall importance in terms of increasing housing delivery and meeting local housing need.</p> <p>Furthermore, whilst it is recognised that the threshold only relates to a different <i>'approach to viability'</i>, we are concerned that in the absence of robust evidence which confirms the 35% target is a deliverable pan London target (including within the more constrained Opportunity Areas of which many have deliverable extant planning consents) schemes providing 35% Affordable Housing may be subject to lengthy Judicial Review proceedings brought forward in the context of the London Plan requirement for the maximum reasonable level of affordable housing. The SPG should therefore provide additional reassurance that the threshold approach is legally compliant.</p>
009	Increasing Affordable Housing to 50% (2.17 – 2.19)	<p>The use of the Mayor's funding powers to increase the delivery of affordable housing is welcomed. It is however considered that, as presently worded, the SPG approach does not provide sufficient incentive for Route A schemes to utilise grant in order to exceed the Mayor's 35% target. This is because the threshold approach does not provide a means for schemes utilising public subsidy to benefit from the provisions of Route B (i.e speed and reduced review mechanism requirements). Therefore even where grant enables 40%+ affordable housing the developer will need to consider whether there is any benefit of providing additional fixed price affordable housing in the context of the potential opportunity cost (i.e foregone private sale value growth).</p> <p>We support early engagement with registered providers during the planning process, however it is not always feasible to obtain <i>'a commitment to affordable housing provision at an agreed purchase price'</i> as Registered Providers require completion of the detailed design stage prior to agreeing a price approved at board level not feasible prior to planning approval.</p>

		<p>In respect of public sector owned land it is considered that the SPG should recognise the legal requirement for public sector bodies to achieve 'best value' and the practicality and legality of 'forgoing land value to increase the number of affordable units' where the public land is subject to a public-private joint venture.</p>
010	Tenure (2.27 – 2.45)	<p>The respondent acknowledges the Mayors' strategic requirement for schemes to include 30% low cost rent and 30% intermediate but is concerned as to how this will be applied in practice. We would encourage the SPG to align with the London Plan and explicitly make reference to the proposed mix being defined having regard to the flexibility set out in policy 3.12 of the adopted London Plan (i.e reflecting site specific circumstances and localised housing need etc).</p> <p>In respect of the remaining 40%, the requirement for which is to be set out in the final version of the SPG, we would encourage this to be subject to further consultation and discussion if this represents a material change from the flexibility that is currently provided. We would also seek reassurance that consistent with the London Plan flexibility is provided for the following:-</p> <ul style="list-style-type: none"> • Subsidy – As illustrated by the example at Annex 2, due to the potential difference in value of the tenures, it is estimated that providing the additional 40% as Intermediate could enable as many as c.7,500 more affordable units to be delivered each year across London in comparison to the London Plans existing 60/40 split (assuming this is viable at 35%). If the remaining 40% was provided as Affordable Rent this could result in a reduction of c.1,500 Affordable units per year (c.21,000 over the plan period). • Housing Need - Intermediate Housing currently makes up small proportion of London Housing (1.3% in 2011 Census). As set illustrated by the graph in Annex 3, due to recent growth in house prices there is a growing number of households who are both ineligible for Council allocated low cost rented housing and unable to afford a mortgage on a private sale home (c.2m in total). This is resulting in issues including upward pressure on rents, overcrowding and the loss of economically active people (including frontline key workers) from London. <p>Para 2.13 confirms that LPA's 'may wish' to allow a degree of flexibility in the tenure split required for Route B particularly in opportunity areas. Amendment is sought for the SPG to explicitly require LPA's to provide this flexibility consistent with policy 3.12 of the London Plan having regard to site specific circumstances.</p> <p>In terms of the affordability of intermediate products, the proposed income cap of £60,000 (a reduction from the current £90,000) does not provide flexibility for intermediate products to target a range of affordability and could potentially therefore exclude up to half a million of London's households from Intermediate Affordable Housing. Households falling within the £60-90k income group increasingly require Intermediate Housing due to stricter mortgage lending. For reference, the household income required to purchase the average house in London is estimated to be in excess of c.£100k (ONS 2017). It should also be carefully considered that the reduced income cap will have a negative impact on Intermediate Affordable Housing values and therefore overall quantum of affordable housing supported by scheme</p>

		viability. Higher caps may therefore be more appropriate on some sites and flexibility should be provided to reflect variances between Boroughs and sites.
011	Starter Homes (2.46)	It is recommended that the final version of the SPG should clearly set out how the Route B threshold and preferred tenure mix for each Borough will interact with the government's emerging requirement for a minimum 10% of affordable home ownership products to be delivered on-site. We would welcome the potential to engage with the GLA on how solutions for London can be identified that provide a positive response to the Government's objectives whilst also achieving the Mayors objectives and commitment to a step change in the delivery of affordable housing that is meaningfully affordable to households in housing need on a range of incomes.
012	Schemes not suitable for Route B (2.47 – 2.66)	<p>It is recommended that the threshold exclusion (for schemes proposing off-site delivery or a payment in lieu) should not apply where 35% Affordable Housing is being provided across two sites and/or where this approach enables other benefits such as significant additionality in unit numbers (better value for money) and/or early delivery consistent with policy 3.12 of the London Plan and the Mayors aims of delivering the maximum reasonable level of affordable homes.</p> <p>Furthermore, it is considered that the estate renewal exclusion should only apply where there would be a net loss of exiting affordable housing to incentivise renewal programs to be brought forward. Where existing Affordable Housing is being re-provided the proposals should be considered Route B compliant.</p>
Part 3 – Guidance on Viability Assessments		
013	Guidance on Viability Assessments (3.1-3.6)	A consistent approach to Viability Assessments is encouraged reference to 'The London Borough Viability Protocol' should be removed from the SPG as this document holds no statutory planning status and has not been subject to formal public consultation.
014	Appraisal Requirements (3.7 – 3.9)	Information relating to the applicant's company should be excluded from consideration. This aligns with the NPPG and the accepted principle that viability assessments for the purpose of planning should be applicant neutral. This requirement should be made explicit throughout the SPG.
015	Development Values (3.10 – 3.19)	<p>Appraisals should be undertaken on a current day cost and value basis – this is aligned to the NPPG. The London Plan does not require planning decisions to be made on the basis of growth based assumptions. The SPG requirement for growth assumptions to be provided with all assessments should be removed. The potential for viability review requirements will make provision for any future growth/uplift being appropriately captured where applied accurately and where they ensure a competitive return to the developer and land owner is secured.</p> <p>In terms of Affordable Housing values, it is not considered appropriate for London Living Rent homes to be valued on the same basis as shared ownership. The GLA's latest position on London Living Rent product, as published on the GLA's website, is that (where there is no public subsidy) the Living Rent product can be retained as rental in perpetuity. It's not therefore appropriate to assume every tenant will want and/or be able to afford to stair case equity. This is consistent with the approach taken by Registered Providers when valuing Shared Ownership.</p>

		<p>The SPG should note that some Intermediate tenures can be delivered direct by the developer or by another organisation other than a Registered Provider. The SPG should also note that it is not always feasible to agree detailed terms with a Registered Provider at the planning stage due to the need for a fixed detailed design. It is not therefore appropriate for values assumed in the viability assessment to be <i>'enshrined in the S106'</i> (3.17). Many Registered Providers will also consider this information to be commercially sensitive.</p>
016	Costs (3.20 – 3.35)	<p>The use of build costs provided in an elemental form based on a detailed specification of the proposed development is encouraged ensuring site specific circumstance sare reflected. It is however considered that reliance on the BCIS database as a benchmark tool is inappropriate for many schemes, including complex schemes in Central/Inner London. As illustrated in Annex 4, within the last 5 years there have only been 9 large Inner London residential schemes added to the database. BCIS rates also lag behind the market due to the reporting time periods and do not take account of site specific circumstances. The rates also exclude allowances for external works, contingencies, fees and non-recoverable VAT. The use of BCIS should not therefore be considered better than or an appropriate replacement for a site specific elemental cost benchmarking exercise undertaken by suitably qualified Quantity Surveyor. This is particularly relevant for more complex developments (i.e those involving significant infrastructure investment). The SPG should be amended to reflect this.</p> <p>It is also noted that the presence of abnormal costs will not influence land value where it is based upon EUV of the site or if the abnormals could not have been reasonably known when purchasing the land.</p> <p>It is essential that there is flexibility for developer's profit to be risk adjusted to reflect the individual characteristics of the scheme. The suggestion that lenders require a lower profit in 2017 than in 2008/9 is not substantiated by any evidence and no reference is made to the more recent the global slow down and/or brexit uncertainty. This is not representative of current market circumstances. The references should be removed from the SPG.</p>
017	Benchmark Land Value (3.36 – 3.49)	<p>An approach to benchmark land value equal to the value below which the land owner (acting rationally) is unlikely to dispose of a site for redevelopment (3.36) is supported. It is however considered, consistent with para 024 (Reference ID: 10-024-20140306) of the NPPG, that the approach taken needs to reflect both the current use value of the land <u>or its value for a realistic alternative use that complies with planning policy</u>. This should be clarified.</p> <p>As presently drafted the SPG suggests that there will be limited justification for any approach other than Existing Use Value plus premium (EUV+). This conflicts with the NPPG (10-023-20140306) which <i>'the most appropriate way to assess land or site value will vary from case to case'</i> and with para 4.1.4/5/6 of the recently adopted London Plan Housing SPG (2016) page 11 of the GLA's Development Appraisal Toolkit Guidance Notes (Jan 2014), pp.28-29 of the LHDG's Viability Testing Local Plans (June 2012) and p12 of the RICS Financial Viability in Planning Guidance Note (2012) – all of which advocate several approaches to land value. None solely rely on Existing Use Value (EUV).</p>

		<p>Whilst it is recognised that it is the Mayor's intention for land values to adjust to enable affordable housing delivery, the EUV+ approach fails to recognise the existence of both existing planning consents and competing commercial land uses. For example in Central London a commercial office developer would commonly be able to pay a land owner more than both the Existing Use Value of the site plus 20-30% and a residential developer providing 35% Affordable Housing (particularly in respect of low values sites such as car parks). By adopting the EUV+ approach to land value residential developers will not therefore be able to outbid commercial developers (i.e providing a competitive return to the land owner) resulting in a significant reduction in overall housing delivery. This approach may also result in land not being released for development (with the expectation policy will be revised later) or the unproductive use of time and subsidy to establish fall back commercial planning consents.</p> <p>The SPG should recognise that there are circumstances where market value is appropriate in the viability process. For example, where a site has a very low EUV and no AUV, it is unlikely to be released for development where this is below the general market rate for residential development land (appropriately adjusted where there has been any non-compliance with planning policy).</p>
018	Contingent Obligations (3.50 – 3.54)	Flexibility is required to enable developers to remove the review requirement by committing to the over delivery of on-site affordable housing at the application stage based on a growth scenario and/or an internal commercial view (which may include not financial considerations). This flexibility is important because it is not always possible to obtain development funding where a review mechanism adds increased uncertainty and potential delay.
019	Approach to Opportunity Areas and Housing Zones (3.55 – 3.57)	<p>The added flexibility for the approach to Affordable Housing on specific sites within Opportunity Areas is supported but flexibility is sought to be 'required' as opposed to being 'encouraged' in light of the relative importance of Opportunity Areas in terms of increasing London wide housing supply and meeting localised housing need. For example a c.10,000 unit scheme would dominate the local housing market area (or may create its own market altogether). Special consideration is therefore required to ensure these schemes maintain mixed and balanced communities.</p> <p>It is also considered that this flexibility should be added to the wording of Route B to ensure Opportunities Areas can benefit from the provision of Route B where flexibility in terms of a fixed percentage of affordable housing and/or alternative tenure mix has been agreed with the Local Planning Authority and/or the Mayor. This is also set out above.</p>
Part 4 – Build to Rent		
020	Why the Mayor Supports Build to Rent (4.1 – 4.6)	We supports the Mayor's commitment to the provision of more high quality private rented homes and recognition of the distinct economies of Build-to-Rent (4.5) is welcomed. It is however submitted that the wording of para 4.5 should be amended to include a clear requirement for LPA's to take a more flexible approach to planning requirements in view of the important contribution Build-to-Rent can make to meeting unmet housing need.

021	Increasing the number and quality of Build to Rent Homes (4.7 – 4.8)	We supports the Mayor's objective to level the playing field with Build-for-Sale by introducing a separate Build-to-Rent pathway through the planning system. The wording of the SPG should be strengthened making it clear that the Mayor will accept the lower Quantum of Affordable Homes on BTR schemes.
022	Definition (4.9 -4.18)	<p>The introduction of a clear definition of Build-to-Rent in the absence of a distinct planning use class is supported. It is however considered that the SPG should allow flexibility for the definition to vary slightly where agreed with the Local Planning Authority in response to site specific circumstances.</p> <p>In respect of the covenant clawback mechanism, it is considered that the SPG should allow flexibility for the Developer to select either Option 1 or 2. Option 1 should be amended to give greater clarity on the calculation, in particular it should be noted that in the 'build for sale' appraisal the affordable housing tenure mix should be that specified under 2.28 of the SPG. Option 2 should also be amended to make explicit that if the developer selects this methodology, the LPA should not request a separate Build-for-Sale appraisal as this will cause unnecessary delay to the process.</p>
023	Affordable Housing Tenure (4.19 – 4.25)	<p>The SPG's flexibility enabling the affordable housing offer to be entirely discounted market rent as conventional affordable housing tenures cannot feasibly be held within the same investment vehicle as Build-to-Rent is supported. It is however considered that the SPG should recognise that institutional investors will require discounted rents to be market linked (i.e set at a % of market rent). It is not therefore feasible for rents to be set at levels published by the GLA (4.22). It is also considered, that the SPG should allow flexibility for rental increased during tenancies to be 'linked' rather than 'limited' to CPI. The standard approach to conventional Affordable Housing products is CPI + 1%. This provides greater certainty for investors that a minimum return can be maintained.</p> <p>With regard to the level of discount, the proposal to permit a range of discounts is supported. It is however considered that the SPG should recognise this will need to be balanced with the quantum of discounted units and that consideration should be given to the affordability and the degree of local fit (i.e key worker demand or business needs). It is also considered that the SPG should clarify if the discounted rental units will be subject to the intermediate household income cap (£60k). If this were the case it would restrict the ability of developers to provide housing which fits local needs including, for instance, the provision of high quality sharing units that are affordable to entry level key workers (i.e 3x incomes at £21k+).</p> <p>The requirement for a commuted sum in lieu of affordable housing if the development were broken up and sold is considered appropriate. The SPG should however be clear that this sum must be agreed at the planning application stage. The SPG should also make clear that where a block is sold to another Build-to-Rent operator then the covenant will not have been breached.</p>
024	Design (4.26 – 4.29)	The inclusion of guidance which clarifies the flexibilities that already existing in the London Plan to support high quality Build-to-Rent developments is welcomed. It is however considered that the SPG should include more explicit references to the flexibility that is required for long term high quality rental schemes, including:-

		<ul style="list-style-type: none"> • Density – greater density than advocated by the London Plan density matrix; • Dwelling Mix – more 1 & 2 beds than local policy would usually support; • Unit Sizes – smaller than minimum Housing SPG provided the shortfall is provided in communal amenity space; • Cores – A range of 10-15 units per core per floor depending on mix; • Parking – A reduced or NIL parking requirement; and • Amenity Space – communal spaces provided in lieu.
025	Viability (4.30 – 4.35)	<p>We support the need to recognise the distinct economies of the Build-to-Rent when undertaking viability assessments. It is however considered that the requirement for a post completion review of viability (para 4.33) should be removed due its practical feasibility and the implications for obtaining institutional investment. As Build-to-Rent developments are often forward funded a fixed price which i) factors in long term rental growth and ii) provides the investor with a minimum return, the inclusion of a viability review could result in the investors return being reduced if, for instance, projected rental growth (already built into the price paid) is double counted by the review. If a pre-implementation review mechanism requirement is to be retained within the SPG then further guidance on the review process should be included. In particular the SPG should confirm that the agreed level of return for both the developer (% on GDV) and the Investor (Net Investment yield) must remain fixed in the post completion review.</p> <p>It is also considered that para 4.35 should be amended to provide a more balanced view on the issues that need to be taken into consideration when assessing a build to rent scheme and should therefore include reference to higher construction costs, lower gross to net efficiency and risk associated with obtaining planning, stabilising the asset (lettings), valuing the asset (limited comparables) and disposing of the asset (limited pool of suitable investors). The third bullet should also be amended to reflect that where the developer and operator are the same the 'sale' will represent transfer to the operating business of the developer.</p>
026	General Support for Build to Rent (4.38 – 4.39)	<p>The introduction of support for Build-to-Rent through planning polices is supported. It is however considered that the SPG should require Local Authorities to plan for Build-to-Rent delivery in order to appropriately meet objectively assessed housing need.</p>
Annex A – Suggested Review Formulas		
027	Suggested Review Formulas	<p>As presently worded both review mechanism formulas 1 and 3 cannot take account of a deficit in the minimum risk adjusted return identified at the application stage assessment. This approach is therefore at odds with the NPPF's requirements for "competitive returns to a willing land owner and willing developer to enable the development to be deliverable" (para 173 - NPPF). It will also disincentive the over provision of on-site affordable housing at the application stage. The formula description should therefore be updated to clarify the GDV and Build costs 'determined as part of the application stage assessment' should not reflect a position that results in a deficit. The SPG should recognise that a one size fits all approach to review mechanisms may not be appropriate and in some circumstance it may be appropriate to have an up and down review. It is also considered that the review</p>

		formula be amended so that the surplus is shared equally (50/50) to adequately incentivise the developer to maximise the performance of the scheme.
028	Threshold Approach to Viability (Diagram)	The tenure diagram should be updated to enable 35% proposals to proceed through Route B where the tenure mix does not meet the required split but has been agreed with the local planning authority and/or GLA consistent with para 2.13 of the SPG.

I trust the above representation are helpful, but if you require further information on any of the representation areas or clarification please do not hesitate to contact Thomas Hatch or Claire Dickinson.

Yours sincerely,



For and on Behalf of Quod

Enc.

Annex 1 – Existing Consent Intensification

Annex 2 – Tenure Sensitivity

Annex 3 – London's Household Incomes

Annex 4 – BCIS Inner London Database

Project Name	Local Planning Authority	Planning Permission	Date of Permission	Number of Units (Total)	Number of Affordable Units	Affordable Provision (%)	20% Density Intensification (Total)	Net Additional Units	35% Affordable Housing on Net Additional Units
Greenwich Peninsula	LB Greenwich	15/0716/O	08/12/2015	12,878	2,904	23%	15,454	2,576	901
Brent Cross	LB Barnet	C/17559/O8	28/10/2010	7,550	2,250	30%	9,060	1,510	529
Earls Court Regeneration	LB Hammersmith & Fulham /LB RBKC	2011/02001/OUT	14/11/2013	7,500	740	10%	9,000	1,500	525
Battersea Power Station	LB Wandsworth	2009/3575	23/08/2011	4,353	581	13%	5,224	871	305
Southall Gasworks	LB Ealing	P/2008/3981	12/04/2016	3,750	1,162	31%	4,500	750	263
Wood Wharf	LB Tower Hamlets	PA/13/02966	24/12/2014	3,610	902	25%	4,332	722	253
Convoy Wharf	LB Lewisham	DC/13/83358	10/03/2015	3,500	525	15%	4,200	700	245
Covent Garden Market	LB Wandsworth	2014/2810	12/02/2015	3,019	600	20%	3,623	604	211
Surrey Canal Triangle	LB Lewisham	11/176357/K	30/03/2012	2,500	525	21%	3,000	500	175
TOTAL				48,660	10,189	21%	58,392	9,732	3,617

Total Dwellings (Annual London Target) 42,389
Average Dwelling Size (sq.ft) 750

	Sales Value (£/sq.ft)	Sales Value (£/dwelling)	Build Cost (£/sq.ft)	Build Cost (£/dwelling)
Market Sale Tenures	£600	£450,000	£200	£187,500
Affordable Tenures				
<i>of which</i>				
Affordable Rent	£150	£112,500	£170	£159,375
Shared Ownership	£400	£300,000	£180	£168,750

	40% Affordable Rent	London Plan Tenure Mix	40% Intermediate
Market Sale Tenures	69%	65%	47%
Affordable Tenures	31%	35%	53%
<i>of which</i>			
Affordable Rent	70%	60%	30%
Shared Ownership	30%	40%	70%

Dwellings			
Market Sale	29,050	27,553	20,020
Affordable Rent	9,337	8,902	6,711
Shared Ownership	4,002	5,934	15,658

Net Additional AH Dwellings	-1,497	0	7,533
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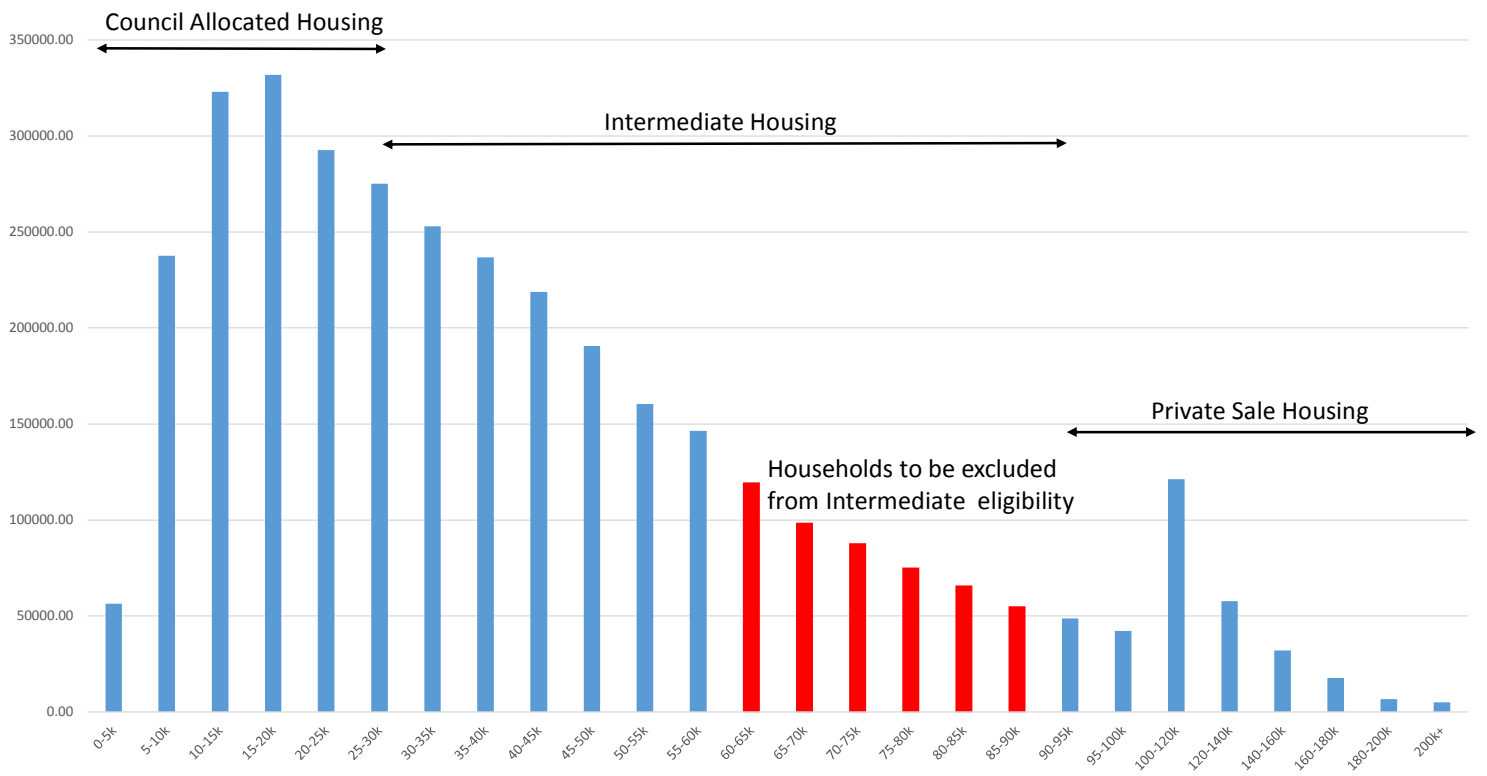
Total Income	£15,323,506,103	£15,180,560,625	£14,461,402,040
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Total Expenditure	£11,061,323,944	£10,918,378,467	£10,199,219,882
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Balance	£4,262,182,158	£4,262,182,158	£4,262,182,158
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Remaining Years of London Plan 2031	14
Annual Shortfall against Baseline	1,497
Total Affordable Housing Shortfall Over Plan Period	20,958

London Household Incomes (CACI 2016)



Homes for Londoners: Draft Affordable Housing and Viability Supplementary Planning Guidance 2016

Comments on behalf of Swan Housing Association

28th February 2017

1. Page 4 (Point 4): How will the measures set out in the SPG be applied consistently across all London Boroughs? To what extent is there buy-in and agreement from affected Local Authorities?
2. Page 5 (Point 7): The 35% minimum target threshold is welcomed. The principle of openness of viability assessments will allow transparency in decision making and give residents confidence that the best deal is being obtained for a scheme. The lack of detail around this matter does however present some questions and concerns around the extent of information provision, and whether this will cause issues relating to commercial sensitivity. The SPG states that “information relevant to planning determinations should be publically available”. Page 11 (para 1.18) continues to state that “the exceptions to this rarely outweigh the public interests”. This is concerning with regard, for example, to confidential Appraisal Information and Assumptions in relation to a subject-to-planning land acquisition. If planning were to be declined, but all appraisal information available publicly, other parties could interfere with the land deal and jeopardise the deal.
3. The definition of affordable housing provision within a scheme is welcome. The 30% rented figure is welcome. This will ensure a future supply of properties to be let at general needs levels. Clarity on rent levels is also to be welcomed, as it allows future planning and also certainty for residents. How do the rent levels noted in the SPG relate to any specific Local Authority set rent levels, and which rent levels take priority where these are imposed by Local Authorities? The variety of tenures proposed and now available to appraise can lead to extreme complexity and confusion, and an approach which rationalises this would be welcome.
4. The Income Cap reduction is also welcomed as will ensure those who are most in need of housing can get access to it, and will prevent affordable housing units being sold to those better off. (The cap will ensure that the price is affordable to more people).
5. Page 9 (Point 1.6): This point appears to set a policy to deliver affordable homes at a rate significantly below the required level. What measures will be implemented to achieve London’s actual need for affordable housing i.e. how will policy seek to achieve the delivery of 25,600 homes a year?
6. Page 10 (Footnote 3): With regard to “Exceptional and Abnormal costs”, at what stage and to what extent do they need to be identified in order to be considered in Planning Obligations? Page 30 (point 3.25) also notes that the applicant should be aware of abnormalities prior to purchasing the site. Some costs will be unknown/ uncertain until intrusive surveys are undertaken, which may not be viable prior to purchase and/or planning.
7. Page 12 (point 1.23): with regard to raising concerns over what information should be disclosed to the public, what criteria and timescales would apply?

8. Page 14 (point 2.9) refers to “Cash in Lieu contributions” – how is it intended for the cash in lieu amount to be set?
9. Page 15 (para 4) states a requirement to use “best endeavours” – this term should be avoided due to potential legal implications, as there is no consistent interpretation of this term in court. “Reasonable endeavours” is the proposed alternative.
10. Page 15 (para 5) states that there will be a review mechanism once 75% of units are sold. The aspiration of this document is to increase the level of affordable housing, therefore instead of the proposed mechanism of a payment to the Local Authority following the later financial review, we propose a) the option to increase the level of affordable homes within the scheme at a level to achieve a financially neutral position on the uplift, or b) the ability for the developer to retain the monies for reinvestment into affordable housing within the borough.
11. There is also concern over when the review mechanism is to be used. It is understandable why a review clause is proposed if the policy compliant level of affordable is not met, but in the SPG, it sets it out that it applies even when it is achieved, and where you have failed to move it up to 50% of a scheme over time. It is also noted that the proposals around review clauses as drafted are potentially extremely complex.
12. Page 16 (para 1): It may not be reasonable / implementable to impose the requirement for applications that follow Route B to “meet all of the other relevant policy requirements and obligations”, as these are often subject to negotiation based on site specific circumstances.
13. Page 20 (Para 2.30) states that the “tenure mix information will be published as part of the final SPG” – Is it known when this will be published?
14. Page 23 (Para 2.50) uses the term “more appropriate” with regard to off-site affordable housing. How will this be defined? Point 2.52 notes that the cost of off-site provision will be financially neutral, which could incentivise developers to simply pay the money as it is simpler than engaging with the complexity of on-site affordable housing.
15. Page 40 (4.9) sets out the definition of a Build to Rent scheme which sets a minimum size of 50 units – Why has this minimum size been set at this level?
16. Care needs to be taken that as the target is on percentage of habitable space that developers are providing the unit types that are needed in an area and not just trying to meet target. However, by working with an RP from the start of a development this should be overcome.

**TAYLOR WIMPEY REPRESENTATIONS
FEBRUARY 2017
GLA DRAFT AFFORDABLE HOUSING AND VIABILITY SPG 2016**

Introductory Statements

Taylor Wimpey makes a significant contribution to providing new homes and creating communities across London, developing in all zones with offices in Central London, East London, West London, North Thames and South Thames. We therefore welcome the opportunity to comment on the draft Affordable Housing and Viability Supplementary Planning Guidance 2016 ('draft SPG'). Set out below are our comments on this document that we trust the GLA will take on board.

We support the Mayor in boosting the overall supply of high quality homes in London, including affordable and Build to Rent, and we appreciate efforts to make London's planning system more efficient and consistent. We consider that the planning system across London still delays projects coming forward. Consistency of policy and approach, with scope for flexibility, would assist efficiency of delivery. In particular, getting guidance right on viability and Build to Rent will facilitate the delivery of new housing.

In reviewing the draft SPG, we have had regard to paragraph 153 of the National Planning Policy Framework ('the NPPF'): *"Supplementary planning documents should be used where they can help applicants make successful applications or aid infrastructure delivery, and should not be used to add unnecessarily to the financial burdens on development."*

We also emphasise that the requirements of the SPG should not lose sight of a key London Plan priority to encourage and not constrain the delivery of new homes in the capital.

Whilst the GLA's aspirations in respect of transparency and accountability are recognised, it should be noted that guidance provided in the national Planning Practice Guidance (PPG) already clearly explains how viability should be assessed. This is the primary guidance on assessing viability and the SPG should be in accordance with and not differ from the PPG. As a general comment we consider it would be helpful for practitioners if the final SPG referenced the PPG more extensively in terms of specific paragraphing for context.

Parts 2 –Threshold Approach to Viability

Taylor Wimpey notes the intended outcomes of a threshold approach to viability are to provide certainty, consistency and ultimately increase the level of affordable housing in London. This should not be at the expense of discouraging overall housing delivery in accordance with the London Plan and Government policy.

The guidance states that London Boroughs can continue to use local affordable housing policy if *"boroughs discuss with the GLA and provide evidence that this will deliver an average of more than 35% affordable housing without public subsidy"*. There could therefore be a number of different approaches adopted across London which is counterintuitive to creating consistency.

In Route A, the draft SPG proposes where an application does not meet the threshold a viability appraisal should be submitted in a standardised and accessible format. However, PPG states that there is no single approach for assessing viability and we would welcome flexibility in the acceptability of the appropriate viability format.

We believe review mechanisms decrease certainty when delivering schemes and are not necessary or appropriate in all instances. If an early review is required it should be made within appropriate timescales if implementation has not occurred, no sooner than two years from the grant of consent as the original viability should be valid. Further clarification is sought on what assumptions can be revisited as part of the review. For example, where assumptions have been made on site conditions and neighbourly matters.

We consider a 60/40 split of any surplus concluded from a viability review does not appropriately reflect the associated risks for an applicant and should be reconsidered by the GLA.

With regard to a “near end of development review” we believe this approach is neither appropriate nor practicable. It requires adjustment to the allocation of funds from the outset to make allowances for any future unknown requirement which will hinder financing arrangements and reduce circulation of funds in the scheme to offset interest costs. It greatly increases uncertainty in phased schemes, major development and regeneration projects.

Taylor Wimpey notes that the draft SPG does not provide any guidance on calculating a financial contribution in lieu of on-site affordable and how this should be capped to reflect policy target.

We request clarification on the level of GLA scrutiny if it is agreed with the Council that a scheme achieves 35% or more affordable housing but with public subsidy. We also request clarification on how enabling development of infrastructure and community projects would be accounted for within the threshold approach.

In Route B, there is no evidence to demonstrate that 35% is achievable in London. In recent Taylor Wimpey schemes, affordable housing provision on sites across London based on the maximum reasonable amount demonstrated by viability assessments has included:

- Central London: 12% affordable housing at Monck Street, Westminster, and 21% at Lockington Road, Wandsworth.
- East London: 23% affordable housing at Monier Road, Tower Hamlets, and 20% at White Post Lane, Hackney.
- West London: 16% affordable housing at Bessant Drive, Richmond.
- North Thames: 19% affordable housing Sudbury Hill, Harrow.
- South Thames: 22% affordable housing Osier Road, Wandsworth and 29% Gresham Road, Lambeth.

Setting a threshold at this level will constrain rather than encourage development or result in undeliverable planning consents. There is no sound basis to insist on compliance with the relevant tenure split in all cases, as each scheme should be considered on its merits having regard to the particular needs of that Borough.

A requirement to meet “*all of the other relevant policy requirements*” is very onerous and will constrain not encourage development. It is usually recognised by planning authorities that due to site constraints in London, development proposals can be acceptable and supported without meeting *all* requirements in full. In decision making, an important balance has to be struck to assist delivery of new homes. The wording should allow for decision makers to agree the scope for flexibility in the application of policy where this can be justified.

With regard to no net loss of existing affordable housing (including estate renewal), flexibility needs to be introduced for replacement tenures or where previous tenures do not reflect the preferred types identified in the SPG.

The SPG cannot make policy and we object to the draft SPG stating that *“it will not be appropriate to apply Vacant Building Credit in London”*. The SPG should be fully compliant and consistent with the NPPF and PPG which take precedent.

Part 3 – Guidance on Viability Assessments

The guidance issued by the London Borough Viability Protocol should be given little weight. It is not adopted policy and is not in accordance with national policy. We note that it is also at odds with professional guidance – specifically the RICS Guidance Note which is in accordance with the NPPF and PPG.

Taylor Wimpey welcomes that the Mayor will consider whether the approach adopted and inputs used in a viability assessment are appropriately and adequately justified by evidence. This statement is consistent with the PPG.

We consider the SPG should have full regard to Paragraph 173 of the NPPF which states that sustainable development requires careful attention to viability and costs in plan-making and decision-taking. It identifies that the scale of obligations and policy burdens should not threaten the viability of development and these burdens should enable competitive returns to a willing landowner and willing developer. The NPPF clearly requires planning policy to have regard to the market.

The draft SPG currently does not acknowledge the PPG requirement that when assessing land, three principles in all cases should always be considered:

- *“reflect emerging policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge;*
- *provide a competitive return to willing developers and landowners (including equity resulting from those building their own homes); and*
- *be informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise.” (PPG: Paragraph 014 Ref ID 10-014-20140306)*

Specific reference is made by the PPG that transacted bids should be considered as part of the land value assessment as long as they are not significantly above the market norm. These three strands are not hierarchical and carry equal weight. The SPG stays silent on two of these strands which are a requirement of consideration of land value. We strongly support their inclusion in the Mayor’s approach to assessing land value to ensure it remains consistent with NPPF and PPG.

Taylor Wimpey highlights that the SPG does not identify how the EUV+ approach reflects or accounts for any of the three common principles identified by the PPG to be considered in all cases. It does not provide guidance on how this approach reflects the price at which a reasonable landowner would be willing to sell their land for development. The PPG indicates that the sum will need to provide an incentive for the landowner to sell when compared to other alternatives. It goes on to suggest such alternatives may include current use value of the land or a realistic alternative use that complies with planning policy.

It is inconsistent with the PPG to consider that the use of AUV will generally only be accepted where there is an existing implementable permission. The PPG states that an alternative use would be considered by a reasonable landowner on the assumption it complies with planning policy.

Therefore, for an EUV+ approach to be reasonable, the premium applied must be based upon market evidence and justification to an alternative premium must also be equally based upon market evidence. Commentary in the draft SPG that such a premium could be 20% to 30% or lower is misleading and unhelpful. The Mayor's proposal that market value for a scheme will generally not be accepted is not only inconsistent with NPPF and PPG but also inconsistent with determination of another key variable: Gross Development Value, which is justified by market-based comparable transactional evidence.

Part 4 – Build to Rent

Taylor Wimpey welcomes the Mayor's support for Build to Rent and the proposed use of a Build to Rent 'pathway' through the planning system. However, we request that fewer restrictions and greater clarity are required to enable Build to Rent opportunities to be fully realised in London projects. The SPG should make a clear statement of guidance reflecting the specific features of Build to Rent, explaining how it should be applied and what its likely implications may be in terms of requirements such as the provision of affordable housing. We seek clarification on how Build to Rent would be treated within larger mixed tenure schemes.

Covenant – the proposed requirement for a covenant of "*at least 15 years*" is too narrowly defined. It creates more uncertainty and scope for inconsistency, and will make investment decisions in this sector potentially difficult. Guidance on covenants should have regard to the Government's comments made in the Consultation Paper on Affordable Housing and Build to Rent.

Tenancy – the time period of "*ideally three years or more*" in paragraph 4.9 has no sound planning related basis. The word "*ideally*" creates uncertainty and inconsistency. Flexibility is key to accommodating a range of operators and tenants, particularly supporting the mobile workforce needed for a world class city.

Clawback – we consider clawback is not appropriate in principle. Option One necessitates the submission of two viability assessments alongside one another – one for the Build to Rent development proposed and the other for a 'build for sale' scheme. This approach is flawed as it overlooks the unique characteristics of Build to Rent developments that mean they cannot be directly compared to 'build for sale' products.

The draft SPG should more clearly recognise other distinct Build to Rent design characteristics, such as communal facilities and services. Option One as currently described is not clear on tenures and what happens to units let at discounted market rent upon sale. Option One does not deal with the circumstance where a 'build for sale' scheme could have less value than the Build to Rent development it is being compared to.

We disagree that the clawback amount should be set at 35% affordable housing. We fundamentally question paragraph 2.14 of the draft SPG that past completions and approvals justify the achievability of 35% affordable housing. In our experience, particularly on strategic urban regeneration sites with significant infrastructure and enabling costs, rates of 20 to 25% are being achieved. In addition the draft SPG in paragraph 2.15 makes the point with regard to usage of 35%:

“As stated previously, it is not a fixed level of affordable housing, but a threshold at which the approach to viability information changes...”

The currently proposed use of 35% for Option Two clawback calculations is therefore misguided and not based on evidence. Whilst we disagree with the principle of a clawback, if it is to be included applicants should be given the choice in negotiating the covenant of which option to use for calculating clawback, based on the specifics of the Build to Rent project in question (the choice will be influenced by the details of the covenant entered into and whether or not there is an intention to sell).

Affordable housing tenure – we support the proposal that all of the affordable housing in a Build to Rent block should be discounted market rent. But we object to the statement (paragraph 4.21) that the Mayor would *“prefer the discounted market rent to be at London Living Rent levels”*. The draft SPG states that:

“Unlike other discounted market rent products London Living Rent has the advantages that it has a London-wide electoral mandate, can be consistently understood and applied across London, can earn the public’s trust as being genuinely affordable, and will be backed by the GLA who will uprate it every year.”

However, analysis by planning consultants Lichfields indicates that the London Living Rent would fluctuate significantly across wards and could have unintended consequences for the provision of affordable rented housing. Examples of possible fluctuations that could arise from London Living Rent relate to development locations (especially outer versus inner London wards), affordability levels and potential delivery rates. Lichfields’ analysis shows that in some outer London wards (Orpington in Bromley or Coombe Hill in Kingston upon Thames), London Living Rent products would be at a very similar level to affordable rent. In other cases (Crystal Palace in Bromley or Emerson Park in Havering) London Living Rent would only be set at 80% of market rent due to the ‘final affordability safeguard’ (i.e. *“the rent for any individual unit must be at least 20% below its assessed market rent”*) set out on the London Living Rent webpage.

Analysis from Lichfields suggests that this intervention could lead to an uneven distribution of both Build to Rent schemes and London Living Rent products across London. The first sentence of paragraph 4.22 should therefore be deleted. It should only be at the start of the first discounted market rent tenancy that the SPG should state that the property may be let at London Living Rent, as it cannot be foreseen what the London Living Rent would be in relation to future tenancies.

We also have reservations about the suggested alternative to London Living Rent for the initial letting (paragraph 4.22), where the discount to market should *“be fixed at a rate that makes the rent equivalent to London Living Rent for the initial letting”*, with this discount *“then being applied to the current market rate for the development at the start of each new letting”*.

In either case, rents for future tenancies should be at different tiers in discounted market rent levels; rent rises within tenancies should refer to ‘agreed formulae’ and should use the same wording as standard rent review clauses

We therefore request that paragraphs 4.21 and 4.22 are revised to reflect a more flexible but still standardised approach that would be agreed with the local authority prior to planning permission being granted.

We note the Mayor's comment that in providing homes at London Living Rent, this will *"usually represent a deeper discount on rents for Build to Rent homes than the common metric of 80% of full market value of that home"*. As such, this will have *"impacts on the quantum of affordable housing that can be obtained through the viability process"*, as explained in the draft SPG. Paragraph 4.24 should go on to confirm that, in such circumstances, a lower level of affordable housing would therefore be acceptable.

Design – we strongly support the scope to accept flexibility in design standards. However, more guidance is required on the extent to which the GLA and local planning authorities should *"allow some flexibility on design standards"* and how *"flexibility on some standards"* would be applied. Guidance on the extent of flexibility that can be applied is sought in order to deliver more Build to Rent projects across London.

Viability – we agree that it is not appropriate to set a specific threshold approach for the level of affordable housing provided within Built to Rent schemes and accept that each scheme should be assessed under Route A in terms of its own viability. It is too early in the development of this product to be prescriptive on how it should be assessed. The risk profile of Build to Rent schemes will vary depending on size and complexity and it is not appropriate to consider all Build to Rent schemes will be forward funded and have a reduced risk profile to a build for sale scheme.

A clear omission from Route A as currently drafted is the absence of any direct reference to how competing uses will be taken into account as well as the implications of mixed use schemes.

Given the uncertainties around Build to Rent we do not consider it appropriate to include any review mechanisms, particularly with regard to the following characteristics of Build to Rent schemes:

- a different approach to profit dependant on the associated risk profile of the proposed development;
- different approaches to sales and marketing depending on size and funding arrangements;
- the rate of uptake as opposed to sale or disposal will generally be faster for a Build to Rent scheme; and
- potentially different risk profile depending on funding profile, such as forward funding arrangements.

Management Standards

Whilst we support the concept of management standards we do not accept the overly prescriptive approach set out in the draft SPG's paragraph 4.36. Restrictions over duration of tenancy agreements and on-site management are unnecessary to make a development acceptable in planning terms and both go beyond reasonable planning controls.

It is beyond the remit of planning to require a complaints procedure. This is a private matter between tenants and management.

It is wholly unacceptable to require all properties to be advertised on the GLA's London-wide portal. This neither relates to planning considerations nor the tests for s106 planning obligations in terms of not being "necessary" to make the development acceptable, not "related" to the development and not fairly and reasonably related in scale and kind to the development.

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Affordable Housing SPG
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London SE1 2AA

Reference: AM/GLA

28 February 2017

By e-mail copy only

Dear Sir,

'HOMES FOR LONDONERS', DRAFT AFFORDABLE HOUSING AND VIABILITY SUPPLEMENTARY PLANNING GUIDANCE 2016. REPRESENTATIONS BY TELFORD HOMES PLC.

On behalf of Telford Homes, set out below are our representations to the 'Homes for Londoners', Draft Affordable Housing and Viability SPG. Telford Homes deliver between 800 and 1000 new homes a year, ranging from brown field stand-alone sites to large estate regeneration schemes. Telford Homes manage the complete development process, from acquisition and planning, through construction and marketing the homes to those living and working in London.

Working in London only, our reputation is built on high quality delivery and customer satisfaction. We are a trusted development partner and we have a strong relationship with many of the prominent Registered Providers that operate in London.

Within the forward of the SPG, it is noted that affordable homes comprised 13% of the new homes approved in London in 2014-15. Telford Homes have delivered schemes that have had significantly more affordable homes and therefore are astutely aware of the challenges of delivering policy compliant affordable housing within the context of increasing the delivery of housing within London.

Following a review of the SPG, we are in support of the Mayor's aim to make the planning system clearer, quicker and more consistent. In doing so, we can see the SPG as a mechanism to help with this, but in order for the SPG to be most effective, the detailing is critical and a balance must be struck between targets and flexibility to ensure the delivery of homes is not stifled. In this regard, we hope that our representations below are taken into consideration prior to adaptation.

Part 1 and 2 – Threshold Approach to Viability

The SPG identifies two 'routes' with regard to affordable housing.



Route B, is unequivocal, whereby '*...schemes meeting or exceeding 35 percent affordable housing without public subsidy are not required to submit viability information*' (Paragraph 2.3, page 13). Telford Homes support this approach in principle. By having a fixed minimum threshold, it adds clarity to the process and should ensure applications are determined quicker through the planning process, ultimately allowing construction to commence quicker and thus speed up the overall delivery of housing.

In order for this threshold to work, it will need to be fully aligned with all London Boroughs. There could be a possible scenario whereby 35% affordable housing is achieved but is legally challenged on the basis that local policy either suggests a higher percentage or a 'maximum reasonable amount'. Without a viability study, the Borough could argue there is no evidence to suggest the maximum reasonable amount has been achieved. As the SPG at this stage holds no material weight and acknowledges that almost all LPAs have an affordable housing target (*paragraph 1.14*), there must be a clear understanding with London Boroughs that 35% negates **any** need to provide a viability report. Without this agreement, it undermines the objective of this part of the SPG.

Route B is furthermore, subject to 3 tests, which are 1) No public subsidy, 2) Consistent with the relevant tenure split, and 3) meet all other relevant policy requirements and obligations. Telford Homes have no issue with test 1, but test 2 and 3 are too rigid. Whilst we can understand, in particular to test 2, in having some rationale for tenure split (*as identified in paragraph 2.28*) this is subject of further consultation with LPAs (*paragraph 2.30*).

There is no clarity within the SPG if the consultation with the LPAs will be shared with the industry, but of more concern, is once the tenure mix is fixed, how 'consistent' a planning application will need to be in order to meet this test. No site is like one another within London and a scheme of circa 20 units will have different dynamics to a scheme of circa 200 units. Indeed, some applications may be approved in outline, with a delivery pipeline of more than 10 years, so the tenure mix may fluctuate between phases.

Whilst we support the principle of a tenure split, there should be flexibility in this test in order to allow pragmatic engagement/negotiation to take place, whether that is with the applicant/developer, Registered Provider or both. There will be several cases where the proposed tenure split will and will **not** work and it would seem counterproductive to the very emphasis of this SPG if this test was strictly applied.

Equally, the third test is considered in the same vein. There is no clarity on what is considered '*other relevant policy requirements and obligations*'. Regardless of whether this relates to housing or non-housing policies/obligations, this should not form a test of Route B. The LPA's have other powers to assess other policy/obligations and above all, have the right to refuse an application if it does not accord with policy.

Test 3 however, could be used as a blunt instrument to frustrate permissions being granted effectively and efficiently if used prescriptively.

Whilst not a test per se, should Route B be implemented, the SPG confirms that *‘...an early review mechanism will be triggered if an agreed level of progress on implementation is not made within two years of the permission being granted’*. The GLA will be well aware that a minimum of three years is given to implement a consent and whilst Telford Homes do not object to the principle, on complex schemes, issues such as foundations, contamination and demolition, third party approvals, i.e. utility providers, can often take time in not only discharging planning conditions but also undertaking the work. Therefore the *‘agreed level of progress’* needs to be considered pragmatically in connection with each sites complexity.

Recommendation: Telford Homes support the principle of Route B, but consider further clarity is required and the omission of ‘Test 3’ (as referred to in the above).

With regard to Route A, the SPG makes clear *‘Where an application does not meet the threshold level, supporting viability evidence should be submitted...’* (Page 15). Telford Homes consider that due regard should be given to exceptional circumstances or abnormal costs before Route A is pursued. Abnormal costs are identified in *footnote 3 on page 10*, but equal consideration should also be given to genuine cases of enabling development, such as the delivery of social or community infrastructure.

Should Route A be adopted on applications that are sub 35 per cent, *page 15* of the SPG identifies the early review mechanism. In doing so, Telford Homes do not object to the principle of the mechanism or *Appendix A* of the SPG, which identifies the review formula. It is considered that the formula should be based on a whole viability review and not solely on the GDV and build costs, which do not allow for market circumstances and other factors within the developers appraisal to be updated. In this way, a genuine like-for-like can be compared.

In addition, whilst in principle we support on-site affordable housing, the review of the scheme design, at a later stage, needs to be carefully considered and how additional affordable housing (*assuming a surplus is generated*) is encompassed. The design of the affordable housing is carefully considered at an early stage, often with a Registered Provider to ensure cores and tenures are appropriately located to facilitate effective management and to limit the service charge implications on affordable units.

By providing more affordable housing on site, this may in turn be a detriment to the original proposal and lead to further design changes required, delaying overall delivery. Therefore, full consideration needs to be given to the merits of further affordable housing on site and the practicalities of delivering this, versus the option of off-site affordable housing, which could be more beneficial. Recognition of on-site provision at later stage, working on larger scale developments e.g. outlined/phased schemes.

Recommendation: Telford Homes acknowledge Route A as a necessary route to deliver viable schemes, but consider further thought on review mechanisms is required (as referred to in the above).

Public Land

Paragraph 2.26, it states that *“On a case-by-case basis it may also be appropriate to explore the potential to increase densities to make delivery of more affordable homes viable”*. This paragraph is within the

subsection titled '*Registered providers and public owned land*' and it is therefore assumed that the aforementioned statement is in relation to publicly owned land only.

Recommendation: We support that increased density should be considered on a site-by-site basis, but for the avoidance of doubt, the SPG should clearly state that this relates to all land and not just publicly owned land.

Affordability of Other Intermediate Products

Paragraph 2.38 states that the Mayor intends to "*limit eligibility for London Living Rent and other intermediate products to households on incomes of £60,000*".

Recommendation: It is considered that eligibility criteria and salary caps should be maintained at current levels rather than based on a £60,000 household income cap. This is especially relevant for larger family units. If not increased for 3bed+ units especially, the provision of them within the intermediate tenure could be stifled.

Benchmark Land Value (BLV)

Recommendation: Telford Homes disagree with the EUV+ as the method for calculating the BLV as this opens up the 'plus' element to debate as to what's an appropriate premium to bring the site forward. We promote and support the use instead of Alternative Use Value model, reflecting policy requirements, where the BLV in the case of a residential led scheme the alternative use is a policy compliant 35% affordable housing scheme.

We trust that that above representations will be duly noted and we would welcome the opportunity to discuss this further with you. Should you need to contact us regarding the enclosed, please contact [REDACTED]

Yours faithfully,

Telford Homes plc

Affordable Housing SPG
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28th February 2017

Dear Sir / Madam,

Mayor of London - Homes For London

Draft Affordable Housing and Viability Supplementary Planning Guidance 2016

Representations on behalf of Tesco Stores Limited

GL Hearn is instructed by our client Tesco Stores Limited to review and make comment on the Mayor of London 'Homes for Londoners – Draft Affordable Housing and Viability Supplementary Planning Guidance 2016'.

Our client has a significant footprint across London with over 500 stores and employing 26,000 people. They have worked with the GLA and London Boroughs on developing their store network across London and want to retain a strong presence across the city. However, while they want to retain stores, they also wish to ensure sites are put to best use and have reviewed their property portfolio to identify opportunities where they can release value whilst enhancing the experience for their customers. These opportunities may take a number of different forms from building on car parks to the redevelopment of whole sites. Many of these opportunities will come in the form of Air Rights which involve selling the rights to build over retained land on a long leasehold basis.

Tesco has identified sites through their earlier SHLAA submission. Following further analysis, they have now identified numerous freehold and leasehold sites where an opportunity exists to release land for housing. From the initial feasibility studies our clients believe that these sites realistically could deliver in order of 6,000 homes, and potentially more.

Our client understands that for London's future success going forward it is important that new homes, including affordable homes, come forward and are supportive of this. They have therefore asked us to engage in this process and we have identified areas where we are supportive of the SPG's aims but have also identified areas where we consider it can be improved.

Summary of Key Issues on the Draft SPG

The following are the key issues that are addressed in this response:

1. Benchmark Land Value
2. Air Rights
3. Threshold
4. Review mechanisms
5. Tenure changes
6. Build to Rent
7. Transparency
8. Resourcing and decision making
9. Transitional provisions

In addition, we would like to raise a potential concern in relation to how the SPG will be applied in practice. Whilst it is recognised that the threshold, ratios, tenure and other numerically defined aspects of the SPG are intended to be either a threshold and not a target, or are intended to be guidance and not a fixed value, there is a concern that the GLA and Boroughs will seek to apply the SPG as if the numerically defined aspects were fixed.

We would like to see that the principles and specifically the numerically defined aspects established in the SPG are applied by particular reference to the site and proposals under consideration, and local need; and that a degree of flexibility, particularly during a stage of transition, is formally adopted and explicitly expressed in the SPG. This should allow the maximum reasonable amount of affordable housing to come forward where otherwise this might not be the case if the principles are rigidly applied.

Support for key principles

Our client supports a number of key principles outlined in the Draft SPG:

- (i) They agree that currently insufficient affordable housing is being delivered in London.
- (ii) Basing the assessment on the percentage of 'habitable rooms' rather than 'dwellings' is to be supported as it allows greater flexibility to consider a range of housing types.
- (iii) A threshold approach is supported in principle as it is recognised that this could simplify the system, thereby speeding up delivery, and that the current requirements are generally unviable – subject to our commentary below.
- (iv) They also support a tailored approach to Build to Rent developments reflective of the special nature of this product type but have concerns about the approach as identified below.
- (v) In general terms the guidance is welcome as it builds upon other sources (e.g. RICS, NPPG) in setting out the requirement for an evidence based assessment while retaining flexibility in terms of the format in which this is provided.

Our client looks forward to working with the GLA in achieving these principles and has asked that we therefore examine the details outlined in the Draft SPG from a practical development perspective. We have a number of queries or concerns regarding specific elements where these are considered misleading / confusing and have suggested some possible ways to provide clarity and improve the draft guidance.

1 BENCHMARK LAND VALUE

- 1.1 An 'EUV plus' approach we note has been identified as a key component of the Mayor's assessment of viability (paras 3.42-3.46). We consider this singular approach will, however, result in sites not coming forward which otherwise would have done so.

- 1.2 We note the guidance also technically takes account of the 'Alternative Use Value' (AUV) which landowners will consider when selling their land to developers. However, as currently drafted we note the Mayor will only accept this approach on sites with implementable permission (para 3.47). This is despite the fact that alternative uses are a market factor even where planning permissions are not in place as many development sites may be suitable for a variety of competing uses. This is an increasingly important issue in London, where competition between different uses for sites is common and particularly where commercial uses start to outperform residential. We therefore suggest that AUV approaches be accepted where it is demonstrated there is a viable demand and policy requirements are capable of being met.
- 1.3 A Market Value (MV) approach (by reference to transacted bids) is not included (para 3.48) despite this being the way the market operates. Nor does this take account of a Boroughs' own evidence based approach to viability assessments and on-going current assessments. A MV approach is often particularly appropriate for certain sites (e.g. cleared or derelict sites, or sites in temporary uses while redevelopment is awaited) where there are no existing or alternative uses.
- 1.4 We note the concerns raised over the application of a MV approach, but consider this is misplaced. In order to safeguard early delivery of sites with a low EUV/AUV, but real higher MV, we recommend that further guidance in line with NPPG (paragraph 023 and 024) together with professional sector led guidance such as RICS "Financial Viability in Planning" is provided rather than it being removed completely as an option.

2 AIR RIGHTS

- 2.1 A particular area where our client would like to see specific reference made is in relation to air rights. Tesco are actively looking at bringing forward sites for housing by way of Air Rights ('land' above existing car parks and/or stores). The intention is that these sites will be released for development by third parties. Developing Air Rights will impact on internal returns (e.g. lower sales whilst works are being undertaken due to disruption, potentially lower future sales due to a smaller store on site), incur costs (this will involve reconfiguring car parks and potentially part of the store itself) and introduce risk (this may be as simple as customers being deterred by the works and not returning after these have been completed). Where development at a site involves a partial or complete redevelopment of the store then there will be the cost of remodelling the store, the associated disruption in trade and there may be other costs associated with staffing levels.
- 2.2 These costs should be reflected in any viability assessment that is submitted; because these are unusual, we would like to see express recognition for these in the SPG.
- 2.3 Further, however, in order for any landowner to release Air Rights for development, there would need to be a competitive return, over and above costs being recouped. Currently, it is not possible to provide for this in an EUV plus approach, since of course there is no existing use of the air above the stores.
- 2.4 We therefore would seek a bespoke approach to viability in such cases, which makes appropriate provision for recognition of the unusual costs and also the need for a return to a landowner, to act as an incentive. This bespoke approach could be set out in the SPG. Alternatively, the need for such an approach in these cases should be explicitly recognised. This is an important point for the SPG, as Air Rights have the potential to provide a significant volume of additional housing in London.
- 2.5 One possible approach is set out in the attached paper "a base land value for financial viability assessment used for planning purposes for redevelopment of and over existing Tesco Store sites". This reflects the additional costs of releasing the 'land' for development (e.g. construction of a podium deck above an existing store). This would avoid both under and over valuing the 'land', thus ensuring a deliverable scheme but at an appropriate level of affordable housing.

3 THRESHOLD

- 3.1 We note this is a 'stepping stone' towards the Mayor's target of securing 50% affordable housing from all new developments and as stated above, our clients are supportive of bringing forward more affordable homes in London. However, the average planning obligation commitment to affordable housing in London is currently approximately 13% (para 2, exec summary). This is despite extensive viability testing by LPAs. Accordingly we would like to see the evidence supporting how the 35% figure has been reached to ensure it is viable. A threshold of 35% is a significant step up and we are concerned that it does not reflect market realities. It may not, therefore, incentivise applicants to adopt this approach and push up the level of affordable they might otherwise provide. The status quo is therefore likely to be maintained with applicants simply choosing Route A.
- 3.2 Consequently the threshold should perhaps be set at a level reflective of the higher levels of viable provision (without subsidy) identified in the GLA's own evidence across London currently. This would ensure a higher threshold than is currently being achieved on average but at a viable level that does not dis-incentivise applicants from proceeding down Route B. The level of provision across London should be monitored and the threshold should be subject to periodic review to assess its efficacy.
- 3.3 The SPG states that CIL is not to be used to argue for a reduction in affordable housing (para 2.13) but this may be contrary to LPAs' evidence to support CIL charging schedules and reduced affordable housing contributions. Viability assessments have to be based on the total costs of development, including all planning requirements such as CIL. Accordingly there is need for flexibility in the threshold as described above in Boroughs which have adopted this evidence based approach to affordable provision.
- 3.4 Specific wording at para 2.6 is addressed to LPAs who are "strongly encouraged" to apply the threshold and apply the guidance of the SPG. However, the SPG ought also to advise LPAs that the SPG is only guidance and it cannot be applied ignoring policy in Boroughs' adopted development plans. There is a need to avoid creating confusion for both applicants and LPAs in the application of the SPG guidance.
- 3.5 The statement that schemes achieving 35% affordable housing (Route B) will not be required to provide viability information (page 16) is technically incorrect. A benchmark land value will be required to be agreed. This is often the aspect of a viability assessment that takes longest to agree. All parties are likely to require an agreed viability position so that they can understand the potential impact of agreeing a specific 'benchmark land value.' Accordingly many Route B applications will require full parallel viability discussions. Hence, this provides little incentive for applicants over Route A. Our suggestion is that in schemes adopting Route B no benchmark land value will be required to be agreed at the point planning permission is granted. A benchmark land value will only be required to be agreed if the scheme does not achieve agreed levels of progress triggering a review (in the event that a review mechanism is required)¹.
- 3.6 We query the requirement to meet "all other relevant obligations and requirements" (para 2.11). This could potentially be interpreted as automatically blocking applications from Route B which are broadly compliant with policy requirements but may breach some minor aspect. We suggest, therefore, that this is more clearly defined and/or discretion be allowed in relation to schemes with minor deviations. A need for flexibility to respond to individual circumstances is required.
- 3.7 Cumulatively, a 35% threshold, the need to agree a benchmark land value, additional policy costs and the prospect of a review mechanism (see 4.1 to 4.7 below) even on single phase schemes are unlikely to make Route B a sufficiently attractive option for many applicants compared to Route A.

¹ We make submissions about the requirement for review in the next section.

4 REVIEW MECHANISMS

- 4.1 In the SPG an 'early review where an agreed level of progress on implementing the permission ... is not made within two years of the permission is being granted' is required for both Route A and B, and a 'near end of development review' required additionally for Route A. We have some queries and suggestions about these proposals.
- 4.2 First, although we accept the principle of reviews for multi-phase developments, for single phase developments we do not feel that there should be a review as this is contrary to NPPF policy and NPPG guidance. We accept the principle of reviews for multi-phase developments, but such reviews should reflect the phasing identified in the permission. Any review should allow for either an up-lift or downshift in affordable provision to reflect viability.
- 4.3 Secondly, if an early review is to be required, the concept of an 'agreed level of progress' (page 15) in relation to review mechanisms should be defined, as a lack of definition leaves it open to interpretation. This increases uncertainty. Accordingly we suggest that clear guidance for Boroughs is published as part of the final SPG. Boroughs should, however, have the flexibility to agree a departure from the guidance on a case by case basis.
- 4.4 Thirdly, however 'an agreed level of progress' is defined in any particular case, for any early review to be required within a two year period could potentially be quite onerous. As we have already said, in multi-phase developments any reviews should reflect the phasing (prior to implementation of a phase) identified in the permission. If an early review is to be required within a fixed period, whether in the case of a single or multi-phase scheme, two years is likely to be too short. It does not take account of the challenges in delivering complex planning permissions where there are likely to be reserved matters and pre commencement conditions to discharge. There needs to be sufficient time for a development to discharge planning conditions, complete full technical work and begin on site. Therefore a three year period is suggested instead.
- 4.5 Fourthly, the Route A review mechanism (page 15) is potentially problematic for developers, in that it involves not only an 'early review' at +2 years from planning permission but also a 'near end' review. This approach is unlikely to be attractive and increases the risk for developers. Review clauses create uncertainty for funders / lenders who may not commit to funding projects where a review clause has the potential to write off significant value.
- 4.6 Finally, we would like to see more detailed reasoning of the proposed 60/40 split of overage resulting from a subsequent review of viability. Currently we are concerned that this provides little incentive to a developer and is not evidence based; market practice suggests that the majority of review mechanisms are based on an equal share. Accordingly we would recommend a 50/50 share to encourage developers to maximise sales as this will result in more funds available for affordable homes.
- 4.7 Notwithstanding all other points that have been made the attractiveness of pursuing Route B which in theory results in a faster resolution is very much diluted by review mechanisms that create uncertainty and delay and potentially result in an inequitable split of overage which is a significant risk to developers.

5 TENURE CHANGES

- 5.1 The London Plan (Policy 3.11) sets out the Mayor's policy for London that 60% of affordable housing should be social and affordable rent and 40% for intermediate rent and sale, but then leaves it to Boroughs to set targets for the two categories in each Borough in general conformity with those strategic targets. By setting a preference in this SPG for a particular tenure split as to 60% of the affordable housing (30% for social and affordable rent, 30% for intermediate) our concern is that it will become a target for LPAs applied rigidly without sufficient flexibility. The tenure split also ignores locally evidenced need for particular tenures. It would be preferable to have no tenure split identified and instead this should be set out in local plans, which are subject to examination by an Inspector.

- 5.2 A fixed tenure approach (para 2.28) will often be contrary to local requirements and attempts at balancing an area's housing mix. Designated Opportunity Areas and Housing Zones remain capable of setting their own targets for affordable housing. The imposition of new policies may lead to significant disparities in the viability of neighbouring sites.
- 5.3 If, however, a recommended tenure split is to be provided in the SPG then the split needs to be identified in full. As currently drafted 40% of affordable provision is left to the LPAs to identify. Whilst there is an anticipation that LPAs will advise the Mayor as to the make-up of this 40% they have not yet done so, and may not do so. This creates uncertainty. Developers are unable to properly assess land values, and moreover there is a risk that an otherwise compliant affordable housing proposal will be considered non-compliant with the SPG because the 40% tenure proposal does not meet an unidentified tenure split.
- 5.4 As the value of Social and London Living Rent is much lower than Affordable Rent and Shared Ownership, the proposed changes will automatically make schemes less viable. We recommend that the existing tenures are maintained; particularly in assessing schemes against the proposed threshold as this will otherwise make Route B less attractive. If changes in tenure are applied then an appropriate reduction in the threshold should be adopted to reflect these lower values.

6 GROWTH ASSUMPTIONS

- 6.1 As acknowledged, growth assumptions (para 3.13) are contrary to the NPPG. We are concerned that a requirement to test growth assumptions is subject to future predictions that are extremely subjective. The outcomes are likely to encourage further challenge and delay to applications. We suggest the requirement to test growth assumptions should be deleted.

7 BUILD TO RENT

- 7.1 A specific recognition (Part 4) of Build to Rent (B2R) schemes as different to traditional residential developments in the way they are funded, built, managed and sold, and therefore, their ability to absorb traditional forms of affordable housing is very welcome.
- 7.2 The introduction of Discounted Market Rent (DMR) as an affordable housing tenure specifically addresses the issues in delivering traditional affordable products within a B2R scheme and is particularly supported. We are also glad that it is recognised that by linking this to the London Living Rent a deeper discount is effected and this will have an impact on the quantum delivered (para 4.24).
- 7.3 The removal of the Route B threshold for B2R applications is, therefore, wholly appropriate. However, we are concerned that the process could be onerous whichever approach is adopted due to the number of viability assessments that need to be provided and the stringent clawback and review provisions. We advocate that any review mechanism be based on the product coming forward and not traditional housing as the potential additional liability will place a much greater risk on these developments which are normally less valuable.
- 7.4 We note that there are important discrepancies between the White Paper and the SPG in relation to B2R. The White Paper and the proposed amendments to the NPPF have /will have greater authority in planning terms, and the SPG should be more reflective of the way national policy is heading. In particular: a) no viability assessment is required if the minimum (20%) level of DMR is provided on site; this speeds the process up; b) no review mechanism; this provides certainty from a funding perspective; and c) a simple mechanism is provided if the on-site DMR is converted into market sales units.
- 7.5 It is also worth noting that although the SPG does not consider that it is sensible to apply route A and B to B2R, an interpretation of the SPG is that there are still potentially two reviews if the option 1 viability approach (i.e. parallel viability reports) is used in certain circumstances. If this is the intention, then this approach is not supported.

- 7.6 In addition to the above we note that other specialist housing types are not given specific consideration e.g. retirement or student accommodation. It is assumed these would have to be appraised via Route A as these cannot physically achieve the Route B threshold. We ask whether these should be given special consideration in the same way B2R has been?

8 **TRANSPARENCY**

- 8.1 Noting the desire for greater transparency (paras 1.17 - 1.23) when it comes to viability but making all such information public could result in further delays in the planning system (i.e. third party objections on viability grounds and/or challenges against LPA decisions). There may also be conflicts with an applicant's overriding obligations under contract law, and the Data Protection Act, as well as possible FOIA and EIR conflicts for the GLA.
- 8.2 Our client has a specific concern in relation to the need to produce information relating to the commercial component of a redevelopment (i.e. replacement retail); there is considerable sensitivity around the commercial inputs, and disclosure of which could harm Tesco's legitimate commercial interests.
- 8.3 It is not clear if the Route B benchmark land value is to be transparent to the public too which could encourage challenge and delay; a further dis-incentive of Route B.
- 8.4 We suggest that a public facing summary document, as some Boroughs have adopted (e.g. LLDC), is jointly authored at the end of the viability process. This would provide the level of detail necessary to transparently illustrate an agreed deliverable position without the full detail that is liable to misunderstanding, challenge and delay.

9 **RESOURCING AND DECISION MAKING:**

- 9.1 We understand that the GLA has directly employed a Viability Team to independently scrutinise viability submissions. We assume the GLA team will be responsible for the practical application of the SPG. We have not seen any guidance relating to how the GLA team will perform its role and we have several queries in relation to this.
- 9.1.1 It is assumed that there is no mechanism in place that allows the Mayor to levy the cost of his viability reviews on either the Borough or the applicant in the same way that a Borough can require an applicant to pay for an independent review.
- 9.1.2 Will the GLA Team have target or fixed timescales to undertake their own viability reviews? We suggest a fixed viability determination period is applied, unless the applicant agrees to an extension to prevent delay to planning determinations.
- 9.1.3 Will the GLA Team review appraisals that have already been reviewed by a LPA? In which case there could be discord between the GLA and LPA and, if so, how will that be settled? We have a concern that where there is discord between the LPA's viability advisers and the GLA's Viability Team that this will lead to delay and uncertainty leaving developers and London no better off in terms of early delivery of new homes.

10 **TRANSITIONAL PROVISIONS**

- 10.1 If the suggestions within this consultation response are not adopted then it is our view that transitional provisions are required. For example:
- 10.1.1 if an AUV can only be utilised where a site already has planning permission then this represents a real change from the current position and creates unfairness to developers and landowners who will be currently legitimately preparing scheme proposals on the basis of a higher benchmark land value;

- 10.1.2 if LLR is a recommended tenure, then transitional arrangements will be required because of the significant value drop. The market will require time to adjust to site values reflective of the new principles enshrined in the SPG;
- 10.1.3 if Market Value cannot be used as part of Benchmark Land Value then the value of sites will be reduced, this is a considerable disincentive to any landowner to bring forward sites for residential development at this time, or at all.
- 10.2 Having regard to the above points, there should be transitional arrangements that would safeguard current / pipeline applications that are currently subject to viability appraisal under the previous guidance. Special circumstances should apply during this transitional period to ensure that existing projects do not stall as a result of these proposals.

11 CONCLUSIONS

- 11.1 Tesco are supportive of the Mayor's aspirations for increasing the numbers of affordable homes in London and consider that they could have a significant role to play in providing much needed homes across the City. In particular, they consider that their Air Rights strategy can provide an innovative option in some locations and are keen that the SPG takes account of this opportunity. They are keen to work with the GLA on the shared aspiration of enabling house building to take place and we hope this response has been useful in setting out where they are supportive; but also highlighting potential challenges that could stop some residential development coming forward.
- 11.2 There are some areas of uncertainty that are currently likely to slow down rather than speed up the planning process as currently drafted and we and Tesco would be happy to support the GLA in establishing clear amendments to the SPG if that would be useful.
- 11.3 Tesco look forward to discussing the SPG with the GLA.

Yours faithfully,



Paul Manning
Planning Director

[Redacted signature area]

cc

Mr Marcus Vinnicombe	Tesco Stores Limited, UK Property Director
Mrs Louise Ford	Tesco Stores Limited, Town Planning Manager
Mr Alec Brown	Tesco Stores Limited, Head of UK Stakeholder Communications

A base land value for financial viability assessments used for planning purposes for redevelopment of and over existing Tesco store sites

This note has been prepared on behalf of Tesco in order to aid in identifying a standard approach and method to inform an underlying Site Value (or Benchmark Land Value) assumption, and associated costs. This would be fed into Financial Viability Assessments (FVA) for planning purposes when proposing redevelopment of existing store sites including development above stores which is often referred to as air rights.

Basis of Site Value/ Benchmark Land Value assumption

The National Planning Policy Framework (“NPPF”) (originally published March 2012) and planning practice guidance (“PPG”) are the starting point, which are underpinned by the method and approach set out in the RICS’s Guidance Note 94/12, ‘Financial Viability in Planning’, published in August 2012 (and shortly to be updated) (“RICS GN 94/12”).

It is useful to set out what these reference points state about Site Value/ Benchmark Land Value.

The context of achieving sustainable development the NPPF refers to ensuring viability and deliverability at sections 173-177. Section 173 in particular states:

“... To ensure viability, the costs of any requirement likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking into account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable”.

PPG (Viability) defines competitive return for the land owner as:

“The price at which a reasonable land owner would be willing to sell their land for the development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of the land or its value for a realistic alternative use that complies with planning policy.” (Paragraph 24)

PPG refers to three strands, all of which should be considered:

“The most appropriate way to assess land or site value will vary from case to case [but] In all cases, land or site value should:

- *reflect policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge;*
- *provide a competitive return to willing developers and land owners; and*

- *be informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise”.*

RICS GN 94/12 is in accordance, and consistent with the NPPF. Site Value is defined in GN 94/12 as follows (para 2.8):-

“Site Value should equate to the Market Value subject to the following assumption; that the value has regard to the development plan policies and all other material considerations and disregards that which is contrary to the development plan”.

GN 94/12 highlights that Site Value must, by definition, be at a level where the landowner is willing to sell at a competitive return as recognised by the NPPF. It also states that Site Value “has regard” to policy. Site Value therefore by definition is not unrestricted when compared to Market Value as defined in the RICS Red Book. The degree of variance will be subject to a judgement, having regard to the circumstances in each instance.

GN 94/12 addresses “competitive return” as follows:

“A term used in paragraph 173 of the NPPF and applied to ‘a willing land owner and willing developer to enable development to be deliverable’. A ‘Competitive Return’ in the context of land and/or premises equates to the Site Value as defined by this guidance, i.e. the Market Value subject to the following assumption: that the value has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan. A ‘Competitive Return’ in the context of a developer bringing forward development should be in accordance with a ‘market risk adjusted return’ to the developer, as defined in this guidance, in viably delivering a project....”

GN 94/12 addresses (at paragraph 3.6.3) ‘Third party interests, vacant possession and relocation costs’, correctly identifying that in the case of development and site assembly, various interests need to be acquired or negotiated in order to be able to implement a project. This is consistent with the ‘Viability PPG’¹, which states that *“Assessment of costs should be based on robust evidence which is reflective of market conditions. All development costs should be taken into account....”*

Redevelopment of and above existing Tesco sites

Having regard to the policy principles and guidance, it is clear that there would need to be a reasonable and sensible business case for Tesco to vacate or redevelop its London plots as a ‘landowner’ receiving a ‘competitive return’, in order to bring their sites forward for re-development.

This comprises three principle strands:

1. The Site Value of the land;
2. Vacant possession costs (notional); and

¹ Reference ID: 10-022-20140306

3. Disturbance during the life cycle of the development (under the assumption that the land is not surplus to requirements and a store is to be re-provided).

The justification for the Site Value should realistically be taken from the market, where actual transactions provide a good indication of what the landowner would be willing to sell their land for to deliver the land for redevelopment. If transactions are significantly above what the market would consider 'normal' then care should be taken by the valuer in arriving at a valuation judgement. Valuers can analyse market transactions through various comparable techniques, adding and discounting where considered necessary for site characteristics (mainly locational and physical).

Where planning policy allows potential alternative uses to be delivered, then this also is a common approach to understand a reasonable Site Value/ Benchmark Land Value. These should all be included as inputs in any Financial Viability Assessment ("FVA") and may vary from site to site being a combination of two, or, a combination of all three.

The justification for vacant possession has a number matters to take into account depending on the occupational arrangements associated with the site to be redeveloped:

1. The notional cost of buying Tesco out of the remaining time in any lease;
2. Should there be a longer lease, the uplift or marriage value in bringing either the freeholder or long leaseholder into the redevelopment;
3. Should there be a re-provision of a store within the redevelopment, the future occupational arrangements and whether there should be any offset of future income.

All of these are frequently agreed in commercial agreements, and also in particular when it comes to compulsory purchase and compensation settlements for 'town centre' regeneration projects. Methods and approaches to value these are relatively common and tested.

The justification for disturbance, or the loss of profits, over the period of the development lifecycle is slightly less well tested in financial viability in planning, but in the world of compulsory purchase and compensation is commonplace given businesses are often extinguished in this process. Statutory compensation will often be the lesser of extinguishing the business, or buying land (a donor site) and re-providing facilities for that business/use in area nearby. Disturbance can also be looked at on a temporary basis. If there are trading profits known for an operation over say a period preceding the redevelopment (vacant possession), then often an average of these previous three years can be taken as the likelihood of future annual loss.

Conclusion

It is the aggregate of the three strands above that provide a competitive return in assessing Site Value from the prospective of bringing forward existing store sites and subsequent redevelopment including development over the store which is often referred to as air rights.

An aerial photograph of a city park, likely Central Park in London, showing a large green lawn surrounded by dense trees with autumn foliage. The park is situated in the center of a dense urban area with numerous buildings and streets visible in the background and foreground.

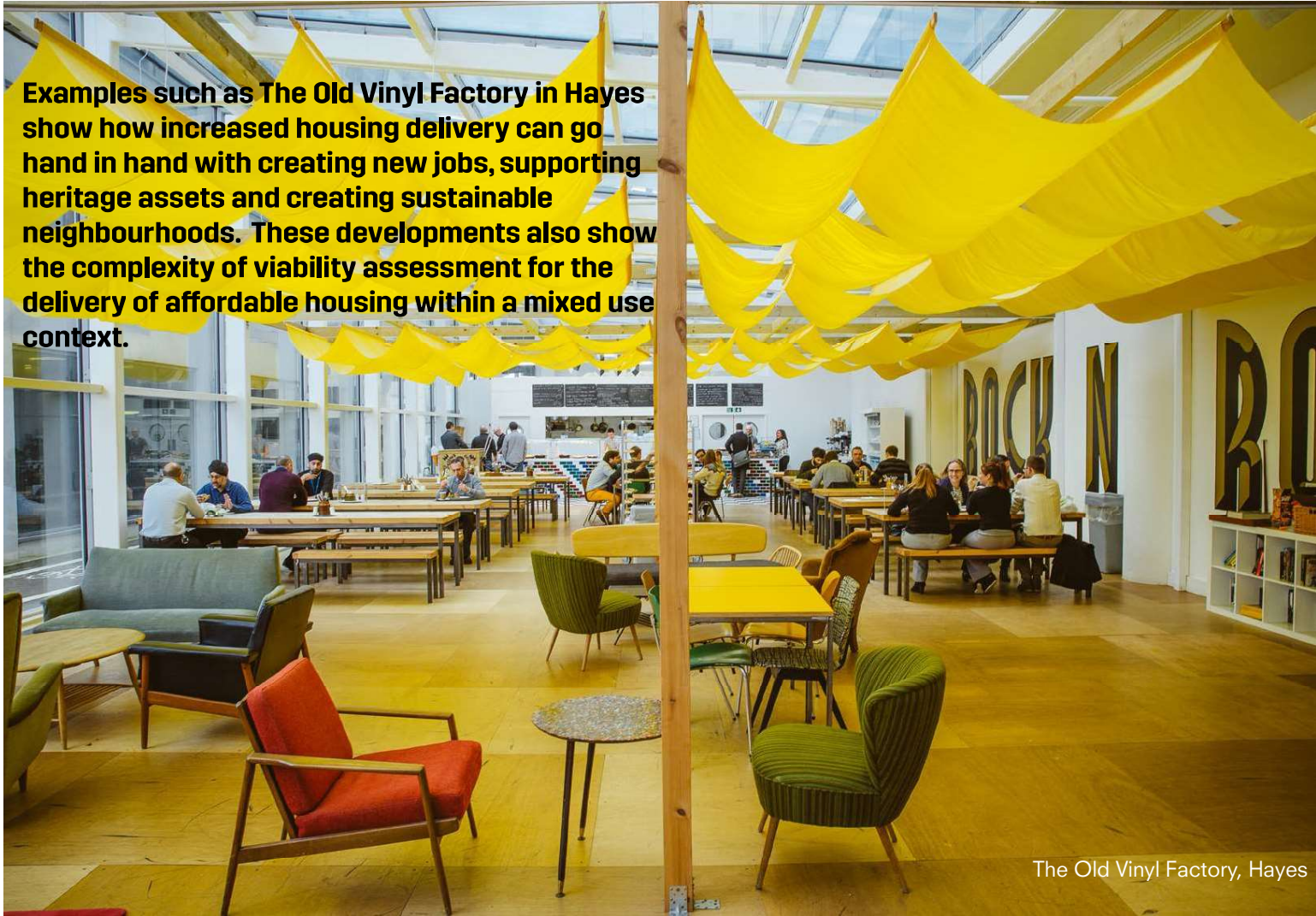
HOMES FOR LONDONERS A RESPONSE FROM U+I

U+I

U+I plc, the specialist regeneration and property developer is a major deliverer in London of complicated mixed-use developments which include residential space and supports the Mayor's key objective of delivering more homes to meet housing need.



Examples such as The Old Vinyl Factory in Hayes show how increased housing delivery can go hand in hand with creating new jobs, supporting heritage assets and creating sustainable neighbourhoods. These developments also show the complexity of viability assessment for the delivery of affordable housing within a mixed use context.



The Old Vinyl Factory, Hayes

U+I fully supports the Mayor's intent to increase delivery of both market and affordable housing and welcomes the consultation on Homes for Londoners. Rather than comment line-by-line, we offer some thoughts based on our current experience a small number of key matters which need to be addressed to ensure practical and successful outcomes.

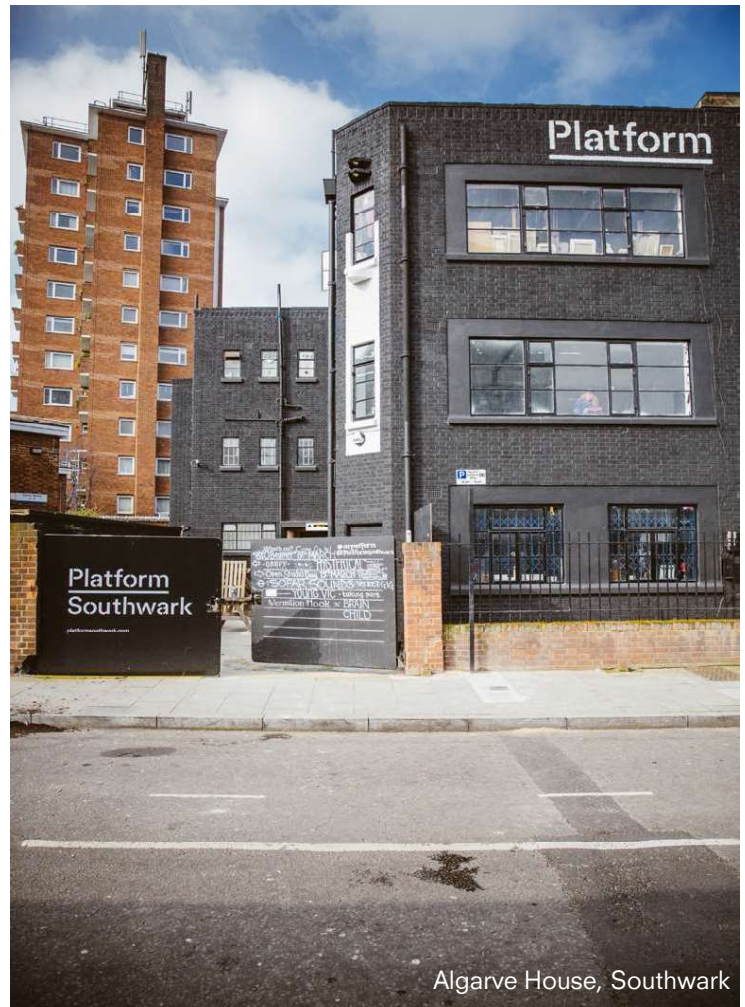


BENCHMARK LAND VALUE

We recognise the approach of London's need to move towards 'true' existing land values reflecting current policy requirements but this comes with a string of nuances, including:

- **The calculation of the suggested acceptable premium over existing use value remains unclear, with ongoing liabilities, vendor's incentive to sell, occupier's relocation costs, etc. all affecting the suggested 20 to 30% premium**
- **The proposed approach to an effectively nil existing land use value for vacant land without planning permission is unrealistic**
- **The costed requirement in more complicated redevelopments for on-site replacement facilities for existing occupiers should be taken into account**

There also needs to be a recognition that for disposals by public sector bodies, any target delivery rate for affordable housing cuts across that assessment basis – and is affected by the wider public benefit of receipts that can otherwise be used for the purposes of any particular body; should more money for TfL or a Hospital Authority to deliver transport or health service improvements be at the expense of affordable housing? Greater clarity is required here.



Algarve House, Southwark

AFFORDABLE HOUSING DELIVERY PROPORTION

With a 50% long term target set by the Mayor and the 35% threshold basis now to be offered, there is a clear desire to build up affordable housing delivery. However, seeking that delivery in part through s106 agreements with market housing funding the delivery of housing for others, often causes financial strain on schemes coming forward as the necessary recognition of the requirement for base land values to reflect this is very slow.

This cross subsidy often causes financial strain on schemes coming forward as the necessary recognition of the requirement for base land values to reflect this is very slow.

It also ignores schemes which by themselves commit to very substantial public benefits other than for affordable housing, for example creating buildings to be retained within the public sector which themselves act as major public benefit – such as libraries, leisure facilities, fire stations, etc. **There should be a recognition that such clear public benefits are just as valid as affordable housing and could be allowed to take precedence over housing.**

There is also a difficulty as some London Councils assess delivery proportions on floor area or unit numbers rather than the GLA's approach based on habitable rooms. A simpler single approach should be encouraged.

The Mayor is suggesting individual Councils should put forward a tenure type or blend of types for a 'middle 40%' of affordable housing, between the 30% for social rent and 30% for intermediate; however, this should be evidence-based for consultation rather than a quick fix for inclusion in early revised GLA requirements.

The increasing and appropriate attention to 'true affordability' for all forms of affordable tenure (e.g. income threshold reductions) has an immediate effect on values and thus on delivery rates through viability assessment; the target rates set in the London Plan and individual London Borough Local Plans should thus properly be revised through this new part of their evidence base.



THE THRESHOLD APPROACH

The opportunity to use a threshold approach is welcomed, using an agreed rate for affordable provision. The Mayor will receive commentary from others on that headline rate but U+I believes that this should vary between brownfield and greenfield sites.

Some of the practical limitations would be:

- The requirement to ensure that schemes are policy-compliant in every other respect is virtually impossible for the following reasons. Firstly, planning policies often require interpretation and secondly, a scheme's overall acceptability needs to be balanced against both positive and negative assessment of policy compliance, with varied weight given to individual policies.
- Accordingly, the suggested necessity for policy-compliance even to engage the threshold approach cannot be achieved until the local Planning Authority has considered all aspects of a proposal, meaning that a developer cannot be certain that a 35% threshold scheme would become acceptable. This requirement should be removed.
- Negotiations involving the changing target of tenure types mean that the categorisations of tenure types within the currently proposed 35% threshold might or might not be acceptable. Tenure categorisations need to be fixed to allow proper valuations.
- Short term problems will also arise from the timing of the introduction of the threshold approach. Will it apply to schemes already subject to negotiation with LPAs, to schemes for which an application has been submitted but still undetermined, to schemes determined after the time of introduction of the approach or schemes determined after some later date? Greater clarity is required over transitional arrangements.



U+I will continue to deliver great schemes across London and to create great places. Some of these will be in partnership with public bodies on public land and others will be through exciting mixed-use regeneration on privately-owned land. We will continue to work closely with the GLA and London Boroughs to ensure viable delivery of both market and affordable housing, alongside new jobs, services and vibrant public realm.

Homes for Londoners offers the opportunity to simplify and accelerate housing delivery and can do so once these essential clarifications are made before adoption.

The Old Vinyl Factory, Hayes

Affordable Housing SPG
FREEPOST LON15799
GLA City Hall, Post point 18
The Queen's Walk,
London
SE1 2AA
By email to housingspg@london.gov.uk

28 February 2017

Dear Sir

Affordable Housing and Viability SPG

I am writing on behalf of the Westminster and City Property Associations to respond to the consultation on the Affordable Housing and Viability SPG. WPA and CPA are made up of major land owners, developers, investors and professional advisors active within the Cities of Westminster and London, respectively. I have attached a copy of our current membership lists.

General

The Associations recognise the many challenges that London faces over the coming decades in remaining a successful City including in meeting the wide range of housing needs.

The Associations have contributed towards the preparation of the London First response to the SPG and which they endorse.

However there are some general points of principle, and specific points that relate to the Central London context in which our Members operate, on which we wish to respond specifically. Given the importance of Central London and the Central Activities Zone to the health of London, and the UK, economy, we trust that you will take these matters into consideration.

WPA and CPA consider that it is vital that affordable housing is considered in the wider context of London-wide housing supply across all sectors of the market. The root cause of the lack of affordable housing is a chronic failure to deliver sufficient housing of all types in London and across the greater South East over several decades. Housing delivery consistently falls short of meeting housing need. This drives up prices and reduces the affordability of open market housing, both for rent and to buy. A significant increase in the supply of new homes, across all tenures and value bands, is necessary to start to address this longstanding shortfall. The UK housing market is complex; whilst increasing the supply of new homes may not, in isolation, fully address the problem, reducing supply-side constraints and encouraging delivery must remain at the heart of policy.

Without an increase in delivery, alterations to affordable housing policy can only affect the allocation of an inadequate supply and cannot address the overall requirement. Overall supply needs to double for the foreseeable future.

Ensuring that housing continues to be delivered, and increasing the rate of delivery, requires a substantial increase in the rate of the release of land for development.

This is why the thrust of national, and regional, policy is to encourage the delivery of land for housing. There is a national imperative to address the identified need for new housing, and to deliver a step change in completions. This is set out in paragraphs 3.14-3.18 of the London Plan. It is reiterated in the Housing White Paper.

It is therefore vital that affordable housing policy encourages, rather than restrains, the release of land for housing and enables it to be developed and delivered swiftly. As set out in the London First response, whilst changes that simplify and speed up the system, and improve the certainty of outcomes, are to be welcomed, we are concerned that some aspects of the proposals will discourage the release of land and so reduce, rather than improve, overall housing delivery. We are also concerned that effect of the draft SPG appears to be to start to create new policy that goes beyond existing London Plan policy, rather than providing guidance upon it. The proposed SPG needs to be implemented carefully and monitored rigorously to ensure that it improves housing outcomes, rather than worsening the position.

Threshold Level

The Associations are concerned that the proposed 'Route B' will have limited utility in Central London. Westminster City Council has a strategic target to deliver 30% affordable housing across all tenure and delivery types (Policy S16 of the November 2016 City Plan). However, on the basis of area-wide viability studies, it seeks 25% affordable housing on residential development within the Core Central Activities Zones, and 35% outside it, above thresholds of 2,500sqm and 6,000sqm respectively. This is consistent with London Plan Policy 3.12, which seeks to achieve the "maximum reasonable" proportion of affordable housing in individual private residential and mixed use developments. Similarly, within the City of London, 30% affordable housing is sought.

It therefore follows that almost all schemes within the Core CAZ (Westminster), and the City of London, and smaller schemes outside of the Core CAZ but in Westminster, will provide less than the 35% "threshold level" at which schemes can follow Route B. Requiring applications that achieve locally set affordable housing targets, which are the 'maximum reasonable' levels of affordable provision, to follow Route A, creating a need for detailed viability assessment where none existed previously, could potentially add to delay and uncertainty. It would not meet the objective, set out in paragraph 2.4, of providing "certainty and consistency", nor would it create a clear incentive for developers.

The Associations suggests that the threshold level should either be set locally, or be the lower of **either** 35% or the local affordable housing policy target, whichever is the lower. Proposals that continue to meet local affordable housing targets, especially in the Core CAZ, should not then be required to undergo more extensive viability testing.

Review mechanisms

WPA and CPA have significant concerns about the introduction of review mechanisms, particularly near-end review mechanisms. This is because such mechanisms substantially increase risk of development outcomes especially for those funding development. Such mechanisms require the

developer to bear all the risk associated with development but allow them only a share of the profit above a certain level. This is a disincentive effect. At the very least, the mechanisms proposed must ensure that the developer's future liability is limited to providing a level of affordable housing that meets the local policy target and must not seek a profit share arrangement beyond this. The SPG does not explain why the LPA should receive a greater share of the profit without bearing any risks.

These concerns are compounded, in a central London context, because proposals that **meet** local affordable housing targets below the threshold level (or which contain an element of off-site provision or payment in lieu) would still be required to follow Route A, and thus be subject to review mechanisms, despite the fact that they have already provided a level of affordable housing considered by policy to be the "maximum reasonable".

WPA/CPA do not support the use of review mechanisms and suggests that this is removed because of the significant potential disincentive effect, and the potential adverse effect on housing delivery. Notwithstanding this, if review mechanisms are retained, they should:

- a) be applied only where the level of affordable housing proposed is below the prevailing local target;
- b) should not seek a level of profit share that would exceed equivalence with a level of affordable housing that met local affordable housing targets; and
- c) be used only for pre-commencement reviews where substantive implementation does not occur within a specified period of time.

Implications for commercial development

Within the CAZ, new office developments are required to provide a mix of other uses including housing. This is secured by both London Plan Policy 4.4 and, within Westminster, City Plan Policy S1. An element of affordable housing is usually required as part of this provision.

Consequently, the approach adopted to affordable housing can have a significant effect on other forms of commercial development within the CAZ, in those cases where commercial development is required to provide a cross-subsidy to support the affordable housing component.

This type of development will frequently provide a range of on-site and off-site provision, as well as financial payments. In most cases, such schemes would be required to follow Route A, even where the local affordable housing target was met. This, in itself, may discourage commercial development. Furthermore, the requirement for review mechanisms under route A would introduce significant additional risk into commercial-led mixed use schemes, as well as residential schemes as described above. As drafted, the open-ended profit-share mechanism would create substantial additional risk for those promoting commercial development. This will discourage investment and will constrain office development, contrary to London Plan Policy 2.10(A)(e) which seeks to **"ensure that development of office provision is not strategically constrained"** in appropriate parts of the CAZ.

Off-site affordable housing and payments in lieu

Development proposals within Central London, especially within the CAZ, frequently include an element of off-site affordable housing provision, and/or financial payments towards affordable

housing provision. This is instead of on-site affordable housing. This is due to the often constrained nature of redevelopment sites in core central areas.

This is a consequence of the exceptionally high land values within Central London. These values mean that the opportunity cost of providing affordable housing on-site is very high. Providing affordable housing off-site can often lead to very substantially greater affordable housing outturns, with substantially more homes being built than if on-site delivery had been insisted upon, with all the associated opportunity costs and inefficiencies. The use of off-site provision can therefore significantly improve affordable housing outcomes. Clearly, a balance still needs to be struck to ensure that the off-site housing is appropriately located and contributes to creating a balanced and sustainable mix of tenures, but this does not necessarily require on-site provision in all cases.

In land use terms, on-site provision can lead to other land uses, which are also vital within the CAZ and which could not be provided or sustained outside of it, being displaced. The CAZ SPG recognises the importance of ensuring that **“agglomerations of offices and other CAZ strategic functions are not compromised by new residential development”** (paragraph 1.3.3). The SPG recognises the need for flexibility in applying requirements for on-site housing or nearby (paragraph 1.4.13).

Likewise, in some cases - especially smaller developments where factors such as small plot sizes, or limited frontage widths make including multiple tenures impractical - payment in lieu will enable better affordable outcomes to be achieved.

As drafted, the SPG would require proposals that otherwise meet the threshold target to follow Route A nonetheless, where off-site provision or payment in lieu is proposed (paras 2.48 - 2.53). In view of the benefits of off-site provision in some cases, off-site provision should not automatically trigger a need for further detailed viability assessment in cases where either the threshold target, or local policy target, is being achieved (see comments above) and the LPA is otherwise satisfied that the location of the off-site residential proposed is acceptable.

The Associations are concerned that, as drafted, the proposals could disincentivise developers from using off-site and payment in lieu mechanisms to maximise the overall delivery of affordable homes, in contrast to the objectives of the guidance.

The Associations suggest that the automatic requirement that Route A be used where payment in lieu or off-site provision is proposed be removed.

Registered Providers

Paragraph 2.24 requires developers to engage with an RP at the outset of developing a scheme and to have secured from them a purchase price for the affordable housing element. WPA is concerned that RPs may not have sufficient capacity and resourcing to provide this level of engagement with developers that early in the development process. In our experience, they are usually only able to engage meaningfully once planning permission is granted and greater certainty has been established around the nature of the affordable housing component.

This has the potential to add additional delay and complexity to the determination of planning applications, slowing this down rather than speeding them up

The Associations suggest that this requirement is reconsidered.

Guidance on viability assessments

WPA and CPA are concerned that paragraph 3.49 of the guidance would restrict the use of alternative use values (AUV) in establishing the benchmark land value as an input to viability appraisals, allowing it to be considered only where there is “an existing implementable permission” for that use.

In Central London it is generally accepted that a range of uses, including retail, offices, hotel, leisure and residential may generate similar site values. The precise balance will change from site to site, and from submarket to submarket, but in broad terms all these uses compete for land in Central London. This is materially different from elsewhere in London, where residential use will generally establish higher land values. The range of uses to which land could be put in Central London supports the areas high land values.

It should not, therefore, be necessary to achieve planning permission for an alternative use in order to have regard to the AUV in establishing the benchmark land value.

For example, planning policy would support a range of potential uses for an underused surface car park within the Core CAZ, including offices, hotel and residential. The site value would, therefore, clearly be higher than derived purely from its current use as a car park. It should not be necessary for a residential developer, to establish this, to go to the expense and delay of firstly submitting a planning application for an alternative development that he/she does not intend on implementing, purely to establish an AUV, when the potential of that alternative use is set out within Development Plan policy. At best, this would add delay, expense and complexity to the planning process and, at worst, would incentivise the use of low EUV sites like this for alternative, non-residential, development to enable them to be brought forwards more quickly. This would not contribute towards the delivery of the objectives of the SPG.

The Associations recommend that the requirement for AUVs to be supported by an existing, implementable, planning permission to be removed from the CAZ.

The Associations also endorse the detailed comments of London First on the methodology and approach.

Conclusion

WPA and CPA welcome the opportunity to respond to the consultation on the draft SPG. WPA/CPA are keen to ensure that emerging planning policy is consistent with the objectives of adopted policy to encourage the delivery of new housing. Increasing housing supply is key to addressing London’s chronic affordability problem in the long term.

In view of the Associations’ focus on Central London, and the particular characteristics of the Central London markets, they consider:

1. The threshold level for the use of Route B should be either the local affordable housing target, or 35%, whichever is the lower, to relate to the central London context where the maximum reasonable level has been established at between 25% and 35%;
2. Review mechanisms should not be used. If they are to be retained, they should not be applied to proposals that achieve the local affordable housing target, and should not require profit share above a level equivalent to meeting that local target;
3. Use of off-site affordable housing, and payments in lieu, should not automatically trigger the need to follow Route A;
4. Engagement with registered providers prior to submission, whilst desirable, should not be mandatory, in recognition of their resource limitations;
5. AUV should be an acceptable contributory factor in establishing the benchmark land value for development schemes within the CAZ, given the high values associated with other uses permitted by Development Plan policy, without the need for a specific planning permission.

I trust that these comments are helpful and look forward to continuing to discuss this emerging guidance with your officers. In the meantime, please do not hesitate to contact me if it would be helpful to discuss the contents of this letter further.

Yours faithfully,



Charles Begley

Executive Director, Westminster and City Property Associations