

Mayor's Draft Affordable Housing and Viability Supplementary Planning Guidance Consultation - Response from the Housing and Planning Committees on behalf of the London Assembly

The Assembly's response to the Mayor's consultation has been compiled from meetings held on the issue by the Housing Committee (24 January 2017) and the Planning Committee (1 February 2017). It also draws on a number of reports produced by the Assembly since 2011 which are referenced individually below.

Assembly comments on the draft SPG

The Assembly welcomes the publication of the Mayor's draft Affordable Housing and Viability Supplementary Guidance and notes it contains a number of policy recommendations put forward by Assembly Committees over the period 2011 – 2016.

The Planning Committee has previously made comments on the 2015 Housing SPG¹ and has also urged the Mayor to bring forward a SPG on viability assessments in London (1 February 2016)². **The Assembly welcomes and supports the Mayor's adoption of the main points made in these previous recommendations that are reflected in this Draft SPG, namely that:**

- The Mayor should produce a dedicated SPG on viability with guidance setting out a common approach to, and provide consistency of, application across London. This would provide a greater level of certainty to all parties;
- The Mayor should make a clear case for the Existing Use Value Plus approach to valuing land;
- The Mayor should promote the full public release of viability assessments in the interests of the public and in line with the National Planning Policy Framework;
- The Mayor should introduce the use of mechanisms to review planning obligations ('contingent obligations'), to ensure that large developments can be revisited to gain increased provision of, or funding for, affordable housing; and
- The need for guidance on appraisal mechanisms to ensure that the delivery of affordable housing is maximised at various points in the development of a scheme, reflecting changing viability.
- The importance of ensuring there are enough larger family homes and the need to measure housing targets in different ways, for example the number of new bedrooms provided rather than simply the number of units.³

¹ <https://www.london.gov.uk/LLDC/documents/s49612/housing%20SPG%20response.pdf>

² https://www.london.gov.uk/sites/default/files/london_assembly_planning_committee_letter_-_viability_assessments_final.pdf

³

https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/Final%20overcrowding%20report%20-%20print%20version.pdf

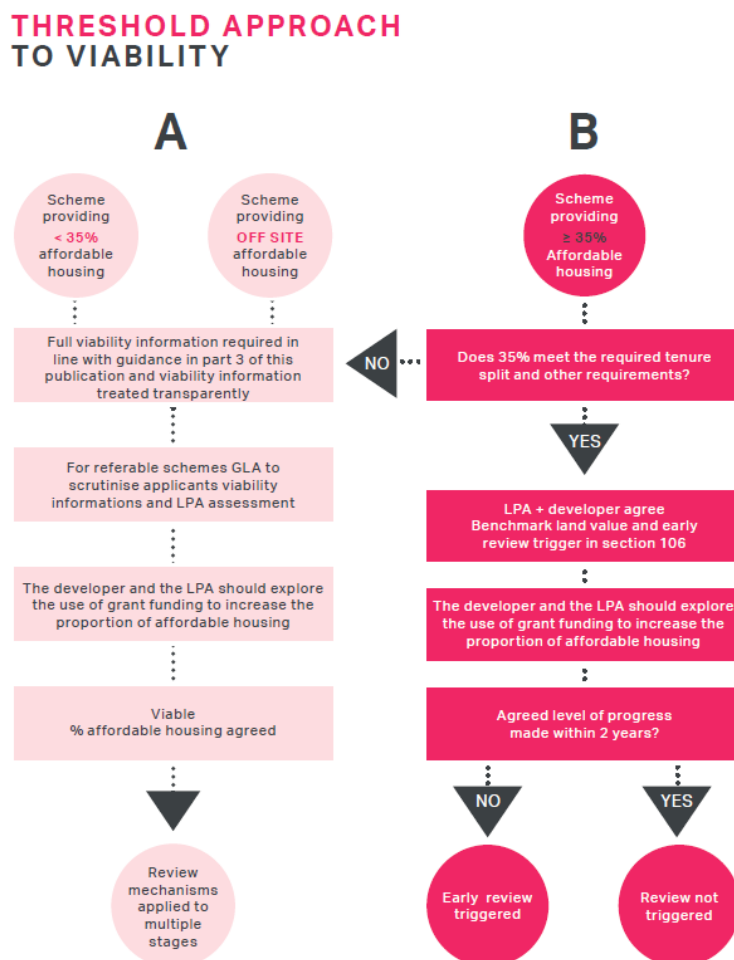
https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/London-Assembly-response-to-Draft-Housing-Strategy-FEB14.pdf

The Housing Committee investigated new ways to deliver genuinely affordable homes in a low-grant environment during 2015-16.⁴ **The Assembly welcomes and supports the Mayor’s adoption of these points in the Draft SPG, namely that:**

- The Mayor’s new Housing Strategy should encourage new approaches to affordability, including income-based approaches, such as that now proposed for the London Living Rent; and
- The Mayor should publish clearer guidance on the proportion of affordable homes expected in new developments.

Threshold approach and viability testing

The Mayor’s new policy on viability will be based on a threshold, with the requirement for assessments differing according to the level of affordable housing being proposed as set out in the diagram below. The Mayor has chosen to base this approach around a benchmark level of affordable housing of 35 per cent. Schemes which deliver 35 per cent or more affordable homes will be offered a fast-track planning route (Route B below).



Source: [Draft Affordable Housing and Viability Supplementary Planning Guidance, GLA, 29 Nov 2016](#)

⁴ <https://www.london.gov.uk/about-us/london-assembly/london-assembly-publications/providing-affordable-homes-rent>

Overall, the Assembly welcomes the greater clarity which the SPG should bring to the planning and development processes.

In particular, it supports workable incentives to deliver a higher proportion of affordable homes in new developments and to speed up development. However, there is a concern that the incentive for developers to opt for Route B and deliver at least 35 per cent affordable may not be strong enough. Achieving a consistent 35 per cent base of affordable housing is often a stretching target throughout a market cycle (unless the land is public owned): since the financial crash, the highest level of affordable approvals has been 27 per cent in 2009-10 (although the number of affordable homes built during a given year has typically been higher than the number originally granted planning permission).

The waiver of the requirement for a viability assessment is intended to be a primary advantage of Route B. However, the Housing Committee heard in its January meeting on the SPG⁵ that the costs of the viability appraisal process, both for developers and local authorities, may sometimes be overstated, reducing the incentive which Route B provides.

Separately, some contributors felt that the existence of the fast-track route could encourage over-optimistic (but ultimately non-viable) applications offering the benchmark 35 per cent affordable for some developments. If this were the case, it could lead to a smaller proportion of permissioned sites which are actually built out.

Members of both the Housing and Planning Committees are concerned that 35 per cent may become a ceiling, rather than a threshold, and this would not help the Mayor in his target of reaching 50 per cent affordable housing overall. Once published, the SPG will be of material consideration in the period up to the adoption of the 50 per cent target in the new London Plan. This may be a disincentive to maximising affordable housing, where no grant was needed, in areas of high land value, e.g. central London boroughs.

The Housing Committee also heard that it may prove hard to agree an appropriate level of progress to trigger the review mechanism, and that this can only be agreed site by site. Greater clarity over how this decision should be made would be welcome.

As set out above, the Assembly has previously called for the Mayor to make a clear case for the Existing Use Value Plus approach to valuing land. The Assembly therefore supports the Mayor's proposals to use Existing Use Value Plus premium as a basis for consideration of land value. However, there needs to be more detailed guidance on the acceptable premium in specific contexts.

The Assembly seeks the Mayor's assurance that the viability assessments for schemes referred to him are published as part of this process.

⁵ <https://www.london.gov.uk/moderngov/ieListDocuments.aspx?CId=302&MId=6114>

The welcome focus on viability assessments and transparency will have resource implications for the Mayor. Specifically the Assembly suggests there are sufficient officers in post to ensure the Mayor can be confident that viability appraisals he receives have been produced on a consistent basis, and that independent GLA viability appraisals can be produced where necessary.

As set out above, the Assembly is concerned that sufficient numbers of larger family homes are provided and measured in terms of bed spaces. It is important that the schemes achieve a mix of homes in relation to families, i.e. three bed and larger, the minimum internal space standards and amenity and environmental standards. There is a risk that in order to avoid financial appraisal, some developers will focus on small flats which are only marginally sub-market rather than the larger homes London needs.

Longer-term considerations

The Assembly accepts that the SPG must build on the viability assessment approach enshrined in the National Planning Policy Framework (NPPF) and existing London Plan. However, it notes the more fundamental caveats raised by Professors Neil Crosby and Peter Wyatt of the University of Reading at the Housing Committee's January meeting:

- Basing planning obligations on an event such as the sale of a site always risks disincentivising the transaction. The majority of Members felt that, in the longer term, consideration should be given to a recurrent tax approach, such as a Land Value Tax. The Assembly's Planning Committee recommended in 2016 that the Mayor should identify what further devolved powers might be needed to make a Land Value Tax a reality, and then explore the potential of a Land Value Tax through a feasibility study and pilot scheme;⁶ and
- For as long as the NPPF requires local plans to take account of market signals, including transactions based on non-policy-compliant schemes, the circularity in land valuation remains. This suggests, as noted above, that private developers are unlikely to deliver more than 35 per cent affordable homes on new developments (unless the land is owned by the public sector or a Registered Provider).

Build to Rent

The Assembly has also made a number of recommendations in relation to the private rented sector⁷ that the Mayor appears to have embraced in the Build to Rent (BTR) section of the draft SPG. These too are welcomed and supported:

- Recognising that increasing the supply in the private rented sector will help meet the increased demand for housing across London and should help to drive up quality through offering greater competition and choice.

⁶ <https://www.london.gov.uk/about-us/london-assembly/london-assembly-publications/tax-trial-land-value-tax-london>

⁷ <https://www.london.gov.uk/sites/default/files/Rent%20Reforms%20-%20Making%20the%20Private%20Rented%20Sector%20Fit%20for%20Purpose%20Final.pdf>
https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/Bleak-Houses-Final-Report.pdf

- Encouraging institutional investors to become landlords that have an interest in providing good quality property for long-term rent. BTR represents the professionalization of the sector and the inclusion of a set of management standards should assist in the step change required in the sector.
- As private renting becomes the dominant tenure over the next few years encouraging longer tenancies must be a feature of the private rented sector as this tenure increasingly houses families with children.

The Assembly supports growth in private renting where this will result in well managed, good quality accommodation, mixed and balanced communities and sustainable neighbourhoods. Long term, purpose built, private rented developments managed as a single development can make a particular contribution to meeting housing need.

Such schemes are beneficial in a number of ways; they have the potential to accelerate delivery and not compete with nearby for sale developments; they can offer longer term tenancies/more certainty over long term availability; they can ensure high quality management through single ownership; and they can ensure a commitment to, and investment in, place making.

The Assembly understands that this is a developing area of policy and agrees with the encouragement of the BTR sector, the need to support it and to provide a level playing field with the build for sale sector.

The Assembly recognises that the sector is not homogenous and that the Mayor is keen to retain flexibility in his guidance and not be overly prescriptive at this stage, so as not to deter investment by parts of the BTR industry.

The Assembly notes that the guidance suggests that the space standards set out Policy 3.5d of the London Plan could be applied more flexibly to BTR where there are exceptional design standards.

The Assembly has always been very forceful on the need for adequate space standards to avoid diminishing the quality of life for Londoners and so moves to relax space standards should be considered carefully as negative impacts are all too evident. The social impacts of smaller homes have been described as 'life limiting' and homes that are too small have damaging effects on education and health outcomes and the community.⁸

Pocket Living is now delivering two-bedroom units at 57 m², which sits between a one-bed-two-person unit at 50 m² and a three-person unit at 60 m². This product is for sharers and is normally restricted in perpetuity as a rental product.

⁸ Housing Committee, December 2016 – Building Small
<https://www.london.gov.uk/moderngov/documents/s61221/Minutes%20-%20Appendix%201%20-%20Transcript%20of%20Item%205.pdf>

However, the Assembly recognises that the BTR sector is an opportunity to work a slightly amended space standard. This is a new type of product and internal living space may be reduced due to the use of communal space such as gyms, crèches, gardens and laundry rooms.

This product is already appearing in London and relevant space standards may need more consideration. The purpose BTR sector targets a particular demographic, that is pre-family formation, and more flexibility in space standards for these regulated homes could increase accessibility.

Overall, while generally supportive of the Mayor's intention to encourage this sector, the Assembly suggests the final guidance should be made clearer and the impact on the number and quality of new homes monitored in the following ways:

- The use of exemplary or innovative design can allow space standards to be reinterpreted. However, the Mayor's guidance needs to be precise to ensure that the advice is interpreted in the same way within each planning authority.⁹
- In the short term, as recommended by a majority of the Assembly's Housing Committee in its 2016 report '*At Home with Renting*',¹⁰ the Mayor should lobby Government for a distinct planning use class for the BTR sector which might then be subject to more specific policy support that could encourage the sector further.
- In the medium term the Mayor needs to carefully monitor the relaxation of size and space standards. The Assembly recognises that BTR may initially be aimed at a specific sector of the market (younger renters and fewer families) and at higher densities in town centres/transport nodes. However, it may be that the sector will be called upon to house a greater number of families in the future and the need for adequate numbers of larger units should be considered from the outset. This will be particularly important for those units on the shortest covenant periods that are the ones most likely to be moving into the private sale market.
- Over the longer term, and not for this Mayoralty, the 15 year covenant guide will need to be reassessed to ensure there is not excessive 'leakage' of this tenure into market sale property to the detriment of availability of purpose built rented homes.

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⁹ Housing Committee, December 2016 – Building Small

<https://www.london.gov.uk/moderngov/documents/s61221/Minutes%20-%20Appendix%201%20-%20Transcript%20of%20Item%205.pdf>

¹⁰ <https://www.london.gov.uk/about-us/london-assembly/london-assembly-publications/stabilising-private-rented-sector>