



Sakina Sheikh AM

Chair of the Planning and Regeneration Committee

Sadiq Khan
Mayor of London
(Sent by email)

24 July 2023

Dear Sadiq

I am writing to you on behalf of the London Assembly Planning and Regeneration Committee regarding your consultation on the draft London Plan Guidance (LPG) documents on Affordable Housing and Development Viability.

We note these updated pieces of guidance advising councils and developers on how affordable housing policies in the London Plan 2021 should be implemented in London. This guidance builds and goes further than the 2017 Supplementary Planning Guidance (SPG), in particular we note:

- the need for councils and viability consultants to conduct a ‘sense check’ which compares different developments before they approve the viability of a new proposal in order to avoid over-valuation;¹
- housing developers can already bypass councils’ viability assessments on any new housing development in London, as long as they plan to include 35 per cent affordable housing; this draft will also allow ‘Build to Rent’ schemes to bypass viability assessments using the same 35 per cent threshold – this will provide a faster route for build to rent schemes that meet the criteria;²

¹ Mayor of London, London Plan Guidance, [Development Viability Consultation Draft](#), May 2023

² Mayor of London, London Plan Guidance, [Affordable Housing Consultation Draft](#), May 2023

- ‘strongly’ encouraging councils to prioritise key workers and to adopt the GLA’s core list of key worker occupations;³
- a proposal to increase the housing eligibility earning cap for London Living Rent properties from £60,000 to £67,000. This will mean that more key worker households will be eligible for these properties.⁴

The Committee welcomes the opportunity to respond to the consultation.

On 7 June 2023, the Committee held an evidence gathering session with two panels. In the first panel we heard from: **Jules Pipe**, the Deputy Mayor for Planning, Regeneration and Skills, **John Wachter**, Strategic Planning Manager in the Viability Team, GLA, **Mikyla Smith**, Team Leader on the London Plan, GLA and **Jane Seymour**, Viability Expert in the Viability Team at the GLA.

In the second panel we heard from representatives from a local authority, a community group, and industry: **Joshim Uddin**, Development Viability Manager at Tower Hamlets Council, **Rachel Ferguson**, Senior Development Manager at Pocket Living, **Anthony Lee**, Head of UK Development Viability at BNP Paribas Real Estate and **Dinah Roake**, Chair, London Housing Panel.

The evidence we received during our 7 June session forms the basis of the Committee’s response below. Overall, the Committee notes the depth and detail provided in the LPG and the clarity provided around viability assessments, particularly with regard to benchmarking using the existing use value and review mechanisms. We note that the LPG consists of two documents, one on Affordable Housing and one on Development Viability. We also note the additional details around service charges and a ‘key features’ document for shared ownership properties. The Committee has found several areas where the LPG could be strengthened. These are outlined in the sections below.

Threshold approach to affordable housing

GLA officers informed the Committee that since the introduction of the threshold approach in 2017, there has been a marked increase both in the proportion of affordable housing being brought forward in referable applications (i.e. applications of potential strategic importance that have been referred to the Mayor) and in the number of developers following the ‘Fast Track Route’ (FTR) by delivering 35 per cent affordable homes. The Committee was told that the proportion of affordable homes secured in referable applications last year has increased to 38 per cent – the highest level since this data was first recorded in 2011.⁵ The Committee also heard that 66 per cent of eligible schemes were now following the FTR and that there was a higher proportion of low-cost rent and social rent homes being brought forward last year.⁶

We heard that the threshold approach has also resulted in a reduction in the time taken to determine applications with Fast Track Schemes in 2021 and 2022 progressing to Stage 2 on average four months quicker than Viability Tested schemes.⁷ Although this data refers only to applications that have been referred to the Mayor, the Committee nonetheless welcomes the

³ Mayor of London, London Plan Guidance, [Affordable Housing Consultation Draft](#), May 2023

⁴ Mayor of London, [Affordable Housing LPG Consultation Survey Questions](#), May 2023

⁵ London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 1, [minutes](#), p. 4

⁶ Ibid., p. 5

⁷ Ibid., p. 11

provision of more affordable housing under the approach and is supportive of the continuation of the approach in the LPG.

At our meeting, we asked the Deputy Mayor whether there was scope to increase the 35 per cent threshold. This was a view supported by the London Housing Panel, whose Chair, Dinah Roake told us that the 35 per cent figure could potentially be increased.⁸

The Deputy Mayor told the Committee however that given current inflationary pressures and uncertainty in the housing market, there was a risk that increasing the threshold would lead to more schemes following the Viability Tested Route instead of the FTR, and therefore providing fewer affordable homes.⁹ Anthony Lee, Head of UK Development Viability from BNP Paribas Real Estate, further highlighted that there was a risk that developers are currently being incentivised to bring forward unviable schemes that meet the 35 per cent threshold in order to circumvent the perceived delay of having to submit viability information.¹⁰ Anthony Lee also stated that the 35 per cent threshold could potentially incentivise developers to increase height, bulk and massing beyond what would normally be acceptable in planning terms.¹¹

Recommendation 1

Given current market conditions and the risk in developers potentially bringing forward unviable schemes that meet the 35 per cent threshold, the Mayor should closely monitor applications that go through the Fast Track Route to ensure that these schemes are viable. If it is found that specific developers are repeatedly submitting unviable schemes that are eligible for the FTR, they should be subject to a cooling period whereby they would be prevented from accessing the FTR. The Mayor should publish this data quarterly.

Recommendation 2

The Mayor should use data gathered on the Planning London Datahub to monitor the effectiveness of the threshold approach on planning applications across London, and publish its conclusions.

Key worker prioritisation

The guidance states that the GLA ‘strongly encourages’ local authorities and housing providers to prioritise key workers when setting eligibility and prioritisation criteria as well as to adopt the definition of key workers, and the GLA’s core list of key-worker occupations.¹² At our meeting, the Committee noted that this list includes over one hundred key worker occupations and discussed the need for local authorities to use this list to prioritise key workers based on local demand.¹³

⁸ London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 2, [minutes](#), p. 6

⁹ London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 1, [minutes](#), pp. 10-11

¹⁰ London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 2, [minutes](#), p. 6

¹¹ Ibid.

¹² Mayor of London, London Plan Guidance, [Affordable Housing Consultation Draft](#), May 2023, p.12

¹³ London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 1, [minutes](#), p. 15

Recommendation 3

The Mayor should provide greater support to local councils in implementing its core list of key worker occupations when developing their allocation lists and should provide further guidance, where needed, to ensure that local needs are adequately addressed.

London Living Rent income cap

With regard to key workers, the consultation questionnaire published alongside the draft LPG proposes raising the London Living Rent (LLR) housing eligibility income cap from £60,000 to £67,000, so it is in line with changes to median incomes in London since 2017. The document states that the income cap can make it difficult for households with more than one earner, that cannot afford to rent on the private market, to access intermediate rent. This includes some key worker households that the guidance is seeking to prioritise for intermediate homes. The survey goes on to state that the proposed increase in the cap would increase housing costs but would also improve the viability of this tenure.¹⁴

At our meeting, GLA officers argued that raising the cap to £67,000 struck the right balance between improving viability for housing providers while ensuring that housing costs were not too high for residents.¹⁵ The Committee is generally supportive of this increase in the cap. Industry representatives at our meeting similarly welcomed the increase with Rachel Ferguson, Senior Development Manager at Pocket Living, noting that the increase opens up the LLR product to more young professionals in the marketplace.¹⁶

However, the Committee is concerned that increasing the cap could potentially disincentivise councils to provide units below the maximum threshold. The consultation questionnaire published alongside the draft Affordable Housing LPG states that the GLA is considering setting out income levels below the maximum level which would be applied where the relevant local planning authority has not published local income levels.¹⁷ **The Committee supports the proposal in the consultation questionnaire for the GLA to set out income levels below the maximum level which would be applied where the relevant local planning authority has not published local income levels.**

At our meeting, Dinah Roake told the Committee that there was a flawed assumption that key worker housing will only be let at higher rents; the London Tenants Federation has raised the point that there are a number of keyworkers who can only afford social rents.¹⁸ The Committee asked the GLA team at our meeting to provide us with data on the number of key workers who are likely to be impacted by the cap increase and were told that this was something that would be followed-up with the Committee in due course.¹⁹

¹⁴ Mayor of London, [Affordable Housing LPG Consultation Survey Questions](#), May 2023

¹⁵ London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 1, [minutes](#), p. 4

¹⁶ London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 2, [minutes](#), p. 9

¹⁷ Mayor of London, [Affordable Housing LPG Consultation Survey Questions](#), May 2023

¹⁸ London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 2, [minutes](#), p. 7

¹⁹ London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 1, [minutes](#), p. 6

Recommendation 4

The Mayor should make an assessment of the number of key workers who need to access low-cost housing products and those who need intermediate products and provide this data to the Committee.

Recommendation 5

The Mayor should assess the impact of raising the LLR income cap to £67,000 by further detailed monitoring of what range of households are accessing these products in future. This would allow the GLA to assess the scale of demand for these products and make reasonable adjustments to the cap where needed.

Existing use value

The Committee notes the LPG adopting the existing use value approach (plus a premium as appropriate) as the primary approach to land values. This is in part intended to prevent developers using excessive land valuations as the reason that they cannot build more affordable housing on that land. We appreciate that it is expensive and less profitable to build affordable housing than private housing. This approach allows for a 'reasonable competitive return' to the landowner to ensure the release of the land and prevents an excessive escalation of the price of land at the expense of affordable housing. It is a crucial mechanism for ensuring that viability is not used to avoid bringing forward sustainable development.

The LPG includes additional guidance around 'sense-checking' which includes cross-checking the residual land value outcome against the price paid for sites with 'similar characteristics' to the application site. The guidance states that when analysing land-transaction evidence, the circumstances of the sites and assumptions that may have been made by purchasers should be considered. These could include existing planning consent, any abnormal costs and the quantity of affordable housing being delivered on that site. At our meeting, the Committee heard that this requirement to cross-check against similar sites could potentially be difficult and flawed. Anthony Lee told us that there were several issues with comparing the residual land value of different sites as there could be variations in the bulk, massing and materials used.²⁰

Recommendation 6

The Committee believes that 'sense-checking' is an important addition to the viability guidance but recommends that further detail be provided to developers on what 'similar characteristics' should be compared between sites.

Developer returns

With regard to section 4.3.33 in the Development Viability LPG, we believe that greater clarity is needed. The paragraph states:

"The likely type of developer should also be taken into account. For example, where councils and registered providers bring forward estate regeneration schemes as the lead developer or as part of a partnership, they are able to do so without requiring the levels of

²⁰ London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 2, [minutes](#), pp.3-4

returns required by private developers, and these schemes are often supported by grant and other forms of subsidy. The level of return assumed in this scenario should reflect this.”²¹

At our meeting there were differing interpretations on whether this meant that local authorities and housing associations would be allowed a lower profit margin than private developers. Anthony Lee stated: “That distinction or that ramping down of profit for certain developers bringing forward schemes, i.e local authorities and Housing Associations, will possibly incentivise those bodies to simply say that they do not want to take the extra risk because they are not covered for that risk because of a lower profit margin.”²²

Recommendation 7

The Committee would like greater clarity on whether the correct interpretation of the section is that local authorities and housing associations would be allowed a lower profit margin than private developers. If it is not, then the correct interpretation should be set out clearly in the final version of the LPG.

Build to Rent (BtR)

The Committee supports the approach that the LPG sets out to allow Build to Rent (BtR) schemes that meet the 35 per cent threshold approach to qualify for the Fast Track Route. The LPG allows BtR developers to provide Discount Market Rent (DMR) homes where a proportion of rent levels must be set equivalent to London Living Rent. The LPG states that schemes that provide the following tenure mix can qualify for the Fast Track Route:

- 30 per cent DMR at rent levels equivalent to LLR
- 70 per cent DMR at a range of genuinely affordable rents in line with local need.²³

At our meeting, the Committee heard how current market conditions have led to ‘significant institutional appetite for investment in Build to Rent.’²⁴

As Anthony Lee noted: “Getting an investor to invest in a 100-unit Build to Rent scheme is far easier as a prospect than getting 100 individuals to buy flats from you. To that degree, the risk profile is probably flipped so there is lower risk in Build to Rent than there is in Build for Sale and many more developers are looking at Build to Rent as a way of diversifying the mix of product on their schemes.”²⁵

Rachel Ferguson told us that there was ‘a lot of buoyancy’ in the rental market but conceded that rising interest rates and caps on increases to social rents have meant that it is still ‘not quite as buoyant as perhaps it might have been six or 12 months ago.’²⁶

During our evidence session, the Committee also heard that sections 5.1.4 and 5.1.5 of the draft Affordable Housing LPG could be open to interpretation.²⁷ Section 5.1.4 for example states that

²¹ Mayor of London, London Plan Guidance, [Development Viability Consultation Draft](#), May 2023, p. 27

²² London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 2, [minutes](#), p. 3

²³ Mayor of London, London Plan Guidance, [Affordable Housing Consultation Draft](#), May 2023, p. 19

²⁴ London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 2, [minutes](#), p. 12

²⁵ Ibid.

²⁶ Ibid., p. 13

²⁷ Ibid., p. 12

the provision of 30 per cent of Discount Market Rent (DMR) units at LLR level is a minimum requirement and that other low-cost rent (i.e. Social Rent or London Affordable Rent) units may contribute to this 30 per cent proportion of affordable housing to be provided at ‘more affordable rents.’ Section 5.1.5 however states that where “the level of affordable housing provided is above 35 per cent, the tenure of the additional affordable housing is flexible. This can be provided at a range of genuinely affordable rents.”²⁸ The distinction between ‘more affordable’ and ‘genuinely affordable rents’ is not clear.

Rachel Ferguson noted that this has led to significant variation across boroughs: “the Guidance, I believe, sets out the threshold that should be LLR, so of your 35 per cent affordable, the proportion to be LLR. However, the remainder is at the discretion of local authorities or with negotiation with local authorities or perhaps the GLA on larger schemes. We are seeing enormous differences across the board in schemes we are looking at and ultimately that is really going to impact the overall level of the 35 per cent or not as well; we are seeing it varying enormously across boroughs.”²⁹

Recommendation 8

The GLA should provide clarity in the final version of the LPG on what ‘more affordable’ versus ‘genuinely affordable’ housing means in the Buy to Rent context and seek to increase the proportion of London Living Rent required if DMR at ‘genuinely affordable’ rents is clarified to refer to higher rents than LLR rates. This would ensure that there is greater consistency in the delivery of these schemes across London.

The Committee is grateful for the opportunity to respond to the consultation and for the time that the GLA team and industry representatives gave us during our evidence session. We would welcome a response to this letter by 4 September 2023. Please send this response to Memuna Hussain, Senior Policy Adviser, at Memuna.hussain@london.gov.uk

Yours sincerely,



Sakina Sheikh AM
Chair of the Planning and Regeneration Committee

²⁸ Mayor of London, London Plan Guidance, [Affordable Housing Consultation Draft](#), May 2023, p. 19

²⁹ London Assembly Planning and Regeneration Committee meeting, 7 June 2023, Panel 2, [minutes](#), p. 14