

DLUHC Brownfield Land Consultation

Response from the Greater London Authority

March 2024

Q1. Do you agree we should change national planning policy to make clear local planning authorities should give significant weight to the benefits of delivering as many homes as possible [yes/no]? If not, why not?

- The Mayor supports the objective of maximising housing delivery within the context of a planning system that rightly aims to meet a range of other objectives. The planning system needs to support the delivery of many objectives, and sometimes these can be in tension with one another or competing for the same development capacity.
- The greatest number of homes possible is not always consistent with sustainable development, other policies in the National Planning Policy Framework (NPPF), nor with other development plan policies and it will depend on context that varies from place to place. Other land use considerations are also important, such as accommodating economic activity and growth, capacity for suitable workspaces and good quality jobs. In London, the rich mix and agglomeration benefits of the Central Activities Zone which supported a combined output of £214bn in 2019, the need for industrial capacity to serve London, and the capacity of infrastructure are all key land-use considerations alongside housing delivery. A coordinated plan-led approach is necessary. The London Plan is clear in this context about the aim of optimising the capacity of sites and making the best use of the land that we have in order to deliver housing.
- The housing delivery target in the London Plan is based on our best evidence on the capacity for new homes. Within this target, the greatest need is for affordable housing, particularly social housing, but analysis carried out for the GLA shows that this need cannot be met without a large increase in central government funding. This is a key intervention that would directly increase housing delivery because affordable homes are not subject to the same sales risk and absorption constraints as market homes and they can be forward sold, aiding developer cashflow.
- Meeting London's housing needs may not always mean simply building more housing units – in some cases, it will mean building larger homes. There are also inescapable trade-offs between some objectives, such as inclusion of second staircases or meeting requirements to address thermal performance and ventilation, and the total number of homes that could otherwise be delivered on a site.
- A lack of certainty about long-term infrastructure investment, affordable housing funding and current difficult economic conditions outside the control of the Mayor or local planning authorities are significant brakes on housing delivery and we would urge the government to address these issues as a matter of urgency.

Q2. Do you agree we should change national planning policy to make clear local planning authorities should take a flexible approach in applying planning policies or guidance relating to the internal layout of development [yes/no]? If not, why not?

- We would note that the system is already flexible as it is discretionary and allows for other material considerations to be taken into account. It is not a matter of policy: it is already in law. To highlight this existing statutory provision further through *individual policies* could suggest that this flexibility and material consideration is prioritised above others which would seem to be inappropriate given a concern for a balanced approach to sustainable development. Notwithstanding this, flexibility to go beyond minimum specifications is also there and shouldn't be discouraged.
- The consultation is not entirely clear on what is proposed, nor on the evidential basis for the proposed flexibility. Some policies and guidance relating to internal layouts are crucial for protecting and promoting well-being, including for disabled people. Such considerations have been in place for decades and it is unclear why in this post-Covid period there would be a move away from ensuring the health and well-being of future occupiers. The Mayor cannot therefore support a proposal without sufficient reassurance that it will not erode the current levels of housing quality.

Q3. If we were to make the change set out in question 2, do you agree this change should only apply to local policies or guidance concerned with the internal layout of developments [yes/no]? If not, what else should we consider?

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Q4. In addition to the challenges outlined in paragraph 13, are there any other planning barriers in relation to developing on brownfield land?

- Planning of infrastructure is key to opening up opportunities for brownfield development. Where this is absent or inadequate this can act as a significant barrier. National policy should recognise that the character of an area can and should evolve over time, especially in the context of increasing housing supply to meet needs.
- There is insufficient recognition within national planning policy of the complexities of, and barriers to, brownfield development (financial, land assembly, multiple ownership, mixed use (i.e. mix of uses in close proximity), impact on existing communities (positive or negative)). Practically all development in London is already on brownfield land.
- There is also insufficient recognition in national policy of the role of the Local Planning Authority (LPA) and local planning policy and processes in helping to identify and address barriers.

Q5. How else could national planning policy better support development on brownfield land, and ensure that it is well served by public transport, is resilient to climate impacts, and creates healthy, liveable and sustainable communities?

- National policy could do more to support the incremental intensification of existing neighbourhoods over time, adding new homes to meet housing needs, provide a more diverse range of housing options and promote the development of vibrant and sustainable communities. But there is also a limit to what national planning policy can do in the absence of other enabling investment, notably in transport, social infrastructure and affordable housing.
- National planning policy could better support development on brownfield land and create healthy, liveable and sustainable communities by better recognising and facilitating the role of planning in managing and delivering a wide range of land uses in the public interest, including but not limited to housing or even built development.

Q6. How could national planning policy better support brownfield development on small sites?

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Q7. Do you agree we should make a change to the Housing Delivery Test (HDT) threshold for the application of the Presumption in Favour of Sustainable Development on previously developed land [yes/no]?

- As a measure of delivery, changing the operation of the HDT thresholds to introduce a new presumption will be largely ineffective in achieving the desired policy outcome of driving up the rate of new homes delivered, but risks reducing the quality of what does get delivered. LPAs cannot control whether and how quickly approved planning permissions are completed, therefore reducing or removing their ability to shape development through local planning policies on the basis of completion rates will result in arbitrary and inconsistent outcomes.
- It also risks a perverse outcome by incentivising planning authorities to pursue less ambitious targets in the first place as a way of minimising the risk of falling below HDT thresholds.
- To assume sustainable development is only about policies set out in the NPPF is to ignore the role of spatial planning, co-ordinating particular spatial opportunities (e.g. particular infrastructure investment) and managing spatial risks, which is entirely absent from the NPPF but is set out in local plans and Spatial Development Strategies. The suggested proposals would result in perverse outcomes like loss of the ability to deliver properly master-planned sites or the application of design codes.

Q8. Do you agree the threshold should be set at 95% [yes/no]? Please explain your answer.

No

Q9. Do you agree the change to the Housing Delivery Test threshold should apply to authorities subject to the urban uplift only [yes/no]? If not, where do you think the change should apply?

- No, if it is to be introduced it should apply universally. Ultimately there are only so many sites suitable for developments in constrained urban areas (which is the issue with the urban uplift authorities) so this is unlikely to bring forward new sites.

Q10. Do you agree this should only apply to previously developed land within those authorities subject to the urban uplift [yes/no]?

- Most of these authorities consist mainly of brownfield land, so it is likely to have limited impact.

Q11. Do you agree with the proposal to keep the existing consequences of the Housing Delivery Test the same [yes/no]? If not, why not?

- No we don't consider the HDT as currently formulated is fit for purpose for the reasons given above and in previous consultation responses.

Q12. For the purposes of Housing Delivery Test, the cities and urban centres uplift within the standard method will only apply from the 2022/23 monitoring year (from the 2023 Housing Delivery Test measurement). We therefore propose to make a change to the policy to align with the publication of the Housing Delivery Test 2023 results. Do you agree [yes/no]? If not, why not?

- No
- The application of an urban uplift with no consideration of places' capacity to accommodate development or the industry to deliver it is arbitrary and unreasonable. The Housing Delivery Test itself is not fit for purpose, as set out in our previous consultation responses, and this includes the arbitrary application of a 35% uplift in the first instance. Moreover, this risks jeopardising delivery on wider social, economic and environmental objectives, including other built development and sustainable placemaking objectives (i.e. creating places where people want to live, work, invest and spend their time).

Q13. Do you think the current threshold of 150 residential units for referral of a planning application of potential strategic importance to the Mayor of London is the right level [yes/no]?

- Yes
- The key rationale for the reduction of the referable threshold from 500 to 150 homes in 2008 was the importance of increasing the supply of new housing, particularly affordable housing to support delivery of the London Plan. This remains the case and we believe that it is still the right level, that it adds value to the process and does not inadvertently slow down or disincentivise developments that could be dealt with at borough level.
- Firstly, in terms of perceived slowing down of the process, there are clear timelines for the Mayor's responses to Local Planning Authorities set out in the Town and Country Planning (Mayor of London) Order 2008. At the initial consultation stage (Stage 1) this is within six weeks of the application being referred by the borough which can comfortably be considered by the LPA within their statutory deadlines of 13 or 16 weeks for the determination of strategic applications. The Stage 1 response provides a clear assessment of the application against London Plan policy and identifies any actions that may be required to ensure compliance. After the LPA has made their decision and refers the application at Stage 2, a response as to whether the Mayor wishes to intervene or allows the LPA to issue their decision must be made within 14 days. This is achieved in over 98 per cent of Stage 2 referrals which allows the LPA to be able to issue their decision swiftly after referral. Given that many strategic applications will be complex in nature and require inputs from a wide variety of stakeholders this can lead to delays in the application process particularly post LPA decision when finalising the details of s106 obligations. However, the GLA team always seek to ensure that our engagement during this process is timely and efficient as possible with the aim of securing better outcomes for Londoners.
- In addition to statutory Stage 1 and 2 responses, the GLA provides a comprehensive pre-application service which enables applicants to take into account advice at an early stage which is intended to help speed up and provide greater confidence through the application stage of the planning process. The LPAs are also invited to these meetings ensuring that applicants benefit from the views of both the local and strategic planning authority as part of this process.
- Far from duplicating the functions of the LPAs or slowing down progress of developments, a fundamental aspect of the GLA planning team's role is partnership working with the LPAs where our involvement and expertise has resulted in substantial improved outcomes for Londoners. In particular, we have provided our considerable expertise in increasing the level of affordable housing throughout the course of an application. The GLA's involvement has also sped up the planning process through the application of the Fast Track Route as part of the London Plan Threshold Approach,

without the need for viability testing¹. By contrast, nearly half of local plans include higher affordable housing targets than those in the London Plan and so increasing the referable threshold would result in more schemes being assessed against a higher requirement. Where schemes are viability tested under the London Plan, the GLA's involvement helps to ensure that proposals provide the maximum viable amount resulting in more much needed affordable homes. As well as addressing housing need, the delivery of affordable housing increases and speeds up housing delivery as this helps to de-risk development through forward sale and reducing market exposure.

- The GLA's role in increasing affordable housing provision and supporting overall delivery is demonstrated by the increase in affordable housing between Stage 1 and Stage 2 referral processes. Between 2014 and 2022 10,972 additional affordable homes were secured at Stage 2, compared with the level proposed at Stage 1. This is also shown through the difference in affordable housing secured and delivered prior to and after the introduction of the Mayor's threshold approach to affordable housing (Fast Track Route and Viability Tested Route). Between 2018 and 2022, an average of 36 per cent affordable housing (by unit) was secured as a proportion of all units at stage 2 compared to 25 per cent from 2014 to 2017.
- In addition, evidence shows that non-referable schemes of 100-149 units typically provide on average 30 per cent affordable homes by unit compared with 43 per cent in referable applications with 150-200 units between 2018 and 2022. This indicates the potential for a significant loss of the delivery of affordable homes in schemes that could no longer have any GLA involvement if the threshold was increased.
- There are many schemes where the LPA has had concerns regarding strategic development proposals, however input from the GLA planning team through the process was instrumental in resolving the LPAs concerns and enabled a positive outcome at local level. Recent examples of this are the redevelopment of Holloway Prison, which was a redundant brownfield site where, following the input from the GLA team, the borough granted planning permission for 985 homes with 60 percent affordable housing, 415 of which are social rented homes. Similarly, following a series of meetings with the LPA, a regeneration scheme for Barnsbury Estate was granted permission by the planning authority for 914 homes with 46 percent affordable housing, including an additional 135 social rented homes above the replacement floorspace. The contributions of the GLA team working with the LPA enabled a timely decision to be made at a local level on this site. As a result, the development was able to meet grant funding deadlines which helped to ensure that it was deliverable.
- In addition to improved outcomes in terms of housing and affordable housing, the GLA are able to provide expertise on whole life cycle carbon and circular economy

¹ Analysis of the time between Stage 1 and Stage 2 of the referral process indicates that the Threshold Approach has had a material impact on the time taken to determine planning applications, with Fast Track Schemes in 2021 and 2022 progressing to Stage 2 on average four months quicker than Viability Tested schemes. Applications assessed under the Viability Tested Route schemes took on average nearly a third of the time longer than Fast Track Route schemes to progress to Stage 2. This does not take into account further time savings at pre-application stage, pre Stage 1, and post Stage 2.

assessments as many LPAs simply do not have the resources to provide expertise in these fields. A further key outcome of direct GLA involvement is securing transport contributions which help to ensure that the scale of development proposed can be sustainably accommodated without placing undue pressure on the transport network and that wider public benefits such as step free access are secured.

- In common with many planning authorities, many of London's LPAs are struggling with resources and there is a shortage of experienced, senior planners who are able to deal with strategic developments, so the expertise and support of the GLA team is invaluable in progressing these schemes to a successful conclusion.
- The Mayor also has the power to 'call in' strategic applications where he becomes the local planning authority. While this power is used sparingly, it unlocks key strategic development. The number of applications the Mayor has called in since 2016 is 23. Overwhelmingly these powers have been used where the LPA has resolved to refuse planning consent, but the Mayor considers the scheme to be of strategic importance for the delivery of the London Plan. Acting as local planning authority, the Mayor has often secured an increase in affordable housing or other improved outcomes from when the scheme was originally considered by the LPA. The Mayor has granted permission for 19 called in applications involving residential development resulting in a total of 17,539 new homes, 6774 of which are affordable including an uplift of 1532 affordable homes from when he first called in these schemes for his determination. This increase in affordable homes has been secured across a range of sizes of development. A particularly relevant example in the context of the suggested raising of the referral threshold is 9 –21 Osiers Road in Wandsworth where a scheme for 168 homes was refused permission against officers' advice in 2019. After the Mayor called in the scheme the level of affordable housing was increased from 39 to 100 per cent and development has now been completed. Had the referral threshold been 300 units or higher this development would probably never have taken place.
- The current threshold level of 150 homes should remain in order that the Mayor is able to maximise the delivery of housing, particularly affordable housing and a range of other improved outcomes for Londoners. Increasing the threshold would result in fewer schemes receiving planning permission, lower housing delivery, a less well-resourced and slower planning system and poorer quality development that less effectively meets the needs of Londoners.

Q14. If no, what would you set as the new threshold? [300/500/750/1000/other] Please explain your answer.

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Q15. We continue to keep the impacts of these proposals under review and would be grateful for your comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document.

- If space standards, layout and delivery of wider policy objectives, including development other than housing, are compromised in the drive to maximise housing density this will adversely and disproportionately affect some groups who share protected characteristics. For example, where space standards and layout fail to meet guidelines this will diminish the accessibility and suitability of accommodation for disabled and older people. Given that most existing homes are inaccessible to many disabled people, it is vital that new housing is accessible. In recognition of this, in London, the Mayor requires 90% of new housing to meet Part M4 (2) standard and 10% to meet Part M4 (3) standard.
- There are potential impacts for households comprising a wheelchair user, if a more flexible approach is adopted to applying planning policies and guidance relating to the internal layout of development. Specifically, London Plan Policy D7 seeks 10% M4(3) 'wheelchair user dwellings' and 90% M4(2) 'accessible and adaptable dwellings.' LPAs will seek to achieve 10% M4(3) for affordable homes, for low-cost rent, because they have a list of households on the housing register waiting for this accommodation.
- Further changes are required so that wheelchair accessible homes can be delivered in the market sector as well as the affordable sector. National restrictions currently hinder this, and only allow wheelchair adaptable homes unless the occupier is known. This is a significant barrier for wheelchair users looking to purchase a home.
- Furthermore, reductions in the proportion of affordable housing secured as a result of an increase to the threshold for applications that are referred to the Mayor would have a detrimental impact on groups with protected characteristics in housing need.