

**Proposed new funding
condition to require
resident ballots in estate
regeneration**

Consultation Paper

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1. Introduction

Background

- 1.1 In February 2018, the Mayor published 'Better Homes for Local People – the Mayor's Good Practice Guide to Estate Regeneration'. Publication followed three months of public consultation on a draft version, which generated thousands of responses. Views from interested parties continued to be received and considered after the formal consultation period had closed.
- 1.2 The Guide sets out the multiple benefits that the Mayor considers are offered by successful estate regeneration projects, such as higher quality affordable homes for people already on the estate, a greater supply of homes of all tenures, new and improved social infrastructure (such as schools and health facilities), and an improved public realm.
- 1.3 The Guide makes clear the Mayor's support for resident ballots in estate regeneration projects that involve the demolition of existing homes. Positive votes in ballots create a powerful mandate for change and a strong endorsement of councils and housing associations, as landlords, working with residents to develop plans. The Mayor now wishes to undertake a further consultation on how ballots can be encouraged through the adoption of a new GLA funding condition.
- 1.4 The Mayor's draft London Housing Strategy sets out his expectation that boroughs and housing associations seeking funding for estate regeneration will conform to the principles set out in his good practice guide. The Mayor's Supplementary Planning Guidance on Affordable Housing and Viability and draft new London Plan also set out how the Mayor expects estate regeneration schemes to meet requirements for any affordable housing that is demolished to be replaced on a like-for-like basis, and for schemes to deliver an uplift in affordable housing where possible.

Purpose of this consultation

- 1.5 The purpose of this consultation is to seek views on the Mayor's proposed policy to mandate resident ballots for estate regeneration schemes where demolition of existing homes is proposed and where Greater London Authority (GLA) funding is sought. Specifically, the consultation seeks views on:
 - the principle of applying a funding condition to encourage resident ballots in estate regeneration schemes involving demolition of existing homes;
 - how these ballots should work in practice; and
 - transitional arrangements.
 - 1.6 The consultation is open for eight weeks and the deadline for responses is 5pm on Tuesday 3 April 2018. After considering responses, the Mayor's policy will be
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implemented through a change to the GLA's Affordable Housing Capital Funding Guide.

How to respond to this consultation

This consultation closes at 5pm on Tuesday 3 April 2018. Replies should be sent to:

By email: ballotsconsultation@london.gov.uk

By post: Consultation on ballots in Estate Regeneration
Housing & Land Directorate
Greater London Authority
169 Union Street
London SE1 0LL

2. Objectives and application of a funding condition to require resident ballots

Objectives of this policy

- 2.1 The Mayor's objective in introducing a requirement for ballots is to ensure that, where his funding supports plans for estate regeneration involving the demolition of existing homes, social tenants and resident leaseholders and freeholders, and residents on the estate in need of social housing, have a clear say over whether the plans should proceed.
- 2.2 The Mayor is aware that, in isolation, a policy requiring positive ballots means some estate regeneration schemes may not go ahead. This could mean the benefits of such schemes, including new and affordable housing and other community benefits, would not be realised. However, it is envisaged that ballots will form part of landlords' programmes to engage intensively with residents to develop plans for estate regeneration schemes. They will provide the opportunity to strengthen support for estate regeneration schemes that meet the needs of residents, which deliver as much affordable housing and other community benefits as possible. Furthermore, when taken together with his policies to seek an overall increase in the level of housing, and particularly affordable housing, through his draft new London Plan, draft London Housing Strategy, and Affordable Housing Programme, the Mayor considers that his policies will lead to an overall increase in affordable homes in London.
- 2.3 The Mayor believes it is important that regeneration projects which involve significant disruption to residents through the demolition and replacement of their homes should proceed on the basis of support from those most directly affected. There have been cases where opposition to such estate regeneration schemes by residents has slowed or prevented the delivery of new homes. A process that requires resident support at an early stage will be more likely to give confidence to boroughs, housing associations and their development partners to proceed with such estate regeneration proposals.

Application of this policy

- 2.4 The Mayor wishes to encourage resident ballots as part of estate regeneration schemes that involve demolition of existing housing. The GLA has considered two potential ways to achieve this:
 - utilising the Mayor's planning powers; and
 - applying a condition where GLA funding for affordable housing is sought.
- 2.5 The objective of the planning process is to manage the development of land and buildings in order to ensure that sustainable development is achieved. Decisions are

taken by planning officers under delegation, elected councillors and other statutory decision takers (including the Mayor for certain schemes). Planning decisions are a quasi-judicial process and there is no legal basis to require either holding a ballot or the results of a resident ballot to be binding on them.

- 2.6 Instead, it is proposed that the GLA applies a new condition in its Affordable Housing Capital Funding Guide requiring evidence of a positive vote in a resident ballot before new allocations of affordable housing grant are made to estate regeneration projects that involve demolition of existing homes. Ballots would need to satisfy certain requirements (set out in section 3 of this consultation), some schemes would be exempt from the requirement on a limited number of specified grounds (set out in section 4 of this consultation), and transitional arrangements would also be put in place (set out in section 5 of this consultation).

Question 1: Do you agree that the GLA should make resident ballots a funding condition for estate regeneration schemes?

3. Requirements for resident ballots

a. Threshold, timing and scope of ballots

- 3.1 The Mayor proposes that the funding condition would be applied to any proposed strategic estate regeneration scheme utilising GLA funding which involves the demolition of homes owned by a social landlord.
- 3.2 In line with established practice, the GLA proposes to define a strategic estate regeneration scheme to be development on an existing social housing estate that is referable to the Mayor for a planning decision, i.e. one that involves the construction of at least 150 homes regardless of tenure.
- 3.3 A ballot would be triggered for schemes that fall within this definition only if the social landlord also plans to demolish any affordable or leasehold homes whose freehold it owns, and any freehold properties within the estate acquired under the Right to Buy, Right to Acquire, or Social HomeBuy. A ballot would not be triggered by plans to demolish homes that may have been purchased from private ownership to facilitate regeneration.
- 3.4 Applications for GLA funding of estate regeneration schemes that fall below the strategic threshold will be considered in line with the approach taken for funding other affordable housing.
- 3.5 The Mayor proposes that the GLA will carefully scrutinise applications for funding to ensure that proposed estate regeneration schemes reflect the true extent of plans for demolition and rebuilding and are not partitioned in such a way as to avoid the requirement for ballots.
- 3.6 The ballot would be a yes/no vote on a landlord's offer to residents. It should offer enough information for eligible residents¹ to make an informed decision about the future of their estate, which should be set out in a single and accessible offer document. As a minimum, the offer should cover the following:
 - the broad vision, priorities, and objectives for the estate regeneration;
 - details of the full right to return or remain for social tenants living in homes that are to be demolished;
 - details of the offer for leaseholders and freeholders of homes that are to be demolished; and
 - commitments relating to ongoing open and transparent consultation and engagement.
- 3.7 The broad vision, priorities, and objectives for the estate regeneration that should be put forward in a ballot proposition should include information on:
 - the design principles of the proposed regeneration;

¹ As set out in paragraphs 3.14-3.22

- the estimated overall number of new homes;
 - the estimated scale of demolition of homes;
 - the future tenure mix; and
 - proposed associated social infrastructure (such as green spaces, health, or educational facilities).
- 3.8 The offer to residents should be informed by an open and transparent options appraisal process and residents should have a clear idea of the broad scale and outcomes of the project at the point the ballot takes place.
- 3.9 The GLA will encourage social landlords to provide as much detail in their proposals to residents as possible. Landlords should include as much information as is available about design, mix, management proposals, and allocation policies, although the GLA recognises that a number of such details may be developed following a positive vote.
- 3.10 A ballot would be the culmination of a period of consultation, engagement and negotiation between residents and their landlord. It would generally take place prior to the procurement of a development partner and/or prior to the precise specification of works. This is so that the outcome of the vote can set the terms of the landlord's commitments to residents as well as the broad vision, priorities, and objectives that underpin the detailed planning stage.
- 3.11 The Mayor proposes that a further ballot would not be required to approve the subsequent procurement of a development partner or the adoption of a masterplan. Both should be informed by the vision, priorities, and objectives agreed by residents, and underpinned by the landlord's commitments to, and residents' endorsement of, a process of open and transparent consultation and engagement.
- 3.12 The Mayor expects a ballot to be a milestone in an estate regeneration process, and the culmination of a period of resident consultation, engagement, and negotiation, but not the end of it. Where a vote in favour of the proposals has occurred, resident consultation and engagement should continue after a ballot has taken place to ensure ongoing input into the process. The landlord's proposals for this ongoing consultation and engagement should form part of the ballot itself and they should complement ballots with other long-term means of engagement to reflect the fact that regeneration plans will usually affect different people in different ways over many years.
- 3.13 The Mayor expects landlords to honour the outcomes of ballots. This means landlords' offers to residents should be fulfilled. The Mayor proposes that the new funding condition will allow for the GLA to clawback funding if it considers that a landlord's offer deviates materially from that agreed in a ballot.

3.14 Alongside his support for resident ballots, the Mayor has also included a new policy within the draft new London Plan requiring no net loss of affordable housing within estate regeneration schemes, and that schemes delivers an uplift in affordable housing where possible. Replacement of affordable homes should be on a like-for-like basis, meaning that homes at social rent levels that are demolished should be replaced by homes with rents based on that which has been lost. The Mayor is consulting on his draft new London Plan separately.

3.15 A proposal for estate regeneration that secures a positive vote in a ballot will still need to seek approval through the planning process. Proposals for estate regeneration must therefore take into account local and Mayoral planning policy in relation to issues such as, for example, the amount of affordable housing to be provided, design standards, or the provision of green space.

Question 2: Do you agree with the proposed criteria that would trigger the requirement for a resident ballot? Why/why not?

Question 3: Do you agree with the proposed scope of resident ballots? Why/why not?

Question 4: Do you agree with the proposed stage in an estate regeneration process at which ballots should happen? Why/why not?

Question 5: Do you have any other comments on the threshold, scope and timing of resident ballots?

b. Eligibility requirements

3.16 The purpose of the proposed policy is to give a clear say to social tenants, resident leaseholders and freeholders, and residents in need of social housing on the estate, who are living on estates who would be directly affected by regeneration works.

3.17 The Mayor proposes that ballots would be open to all residents on an estate that meet one or more of three eligibility criteria:

- social tenants (including those with secure, assured, flexible or introductory tenancies) named on the tenancy agreement;
- resident leaseholders and freeholders who have been living in their properties for at least one year prior to the ballot and are named on the lease or freehold; or
- any resident who has been on the local authority's housing register for at least one year, irrespective of their current tenure.

3.18 Individuals who meet more than one of the eligibility criteria would only receive one vote. It is proposed that there is no limit on the number of eligible voters per household.

- 3.19 The following would therefore only be eligible to vote in a ballot if they had been on the local authority’s housing register for at least one year:
- tenants on non-secure/assured shorthold tenancies; and
 - homeless households living in temporary accommodation.
- 3.20 The following would not be eligible to vote in a ballot:
- non-resident leaseholders and freeholders;
 - resident leaseholders and freeholders who have been living in their properties for less than a year prior to the ballot; and
 - non-residential tenants, leaseholders and freeholders (e.g. businesses).
- 3.21 To be clear, it is proposed that private tenants on an estate would only be eligible to vote in a ballot if they have been registered on the local authority housing register for at least one year. This is on the basis that the aim of the policy is to strengthen the rights of social tenants and resident leaseholders and freeholders, as well as those seeking to access social housing. It also reflects the limited statutory obligations towards private tenants affected by estate regeneration and the fact that equivalent housing options for private tenants living in a home that was being demolished would not normally be provided through new build plans.
- 3.22 Resident leaseholders and freeholders on the estate would be entitled to vote in a ballot because they are residents owning property that would be significantly affected by proposed regeneration plans. As set out in the Mayor’s good practice guide, they should be made an offer of compensation and rehousing, and the nature of this offer will be one of the matters to be voted on in a ballot.
- 3.23 In a separate consultation on his draft London Housing Strategy, the Mayor has set out his vision for a reformed private rented sector which includes stronger security of tenure for private tenants. The Mayor believes such reforms should apply across the entire private rented sector.
- 3.24 To ensure that ballots are consistent, the Mayor proposes that landlords have no discretion on eligibility for ballots.

Question 6: Do you agree with the proposed eligibility criteria for resident ballots? Why/why not?

Question 7: Do you agree that eligibility criteria should be the same for all schemes? Why/why not?

c. Implementing ballots

3.25 The Mayor believes that a qualified independent body, such as Electoral Reform Services, contracted by the landlord, should supervise the ballot. This mirrors Government requirements for ballots relating to industrial action and strikes by trade unions². Furthermore, although Government guidance for resident ballots for stock transfers did not mandate such an approach³, in practice it has been adopted by many councils and housing associations when undertaking ballots.

3.26 The Mayor proposes that a 'yes' vote is one where there is a simple majority of those voting in favour of the estate regeneration proposal.

Question 8: Do you agree with the Mayor's proposed requirements for implementing ballots? Why/why not?

Question 9: Do you have proposals for other potential Mayoral requirements for implementing ballots?

d. Exemptions

3.27 The Mayor believes there is a compelling case to grant exemptions to the proposed requirement for ballots in three cases:

- where the proposed demolitions are required to facilitate a major infrastructure scheme, particularly a transport scheme;
- where the proposed demolitions are in response to concerns about the safety of residents; or
- where a specialist or supported housing scheme is being decommissioned by a local authority.

3.28 Infrastructure schemes often involve the demolition of existing buildings, particularly in built up areas like London. While all public agencies and infrastructure providers should seek to minimise disruption to Londoners caused by such schemes, some disruption is inevitable, and it is important to recognise the crucial role that infrastructure schemes play in London's economy and for a wider population.

² See the Government's 'Code of Practice on Industrial Action Ballots and Notice to Employers': https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/594781/Code_of_Practice_on_Industrial_Action_Ballots_and_Information_to_Employers.pdf

³ See the 'Housing Transfer Manual: 2005 Programme': <http://webarchive.nationalarchives.gov.uk/20120920035735/http://www.communities.gov.uk/documents/housing/pdf/138475.pdf>

- 3.29 There are established statutory provisions to deal with potential disruption created by proposed infrastructure schemes, particularly where the compulsory purchase and demolition of homes is necessary. The Mayor does not wish to undermine these provisions through introducing a new requirement for a resident ballot that could prevent an infrastructure scheme coming forward. He therefore proposes to grant an exemption to the proposed funding condition where proposed demolitions form part of a major infrastructure scheme with statutory underpinning (e.g. a Hybrid Bill or a Transport and Works Act Order), or on a case by case basis where the landlord can demonstrate that the demolitions are required to facilitate a scheme linked to major infrastructure improvements.
- 3.30 As the Mayor has set out in his draft London Housing Strategy and in the final version of 'Better Homes for Local People – the Mayor's Good Practice Guide to Estate Regeneration', the safety of residents should be the first priority of councils and housing associations. It may be necessary to demolish homes if their safety issues cannot be resolved through other means. Where this is the case the Mayor does not support a resident ballot. The Mayor proposes that this exemption to the proposed funding condition would be granted by the GLA on a case by case basis on application from the landlord.
- 3.31 Specialist and supported housing schemes, including sheltered and extra care, provide important support for those with particular housing needs. Where local authorities consider that they are not in a condition to adequately meet the needs of the client group, there should be flexibility to decommission these homes so that the social landlord can replace them with a more appropriate form of specialist or supported provision.

Question 10: Do you agree with the proposed exemption where the demolitions are required to deliver an infrastructure scheme? Why/why not?

Question 11: Do you agree with the proposed exemption where the demolitions are required to address safety issues? Why/why not?

Question 12: Do you agree with the proposed exemption where a specialist or supported housing scheme is being decommissioned by a local authority? Why/why not?

Question 13: Do you have proposals for other potential exemptions to the proposed funding condition?

4. Transitional arrangements

- 4.1 The Mayor acknowledges that estate regeneration projects are often long-term and costly, and that many 'live' schemes are either in the pipeline or currently being delivered. It is important to provide as much clarity as possible about how the proposed new funding condition requiring resident ballots will apply to such schemes.
- 4.2 The Mayor proposes three transitional arrangements to help manage the transition to a new requirement for ballots.
- 4.3 First, the funding condition would not apply where the proposed demolitions already have full or outline planning permission. However, where an existing planning permission is varied, amended, or renewed to include demolitions that were not part of the existing planning permission, a ballot will be required should the total number of new homes be 150 or more.
- 4.4 Second, the funding condition will not be applied retrospectively, meaning that where the GLA is already in contract to fund a particular estate regeneration scheme named in a funding contract with a Registered Provider, ballots would not be mandated, unless the Registered Provider proposes to make a significant change to the scope of the scheme (this does not include changes to delivery milestones). This will be determined on a case by case basis. The GLA would seek to apply the new funding condition to any allocations of funding to estate regeneration schemes identified after the funding condition is added to the Capital Funding Guide.
- 4.5 Third, the GLA will consider, on a case-by-case basis, not applying the funding condition where a ballot of residents has already taken place and secured resident support prior to the publication of this draft guidance. This may be the case even if a ballot has not met the precise requirements set out in this consultation. This would be to respect the outcome of the vote and avoid creating additional cost and uncertainty.

Question 14: Do you agree with the proposed transitional arrangements? Why/why not?

5. Annex 1: Summary of consultation questions

Question 1: Do you agree that the GLA should make resident ballots a funding condition for estate regeneration schemes?

Question 2: Do you agree with the proposed criteria that would trigger the requirement for a resident ballot? Why/why not?

Question 3: Do you agree with the proposed scope of resident ballots? Why/why not?

Question 4: Do you agree with the proposed stage in an estate regeneration process at which ballots should happen? Why/why not?

Question 5: Do you have any other comments on the threshold, scope and timing of resident ballots?

Question 6: Do you agree with the proposed eligibility criteria for resident ballots? Why/why not?

Question 7: Do you agree that eligibility criteria should be the same for all schemes? Why/why not?

Question 8: Do you agree with the Mayor's proposed requirements for implementing ballots? Why/why not?

Question 9: Do you have proposals for other potential Mayoral requirements for implementing ballots?

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Question 13: Do you have proposals for other potential exemptions to the proposed funding condition?

Question 14: Do you agree with the proposed transitional arrangements? Why/why not?

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