

Dear Mayor,

The 35% Campaign was set up by the Elephant Amenity Network in response to Southwark Council's failure to ensure that housing developments provided a minimum of 35% affordable housing, as required by the local plan.

Through our campaigning activities we have gained us some understanding of viability in planning and we have given evidence about its impact on the delivery of affordable housing at examinations in public, public inquiries and Information Tribunal hearings. Through the last, we helped secure FOI decisions that have led to greater transparency in planning decision-making.

We have met GLA officers to discuss the SPG twice, under the auspices of Just Space. We thank them for their time.

Our comments

The use of viability assessments by developers to avoid meeting their affordable housing commitments is an abuse of the planning system, so we welcome the Mayor's attempts to tackle the problem, while having reservations about the effectiveness of the remedies proposed by this SPG.

First of all, though we must say we are dismayed that the Mayor proposes no measures to increase the supply of social rented housing (we do not include affordable rent in the category). Indeed, the SPG does the opposite with proposals that will increase its marginalisation. Social rented housing is the cheapest kind of affordable housing and the only kind that is truly affordable to those most in housing need. It should be the priority tenure in any attempt to resolve the housing crisis.

On the other hand the SPG gives enthusiastic support to a relatively new kind of affordable housing for rent - Build to Rent. This is by most counts inferior to social rented housing, and maybe affordable rent. It is more expensive, less secure and is less certain to remain an affordable housing tenure in the longer term. BtR will also be privately provided, owned and managed - an innovation for affordable housing. The SPG also appears content to accept that facilitating home ownership through intermediate housing is a receding prospect.

Taken together we think this represents a sea-change in the delivery of affordable housing in London, but the SPG presents no evidence for it basis. While the SPG promotes one kind of affordable housing

and marginalises another, there is no assessment of the relative need for any tenure and no assessment of the impact on London's demography.

These points are taken up below in our detailed comments. Numbers refer to the relevant SPG paragraphs; our suggestions for changes to the SPG and requests for clarifications are in bold.

7 The proposal to scrutinise scheme viability if it does not reach a 35% threshold appears little different to current LPA practices, which have proved ineffectual. Developers consider the cost and inconvenience of viability assessments (VAs) worthwhile, if they can reduce their affordable housing requirement. **A higher threshold of 50% affordable housing, in line with the Mayors promise to achieve 50% affordable housing, combined with the Mayor's scrutiny of the viability of all developments that fail to meet 50%, is needed to incentivise developers to provide affordable housing. A dedicated viability unit, resourced by developer contributions, should be established to conduct this fresh scrutiny, which would not simply repeat that of the LPA.**

1.3 It is stated that the SPG cannot introduce new policy and does not do so. **We believe that taken together some of the SPG's proposed are significant enough to qualify as changes to policy and should therefore not be implemented until the London Plan is revised.** These changes are the preferred tenure split for affordable housing of 30% low cost rent; 30% intermediate; 40% at LPA's determination (para 2.28) and the support accorded Build to Rent (BtR) (part 4) including the proposed BtR pathway (para 4.7) and exclusion of social rent/affordable rent and intermediate for sale housing from BtR. The SPG cites no evidence or research for the impact of these proposals, something that can be remedied by their consideration as London Plan alterations,

1.3 The Mayor intends that the requirement for affordable housing will 'embed itself into land values'. We understand this to mean that when a developer is mindful that they will have to pay for affordable housing they will not pay too much for the land. We think that developers may continue to be less concerned about the land price, if they are confident that the benchmark land value used in viability assessments is high enough to relieve them of affordable housing. The Skipton House development at the Elephant & Castle is an example of this. The land was purchased for £54m, while the benchmark land value was £137m, which resulted in no on-site affordable housing. The Mayor declined to call-in this application. **The Mayor must exercise his call-in powers much more**

readily, if the requirement to embed affordable housing into land values is to be achieved.

1.6-1.8 The figures cited show clearly the past years' failure to achieve London Plan affordable housing targets. Notwithstanding this failure in 2014/15 99% of the total housing target was achieved, and the delivery of free-market housing exceeded the target, reaching 130%, while only 52% of the affordable housing target was achieved (London Tenant's Federation analysis of GLA figures for net housing delivery 2014/2015). It is hard not to conclude from this that while developers are taking full advantage of housing demand to maximise free-market housing they are also minimising affordable housing and are being allowed to do so by the LPAs and the GLA. **The Mayor should consider whether the overachievement of free-market housing has been at the expense of affordable housing and what measures are available to compensate for the loss of affordable housing and to redress the balance of affordable and free-market housing in line with the aims of the London Plan.**

1.16 We think that the discretion the Mayor proposes will encourage developers to chance presenting an inadequate viability assessment. We further believe that many LPAs do not have the capacity to scrutinise assessments properly and extra planning considerations eg the need to be seen to be allowing development, plays a part in LPA decision making. We think that much of this may be forestalled, if it is known that the Mayor will intervene in such circumstances. **We therefore suggest deleting 'consider' from this paragraph, so as to read 'the Mayor will direct that he is the Local Planning Authority for the purposes of determining the an application (often referred to as 'call-in') or directing refusal when: he is not satisfied with the viability information submitted by the applicant, the assumptions that underpin the information, or the level of scrutiny given by the LPA'.**

1.17 Viability information should be made available both alongside and at the same time as other application documents. This would help ensure that there is sufficient time for the public to digest and comment on complex viability information. Southwark Council only issues the full viability assessments one week before determination. **We therefore suggest adding to this paragraph, to read '.....that information relevant to planning determinations, including all full viability assessments and any appraisals should be publicly available alongside and from the same time as the other planning documents...'**

1.21-1.22 We fear that the provisions of these paragraphs will become readily exploited loopholes and then the norm, compromising the Mayor's attempts to promote transparency. **We suggest that these paragraphs are removed.**

2.5 We agree that where there is public subsidy of a development a greater level of affordable housing should be delivered. **Should our previous suggestion that the threshold for all developments be 50% (7 above) not be accepted by the Mayor, we make the alternative suggestion that any development that receives public subsidy must meet a threshold of 50% to be considered under Route B.**

2.12 - 2.13 The London Plan makes it clear that affordable housing provision is a particular priority when securing developer contributions (Policy 8.2). The emphasis of these two paragraphs should be that all planning obligations must be taken into account by the applicant and landowner. This is in line with RICS guidance for assessing scheme viability and trade-offs between different requirements should not be encouraged. **We therefore suggest that these two paragraphs are rewritten and replaced with a single paragraph, saying 'The requirement to deliver investment in affordable housing and other infrastructure investment will generally be set out in the development plan and CIL charging schedule and thus should be taken into account by the applicant and the landowner and should not lead to a reduction in affordable housing. If notwithstanding this an applicant offers a viability assessment to justify any reduction in these obligations they will be required to provide viability information as per Route A.**

2.14 - 2.15 The analysis of past completions and approvals should address the failure to achieve the affordable housing target, whilst exceeding the free market target, in 2014/15. The threshold should not be set at a level which replicates this failure. Further it's stated that there has been no viability testing to justify 35% and that it is not a fixed level, so does not prohibit developments with less affordable housing. Developers should therefore not be unduly deterred by the threshold approach. For this reason **we propose that the threshold be set at 50%** to maximise affordable housing delivery. We fear that otherwise 35% will become the norm, notwithstanding the SPG's statement that it is not a fixed level and schemes that could deliver more than 35% will have the affordable housing depressed to that level.

2.18 We assume that the 35% threshold will apply to schemes developed by RPs and those built on publicly owned land, but it does not seem unreasonable to expect such schemes to be 100% affordable, so applying a 50% threshold is the least that can be expected. We suggest that **all developments that receive public funding should be subject to a 50% threshold and this should be stated in this paragraph.**

2.19 We suggest replacing 'should' with 'must' in the penultimate sentence, to read **'Where grant or other public subsidy**

is available and would increase the proportion of affordable housing, this must be utilised'.

2.22 While we can understand that the intention of this paragraph is to incentivise developers to deliver 40% plus affordable housing we are concerned that relieving developers of any need to provide a viability assessment may lose opportunities to increase affordable housing beyond that. This is all the more the concern in the absence of a viability assessment to justify 35% as the threshold.

2.25 In line with our comments above 2.18 we suggest that this paragraph be reworded to read - **Generally the Mayor expects RP-led schemes and schemes on public land to deliver as much affordable housing as possible within the context of the requirements of London Plan policy 3.12, but no less than 50%.**

2.28 No coherent explanation is given for changing the affordable housing tenure split. It is not justified by any assessment of housing need, any estimation of the change's impact on different income groups, particularly lower and middle income ranges, nor any estimate or assessment of the demographic consequences. Even without such measurements it is reasonable to say that the chances of those who depend on social rented housing to secure a home are being significantly reduced by the Mayor.

Further, we believe that the this preferred tenure split amounts to a change in the London Plan Policy 3.11 contrary to para 3. **We therefore strongly object to the change and ask the Mayor to retain the current 60%; 40% tenure split between social /affordable rent and intermediate housing.**

2.28 bullet point 1 The intention to limit affordable rent levels to much below 80% market rent is welcome, but rents for social housing are being ratcheted up nonetheless. The benchmarks for London Affordable Rent exclude service charges and are appreciable higher than 2015 target rents in Southwark (£97, £111, £124, £140 for 1, 2, 3, 4-beds), which are themselves above what many council tenants pay, where rents have not met the target.

We are also concerned that the latitude allowed to LPAs to go beyond the LLR benchmarks further undermines social rent; not only will the rents be higher, they will form a new benchmark, dragging up social rents. **The Mayor should make it clear that social rent, the cheapest kind of affordable housing for rent, is the desirable benchmark by which LPAs should set their rents and in any event that rents should comply with the London Affordable Rent benchmark.**

2.28 bullet 2 We cannot see what the other 'intermediate products' referred to in the final sentence could be and question

whether it is necessary to include this provision, given the range of intermediate types already covered. If Build to Rent intermediate rent is meant this should be made explicit.

2.29 In line with our comments to 2.28 bullet 1 we are concerned at the latitude afforded LPAs to prioritise 'alternative intermediate products'. The Mayor is aware that the term affordable housing is largely discredited because so much of it simply not affordable. Indiscriminate use of the category to allow any housing just marginally cheaper than market housing to qualify as affordable will further discredit, the term, while still leaving unmet housing need,

2.30 - 2.31 The 'lower values' attracted by social rented housing will lead to its reduction in new developments, as will allowing 'flexibility' of tenure split in Opportunity Areas which will lead to its reduction in new developments.

2.34 London Living Rent sounds like a misnomer, as it is an intermediate tenure, which we believe is not how it was originally intended. In any event the cost of LLR rent is at least twice the level of council rents in our borough, Southwark, as the LLR for three wards from the Elephant & Castle show - Cathedral Ward £1093pcm, Chaucer £941, East Walworth £887.

2.35 As an intermediate product has any assessment been conducted to establish London Living Rents utility in meeting housing need and will it meet those needs better than current alternative intermediate products?

2.45 A recent Ombudsman's decision found that Southwark Council 'did not have a systematic supervision procedure to check (S106) compliance' and 'it is hard to know how many social housing units all section 106 agreements called for and how many developers delivered. Or indeed, how many remain social housing units' <http://35percent.org/img/LGOFinalDecisionSOR.pdf>. **The SPG should address whether this might be the case for other LPAs.**

2.50 Where an in lieu payment is allowed **the Mayor should consider a fixed tariff, based on an amount payable per habitable room, at a rate sufficiently high to encourage developers to provide on-site affordable housing in the first instance**, in line with the London Plan. Should an in lieu payment be allowed, it would also help ensure that the LPA gets an equitable share of the value of the development to build affordable housing.

3.5 We have noted that developers invariably claim that a particular scheme can deliver no, or very little, affordable housing and provides a viability assessment to that effect. The developer nonetheless agrees to make an 'ex-gratia' contribution, which is

higher than that justified by the viability assessment. While at first view this could be said to reflect well on the developer, it is a bad practice, because it must make use of the 'hidden calculations or assumptions' this paragraph prohibits, if the development is to be financially sound. Not unnaturally it also gives rise to the suspicion that false figures were used in the first place. **We therefore suggest that any development where the developer offers an ex-gratia payment is 'called-in' by the Mayor, re-examined for viability, but in any event is not approved with anything less than the ex-gratia offer.**

3.8 The tax avoidance arrangements of developers have become a matter of public concern. **We suggest that the applicant information should also include ultimate beneficiaries, including off-shore companies.**

3.18 Who other than a RP currently provides affordable housing? **This paragraph should state if the intended reference includes Build to Rent developers, given the prominent place they have in the SPG.**

3.32 - 3.35 Developer's level of profit is a matter of legitimate public interest because of its impact on affordable housing delivery. It is treated as a cost in the viability calculations and as such should be limited. The Mayor will also be fully aware that a development's profit is seldom 'scheme specific', but instead accords with a perceived industry norm. The Mayor must therefore either rigorously enforce his proposal that profit should reflect risk, or the lack of it, or drive down the industry norm. To this end, **we suggest that The Mayor set a publicly supported benchmark level of profit, against which an individual development's profit can be measured and varied, according to its risks.**

3.36 **We ask the Mayor to consider the not unusual case of the developer and land owner being one and the same in relation to benchmark land value.** In this case the developer is effectively setting the bench mark for nominally selling the land to themselves, at a fictitious price that would persuade them to sell, which unsurprisingly is usually high. We give as an example the Skipton House development at the Elephant and Castle, which set a £137m benchmark land value, when the purchase price was £54m, albeit from some years earlier, with consequent loss of affordable housing

3.45 **We ask the Mayor to ensure the premium above the EUV is specified in all FVA information made public, not subsumed in total figure for EUV plus premium. Financial models should also be made public, to allow proper interrogation of inputs and assumptions.**

3.47 **We ask the Mayor to give some indication of how long he will pursue the approach of 'embedding land values' and an idea of any alternative approaches if it does not succeed.**

3.56 Opportunity Areas should also provide opportunities for all tenures of affordable housing, including social rented housing. We note that the previous Mayor avoided saying how much social rented housing Opportunity Areas would provide http://questions.london.gov.uk/QuestionSearch/searchclient/questions/question_48387. We can say that in the Elephant and Castle Opportunity Area that the figure is negligible - none of the six most recent consented or completed large developments, totalling 2500 dwellings, has a single social rented unit. The Heygate estate, redeveloped as Elephant Park, will have 89, out of 2700 homes, and there are about 60 social rented units in smaller developments.

As phrased at the moment, we see these paragraphs continuing this lamentable process.

We therefore suggest that they are rewritten to include a 50% affordable housing requirement, with a 60:40 tenure split between social/affordable rent and intermediate housing, the tenure split of London Plan Policy 3.11.

4.1-4.5 'Positive' support and encouragement for Build to Rent should be based on assessment of relative housing tenure needs, rather than market trends. Build to Rent is a relatively new tenure, as acknowledged by para 4.31, and the SPG presents no research or evidence on how it will meet London's housing need, what sector of the community it will serve or its likely wider social, demographic and economic impact. We note the London Plan support for 'purpose built private rented products', but there is an evident intention to expand its role significantly, which warrants further public discussion and consultation. We surmise that such discussions have taken place with other stakeholders in the preparation of this SPG. **We therefore suggest that there is a formal public consultation about these points before the Mayor further promotes BtR as a suitable housing tenure for London. To begin and aid this we also ask for any information provided to, or received from, other stakeholders, in relation to BtR.**

4.5 - 4.6 We take the meaning of these paragraph and others, to be that BtR will be allowed to deliver less affordable housing than 'build for sale' developments or that it will be biased towards higher value tenures. We cannot see any justification for such an exception, if it is intended. BtR is free-market housing and a model chosen by the developer for what they hope is their profitable advantage. There is no reason why any disadvantages, such as slower rate of return, should be compensated for by a loss of affordable housing, or the exclusion of lower value, social rent. We see this as on a par with the Mayors approach to site-specific abnormal costs (para 3.25) where he adopts the correct approach, attributing them to the developer. **We therefore suggest that theses paragraph are**

rewritten to say that BtR developments will be required to deliver a 50% affordable housing requirement, with a 60:40 tenure split between social/affordable rent and intermediate housing, the tenure split of London Plan Policy 3.11.

4.7(2) This paragraph says the SPG's BtR pathway 'recognises the need for all homes on the Build to Rent development to stay under single management', without saying what that need is, and that the affordable homes will be discounted market rent (DMR), without saying why. There are no obvious reasons why the affordable housing cannot be managed by a RP or why the affordable housing should have to be DMR.

4.7(3) We understand this paragraph to mean that BtR will meet lower design standards than those required by Policy 3.5(d). We can see no justification for this.

4.7(4) While we think that it is appropriate that all BtR developments should provide a viability assessment, for the reasons given in para 4.32, we do not think it is appropriate to apply different measures or adopt different assumptions for BtR than for any other free market housing development for the reasons given above, paras 4.5- 4.6.

In the light of the above comments we suggest that the Mayor reconsiders the BtR 'pathway' in the light of further consultation as suggested above para 4.1-4.5

4.9 We do not understand why BtR does not fall within use classes C3 and **ask the Mayor to explain this.**

4.9 bullet point 2 A proposed minimum length of covenant is likely to become the norm by default and 15 years appears very short. Many current phased developments take longer than this to build. **Notwithstanding our overarching concerns about BtR, we nonetheless suggest that the minimum covenant length be at least 50 years.**

4.10 This paragraph is either poorly worded or self-contradictory. It first says that all homes in a development are required to be BtR, but then that they might not be. Nor does it explain why single ownership and single management is the most important principle for BtR or how it underpins the need, itself unexplained, for 'the distinct approach to affordable housing'. **We ask the Mayor to clarify these points.**

4.11 **We ask the Mayor to clarify what happens to BtR after the covenant period.**

4.12 Notwithstanding the statement in para 4.11 that individual homes cannot be sold during the covenant period,

paragraph 4.12 proposes 'clawback' arrangements for that eventuality. It is only prudent that such arrangements should be in place, but it raises concerns as to how likely and how often this may happen. We note the final sentence in para 4.15 which in referring to some developments where there is 'no likelihood' of this happening, leaves an inference that there are others where it is indeed likely. We are concerned that selling BtR units onto the open market in the covenant period is, or will become, part of the BtR's business model and that paying clawback will simply be regarded as a price for realising a greater or quicker profit. The LPA will receive the clawback amount (it is not clear how much - see comment below) to reinvest in affordable housing, but indicates that BtR may be an uncertain and unstable way of providing affordable housing.

4.13 (1) We find this paragraph confused and difficult to understand. While the clawback Option One would establish the 'initial loss of affordable housing' entailed in a BtR scheme, as opposed to a 'for-sale' scheme, it also states that the difference would only be recouped in the event that the BtR homes are sold out of the sector. We cannot understand the rationale of this arrangement, which appears to accept that a BtR scheme that delivers less than a free-market scheme is permissible, without any compensating payment or off-site affordable housing provision. **We suggest that this paragraph is reworded to the effect that, should it be established that a BtR application does not provide the same level of affordable housing as a for sale scheme on the same site, with the current tenure split of 60:40 social/affordable and intermediate housing, it thereby fails to meet London Plan objectives of prioritising and maximising affordable housing and should therefore be rejected.**

(2) Separate to this, the amount to be paid in the event of BtR units being sold out of the sector would recoup only the 'initial loss of affordable housing', not the loss due to the sale. We assume that another payment would be due for the housing sold, according to 4.25. **If this is correct we think the SPG needs to express these arrangements more clearly.**

(3) It is not clear here whether the clawback would operate only if affordable BtR units were sold or if market rent units were sold, or both, although the last appears to be case from 4.16. **Notwithstanding our overarching concerns about BtR we suggest the SPG needs to be explicit on this point.**

(4) No account is given of how much money would be payable in either the event of clawback and it is not stated that the review mechanism would apply (Formulae Annex A). **Notwithstanding our overarching concerns about BtR we ask for clarification on this point.**

4.14 We assume this arrangement only holds if the BtR units are sold out of the sector as described in 4.13 and refer to our comments and suggestion there.

4.15 (1) Option Two appears to confirm the rationale described above in 4.13 - that there would only be a payment in 'the event of the covenant being broken' - so our concerns about Option One remain equally applicable to Option Two. We refer therefore to our comments and suggestion to 4.13.

(2) Option Two seems to treat the 35% affordable housing as a target, not as a threshold, in that it is being used as a measure for clawback, not just to determine which viability route an application should take, contrary to 2.15.

4.16 We have stated our concern that social rent housing has not been delivered according to S106 agreements above 2.45. We emphasise here the Ombudsman's comment that it cannot be known, even when delivered, how many social housing units remain so. We believe that the complexity of affordable housing S106 arrangements allows this abuse. BtR affordable housing will introduce further complexity, with which under-resourced and over-stretched LPAs will find it difficult to cope, to the developers' advantage and with the loss of genuinely affordable housing. **We therefore suggest that the Mayor must strengthen monitoring procedures and dedicate greater GLA resources to ensure that affordable housing remains so 'in perpetuity'.**

4.17 We surmise from this paragraph that there is a VAT problem with BtR that the Mayor proposes to solve at the expense of a water-tight covenant securing BtR affordable housing in perpetuity. We can see no reason for extending this concession for reasons we give in 4.5- 4.6. **Notwithstanding our overarching concerns about BtR we suggest that any covenant, statutory planning consent or similar provision totally prohibits the separate use or disposal of a BtR unit.**

Should this suggestion not be adopted by the Mayor then we make the further suggestion that any VAT gain to the developer from covenants etc that allow sale are accounted for in any viability assessment.

4.18 Please see our objection to this paragraph above 4.17. In addition we think the clawback arrangements are inadequate, in that they appear to leave them to LPA discretion. Further, allowing a change of ownership on the single condition that the development remains under single ownership and management, without any consideration of a new owner's aims is inadequate. While the BtR's model may be to gain a profit through renting, plainly developers wish to keep selling BtR units as an option, either singly or totally, in or out of covenant, and it will be exercised if the

market conditions are right and if it suits the owners. Any prospective buyer will also have to recoup the cost of their purchase with potential consequences for rents and tenant security. The situation of forced sales because of an owner's financial difficulty or insolvency, with whatever consequences for rents and tenant security also cannot be discounted. This gives added weight to our suggestion above 4.1-4.5 **that there is a formal public consultation about BtR before the Mayor further promotes BtR as a suitable housing tenure for London.**

Notwithstanding this suggestion, and our overarching concerns about BtR we make the further suggestions that there should in normal circumstances be no overall sale of BtR during the covenant period; that, should such a sale be proved necessary, it will require the Mayor's approval, who will act on the principle that the tenant's interests in a fair rent and security override the interest of the owner's or prospective purchaser. Any profits made by the sale should also be subject to clawback, in addition to that for any initial affordable housing lost.

4.19 Our concerns about the suitability of BtR as a housing tenure that best meets the needs of Londoners are given in 4.1- 4.5. These concerns are deepened by the proposal that BtR developments can, as a matter of policy and without any viability justification, exclude both social/affordable rented housing and intermediate for-sale housing. This is particularly egregious in the case of social rented housing. The BtR alternative Discounted Market Rent (DMR) is an intermediate product that may at least be in reach of those who could afford intermediate for-sale housing; this is decidedly not the case for those who rely on social rented housing.

We note the qualification that this 'can be... delivered without grant', not that it must or will be. **We ask for clarification that if there is any grant or other public funding assistance social/affordable rent and intermediate housing will be required from BtR in line with that required from for-sale housing.**

We also ask for an explanation as to how DMR conforms to the NPPF Annex 2 Glossary definition of affordable housing and why it is not the 'low-cost market' housing specifically noted as not being not affordable housing for planning purposes.

Notwithstanding the above we think that the exclusion by policy of social/affordable rent and intermediate housing is a sufficiently serious change, as to amount to a change in the London Plan, contrary to para 3 and reinforces the argument for a formal public consultation about BtR as a suitable housing tenure for London, before this SPG is adopted.

4.20 Pepper potting does not require DMR, only a developer's willingness to comply with the local plan and an LPA determined to enforce it. Even if we allow that pepper potting is difficult to manage (we do not) different tenures can be grouped or clustered in various ways on any development. The social value of 'tenure blind development' will be largely lost on BtR developments, anyway, because social rented housing is being excluded. We note with some surprise the implication that DMR is a better form of affordable housing because it can also qualify for mandatory CiL relief. This, like the zero VAT rating, accrues to the developer's benefit and is a loss to the public purse. **We suggest that the Mayor ensures that any CiL relief is taken into account in any viability assessment and goes toward the provision of more, or cheaper, affordable housing.**

4.21 The Mayor's preference for DMR to be at London Living Rent Levels (LLR) is weak, particularly in the light of the numerous concessions being made to encourage BtR. **Notwithstanding our overarching concerns and other suggestions about BtR and DMR we suggest that all the DMR housing in a BtR development must be at LLR.**

We do not share the Mayor's confidence that LLR 'can be easily understood' and 'can earn the public's trust'. LLR was launched as a rent product, but is now an intermediate product on for-sale developments, and only exists as a rent product at LLR 'levels' on BtR developments. There is no fixed percentage for the amount of LLR housing on either for-sale or BtR developments and while ward-level caps have been produced the actual rents payable are still not necessarily clear. For an example of this we refer the Mayor to the affordable housing statement for the planning application for the BtR redevelopment of the Elephant & Castle shopping centre (ref 16/AP/4458), which after 36 pages ends with the baffling statement '*The blended percentage of market rent across all the DMR homes is 57% with a range of 15% to 80% of Market Rent*'. **Notwithstanding our overarching concerns and other suggestions about BtR and DMR we suggest that the Mayor sets the LLR amounts for all DMR housing.**

4.22 We do not fully understand the difference between the two different methods of setting LLR. The first method appears to retain LLR for as long as the unit is let as DMR, the second method seems to retain the initial discount. **We ask for clarification of how the Mayor would expect a given rent to diverge under each method and which method results in a higher rent.**

4.23 We cannot see the necessity for this paragraph, given the wide range of tested affordable housing tenures and the introduction of DMR. It renders much of the preceding SPG nugatory. We note that while the housing needs of those who can afford intermediate products are protected, even if only nominally, the social rented

sector is accorded no such protection. **We suggest that this paragraph is deleted.**

4.24 The amount of DMR housing and its levels of rent should be addressed in the viability assessment as a matter of course and therefore makes this paragraph redundant. This paragraph will also act as an encouragement to developers to trade-off the amount of DMR housing against the rent, rather than looking at other variables, such as profit and with a consequent loss of genuinely affordable housing. **We suggest that this paragraph is deleted.**

4.25 Please see our comment to 4.13 (2)

4.26 We understand this paragraph to apply laxer residential mix standards to BtR developments, without saying why, beyond a vague reference to suitability. It promotes BtR for town centres and transport nodes at the expense of other tenures, including other affordable housing tenure, and larger family units. It also promotes 1 and 2 bed units, citing a greater relative demand over owner-occupation and social rent. This supposed lack of demand can be explained by the lack of supply, in the case of social rented housing, and expense, in the case of owner-occupation. As an affordable housing tenure that should remedy these ills, BtR has the disadvantages of not allowing home ownership, charging much higher rents than social rent and only affordable rents lower than 80% market, if their number of is reduced. We refer the Mayor to our previous comments 4.5-4.6, 4.7(4) regarding 'the 'distinct viability challenges faced by BtR'. **We therefore suggest that this paragraph is rewritten to the effect that BtR will be treated in the same way as any free-market development with regards to residential mix, density standards and viability requirements.**

4.28 We understand the intention of this paragraph to apply laxer space standards to BtR. **We therefore suggest that this paragraph is rewritten to the effect that BtR will be treated in the same way as any free-market development with regards to space standards.**

4.29 We understand the intention of this paragraph to apply laxer design standards to BtR. We cannot see why a longer covenant should justify laxer design standards, even while longer covenants are desirable (our comment 4.9 bullet point 2). **We therefore suggest that this paragraph is rewritten to the effect that BtR will be treated in the same way as any free-market development with regards to design standards.**

4.31 We agree that Route A is the more appropriate viability route for BtR, but a more fundamental point is that if BtR cannot meet the affordable housing targets, thresholds and tenure splits of other free-market development, despite the residential mix, density

and design standard concessions proposed in this SPG, then it is not a tenure that should be encouraged. We also note that there are 'insufficient BtR schemes completed for any threshold to be set' which reinforces the argument for formal consultation about the suitability of BtR as a solution to London's Housing crisis. **We therefore suggest that the Mayor reconsider his support for BtR. and conduct a formal consultation on the suitability of BtR as part of the solution to London's Housing crisis.**

4.32 We note that the London Plan purpose of maximising the amount of affordable housing has been reduced here to maximising intermediate rent, with no requirement that such rent be at LLR levels. This will continue the process of marginalising social rented housing, noted in 3.56. **We suggest rewording this sentence to read 'with the intention of maximising affordable housing in the London Plan ratios of 60:40 social/affordable rent and intermediate housing'.**

If the previous suggestion should not be adopted and notwithstanding our overarching concerns about LLR we suggest that 'preferably' is replaced by 'all', to read 'all at London Living Rent levels'.

4.33 We either have not understood this paragraph correctly or have not understood its rationale. It appears to say that if a BtR developer produces a viability assessment showing that 35% affordable housing could be provided on a for-sale scheme, which is not going to be built, the unspecified amount of affordable housing that will be built will not be subject to a viability review. It also thereby implies that any amount of affordable housing will be acceptable, and even if it is below 35%. If this interpretation is correct it make little sense and appears in direct contradiction to 4.32. We refer to our similar comments on 4.13-4.15. **We therefore ask for clarification of this paragraph.**

4.34 We refer to our previous comments and suggestions on 4.26 and others.

4.35 The various issues raised eg profit, sales and marketing, rate of disposal should be addressed in the viability assessment as a matter of course and therefore make this paragraph redundant. This paragraph indicates that BtR will be treated more favourable in the appraisal of viability assessments than for-sale developers, which is inequitable, unwarranted and will lead to the loss of affordable housing. We refer to our previous comments at 4.5-4.6, 4.24. **We suggest that this paragraph is deleted.**

4.36 bullet point 1 We assume that the proposal that minimum 3-year tenancies should be available to 'all tenants' includes DMR tenants. If so this compares unfavourably with social rent/affordable rent housing tenancies, particularly social rented.

As random examples, L&Q offer an intermediate rent tenancy where, after an initial for 6 months 'you will be able to stay for as long as you like' <https://lqpricedin.co.uk/wp-content/uploads/2015/01/Goldcrest-House-IMR-Brochure.pdf> and Notting Hill Housing Trust offer a 5 year tenancy, with the assumption that it will be renewed <https://www.nhhg.org.uk/residents/your-tenancy-or-lease/for-tenants/#panel3676>

We therefore suggest that the first sentence of this bullet point is reworded to read; 'All tenancies will be for a minimum of 5 years with a presumption that they will be renewed'.

4.37 bullet point 2 Please see our comments to 4.21 and 4.22.

4.38 - 4.39 In the light of the numerous concerns we have raised about BtR, the many concessions it has been afforded and the lack of solid research and assessment of its utility solving the housing crisis or its social and demographic impact **we suggest that the Mayor reconsider his support for BtR.**

END