

Draft Good Practice Guide to Estate Regeneration - Mayor of London

Response by Just Space

Summary of key points

1. Good practice guidance would be valuable, but this draft guidance is not good.
2. Just Space wants to continue working with the Mayor to improve it through a process of co-production with officers, Assembly Members and key stakeholders.
3. Top priority must be to protect the dwindling stock of **social** rented homes – the only ones affordable to Londoners on ordinary incomes (and even then often needing housing benefit to do so). Regeneration schemes should never lead to a reduction in social rented housing as they have in the past and continue to do.
4. Decisions on estate regeneration must always include a refurbishment option among those explored.
5. Consultations must be supported by transparent information and independent impact assessments and take place from the earliest stage, conforming to the rules affirmed by the Supreme Court.
6. Any regeneration scheme which would involve demolition or displacement must be supported by a majority in an independent ballot of residents.

Just Space

Just Space is a mutual-support network of community groups, some London-wide and others localised, which for a decade has sought to increase the scale and effectiveness of community participation in the planning and development of London. It is almost entirely powered by voluntary inputs of time, skill and knowledge from communities and only received any financial support from public funds during the final years of the Livingstone Mayoralty. Its member organisations include groups which represent council, housing association and private tenants and leaseholders, many of which will be responding in detail to the present consultation.

This response concentrates on key issues on which there is broad consensus across the whole Just Space network. The issues have been carefully debated in three large conferences during 2015 and 2016 and our position is documented in our two major publications: *Towards a community-led Plan for London: ideas for discussion and debate* Feb 2016 and *Towards a community-led Plan for London: Policy directions and proposals* August 2016. The conferences, debates and workshops are all reported, with text and video, on JustSpace.org.uk This process has involved 84 very diverse organisations (listed in the August report) which in turn represent thousands of concerned citizens and enterprises. It is a social learning process, possibly unique among major cities, of which London should be proud.

Overview

Just Space members, irrespective of any party affiliations, welcomed the manifesto commitment of Sadiq Khan that “*London needs to protect its social housing as a vital asset*” and that he would, if elected,

“Require that estate regeneration only takes place where there is resident support, based on full and transparent consultation”

and are delighted that he is seeking to implement this commitment, so far as he can, pending a new London Plan and perhaps some needed extension of his powers.

Guidance, with clear binding rules, on estate regeneration is needed, but the present draft is not it. The draft reads as though the majority consent of residents and affected parties on estates is something to be engineered and managed, subordinated in the final analysis to ‘viability’ considerations and the increasingly financial priorities of landlords and developers.

Just Space and its member-groups are keen to work with the Mayor and his staff in the development of a more adequate document. We propose an advisory group to work with GLA officers to produce a revised version which should be representative of those who sent in written comments calling for major changes to the guidance.

The issues raised in estate regeneration are of concern to **all Londoners**, not just those located on and around estates. Council and housing association estates are now the main social institution securing one of London’s unique features among world cities: the sustainability of mixed communities throughout the metropolis – mixed in terms of social class, culture, income, ethnicity and household size and sustainable between generations. The more estates are eroded, the more London becomes segregated with the most central and ‘desirable’ areas reserved for high income and wealthier groups, others being increasingly pushed to the margins or beyond, especially large families and those depending on benefits. Along with these displacements of people goes a damaging displacement of the services, businesses and jobs on which many Londoners depend¹. Alongside the social damage there can be severe effects on the structure of the economy and on the environment – especially though the embodied carbon in demolished structures, through the truck movements of spoil and changes in the need to travel as households and firms moved further out of London often have longer journeys. It is thus everybody’s business.

Consultation and Participation

This section should start with recognition of the value of community development, of a bottom up approach and of the contribution made by Tenants and Residents Associations and other community groups.

In a good consultation process, residents and others on an estate will be found to have an intimate knowledge of the estate’s need and potentialities and can often come up with ideas and solutions which compare well with those generated by professionals. This should be celebrated in the Good Practice guide –perhaps with illustrations. We’d be happy to make suggestions and think this would make the document feel less condescending.

Our unanimous and strongest disagreement with the present draft is its failure to insist on ballots prior to any demolition, indeed its dismissal of the merits of ballots.

The requirement to secure majority consent in a ballot is the only thing which will ensure that landlords and councils take consultation seriously. It does not amount to giving individual residents a “veto” on demolition: there will always be a minority who are outvoted.

The draft dismisses ballots by saying

This highlights a potential reason for caution around using ballots or votes, since they can risk turning a complex set of issues that affects different

¹ We have made careful (separate) submissions on employment space losses..

people in different ways over many years into a simple 'yes/no' decision at a single point in time. §35

But this is a poor argument. A ballot can (and should) identify responses separately for each tenure or other group; it need not be confined simply to one Yes/No question although —in the end— demolition of one's home IS a Yes/No issue. If consultation is conducted properly, early enough, and with transparent information, the questions to be balloted can avoid over-simplification.

As we said in our policy recommendation D (August 2016 page 31):

Proposed regeneration of council or housing association estates should require comprehensive, independent analysis of social, environmental (including embodied carbon) and economic benefits of all proposed options and a ballot of tenants and leaseholders. Options should always include refurbishment.

Three further points should be made on consultation processes.

Firstly that it is probably worth re-stating the “Gunning” principles, recently re-affirmed by the Supreme Court

- Consultation should occur when proposals are at a formative stage;
- Consultations should give sufficient reasons for any proposal to permit intelligent consideration;
- Consultations should allow adequate time for consideration and response;
- There must be clear evidence that the decision maker has considered the consultation responses, or a summary of them, before taking its decision.

In the recent case of *Moseley v Haringey*, the Supreme Court added two further principles:

- The degree of specificity regarding the consultation should be influenced by those who are being consulted;
- The demands of fairness are likely to be higher when the consultation relates to a decision which is likely to deprive someone of an existing benefit.²

Secondly, the Mayor should take advantage of the 2015 report of the London Assembly Housing Committee **Knock it Down or Do it Up**, the recommendations of which are based on careful analysis of evidence and have cross-party support. We would particularly draw attention to the 4 recommendations for an effective decision making process, including recommendation 3 for an independent ballot of estate residents. The Mayor should also refer to, and perhaps support, the consultation recommendations of the Government's recent ***Estate Regeneration National Strategy***.³ While not as strong as we would wish, this is very carefully written and comprehensive, for example on training and resourcing needed to support acceptable consultation.

Thirdly we urge the Mayor to add an insistence that Boroughs should equally consult and ballot estates when —as they are increasingly doing— they are contemplating the establishment of Special Development Vehicles or other companies or partnerships which, once contracted, could circumscribe the regeneration options

² <http://www.bailii.org/uk/cases/UKSC/2014/56.html>

³ <https://www.gov.uk/government/publications/estate-regeneration-resident-engagement-and-protection>

and rights of people affected. This is essential to avoid undermining the validity of estate consultations made subsequently.

Decision criteria for estate regeneration

The current draft tends to presume that demolition will be the default plan for estates. We absolutely oppose this, on economic, social and environmental grounds.

Refurbishing and upgrading existing homes should be the first and preferred option rather than demolition. There should be no exceptions to this.

The draft says landlords “should not waste their time, or more importantly that of estate residents, by consulting on options which are not viable or deliverable. Initial engagement should clearly state any non-viable or undeliverable options which have been discounted and why, and these decisions should be open to scrutiny by residents and other stakeholders.” (§23) The second sentence is helpful but the first gives too much discretion to landlords to dismiss schemes as “not viable”. There have been many cases where such exclusions have been shown to be unsound. We suggest instead “landlords who consider that some, otherwise attractive, options are “unviable” should nonetheless present them alongside more viable options with full evidence to support their case.”

Full protection should be provided for existing social housing particularly at a time when there is no current available national grant funding to deliver new social-rented homes. The 2013 London Wide Strategic Housing Market Assessment (SHMA) identified the need for an additional 15,700 social-rented homes each year in London and yet for years 2005-15 the average annual delivery was only 4,781.

The draft says that demolition should be supported only “where it does not result in a loss of social housing, or where all other options have been exhausted. This principle will apply to estate regeneration projects that seek new funding from the GLA.” (ch 1, §9). We are glad to see that “social” housing is being protected here, not just “affordable” housing.⁴ We are, however, unhappy with the get-out clause about all other options having been exhausted because bitter experience has shown how easy it is for landlords to make such assertions. The phrase “where all other options have been exhausted” should be deleted. We are also unhappy that the Mayor intends, pending a new London Plan, to apply this requirement only to schemes seeking GLA funding. We **suggest** that he could make this one of the criteria for the ‘fast track’ handling of planning applications, in addition to his proposed requirement for at least a stated percentage of “affordable” floorspace.

We would also propose as key criteria the following :-

- The Mayor must insist that environmental impacts are fully reflected in decisions – particularly in relation to the demolition of social-rented homes. Our work with the UCL Engineering Exchange⁵ and other research shows

⁴ The current London Plan wording is the result of Mayor Johnson watering down the stronger recommendation of the EiP panel which in turn had been based on the panel’s substantial acceptance of evidence from Just Space and member groups.

⁵ UCL Engineering Exchange with Just Space and LTF ***Demolition or refurbishment of social housing*** <http://bit.ly/2g6itHj>

how valuable refurbishment can often be in terms of embodied and lifetime energy/carbon implications.

- Social and environmental impact assessments (including equalities assessments) must be carried out on any estate where redevelopment / demolition is proposed, and published at an early enough stage to inform consultations.
- These assessments, together with financial and technical evidence must be placed in the public domain at a stage early enough to inform consultation at each stage of decision / planning.

We consider that the final version of this Good Practice Guide should include a standard checklist of criteria to be met in such assessments.

The Mayor must provide a commitment to lobby government to end the charging of VAT on refurbishment of homes which tilts the financial playing field in favour of demolition and new build. .

Rights of tenants, leaseholders and freeholders

Where demolition (or the emptying of homes for refurbishment) are to take place, the right to return must be made an enforceable right. Where people have to move away from their estate they must have the guaranteed right to move back to homes of equivalent size on equivalent terms and conditions. The only exception to this should be where people were previously occupying many more rooms than their assessed need. It is important that this right can be simply enforced against the landlord – whether a council, a housing association or some other successor in title to the land. While many people always choose not to return, the right to do so is keenly sought and non-enforceable promises are a major source of resistance to regeneration schemes.

Where estates are emptied as part of regeneration, current law and practice is hard on those who have bought their council homes under the Right to Buy and their successors as owners (leaseholders of flats and normally Freeholders of single-family houses). The compensation offered to resident owners is based on valuations which are much lower than the market value would have been without the threat of demolition and invariably not enough to enable people to re-accommodate themselves in the same locality. This can seriously infringe their rights, as the Secretary of State decided in refusing to confirm a CPO on the Aylesbury Estate. The Mayor should work with resident leaseholders and related organisations to produce stronger guidelines for fair compensation, including the nomination of an independent valuer and giving leaseholders enough money to be able to afford a like for like replacement of their property.

Case Studies

We are unhappy with the anonymised case studies and consider that they would have much more constructive impact if they were named. It seems that only 1 of the 8 case studies has been provided by a residents organisation. If the case studies are to be credible they should be not only transparent, but seen to provide an equal share of landlord and resident contributions on what is good practice.

Case Study 4 we believe to be lessons from the Carpenters Estate but it is distorted by the untrue initial statement “Residents on an east London estate were opposed to

initial plans for regeneration, and then worked with their landlord to produce a community-led vision for the estate.” The landlord was in fact obstructive. We expect the original wording to be reinstated in the next version of the guide.

The Greater Carpenters Neighbourhood Forum needs access to technical aid for drawing up a masterplan and asks whether this can be provided through the Housing and Regeneration Funds for which the GLA is responsible. We hope that their inclusion as a case study will foster supportive discussions between the residents organisation and the GLA.

Paragraph 37 of the draft guide encourages landlords to consider independent capacity building and advocacy support. Just Space considers this should be strengthened so that it is a condition of funding, with the residents determining who would be best to support them.

Monitoring, evaluation and research

Fully adequate impact evaluations, feeding in to decisions on regeneration, will not be feasible until we have better longitudinal studies and data on what happens to residents and businesses in and around regeneration areas. The ‘smart city’ is not yet at all smart in this respect and the Mayor should confer with community and tenants groups, researchers and research councils on how most effectively to track the impacts over time of housing and other regeneration policies. Some combination of routine returns from housing providers and sample surveys in depth will probably be required. We have been pressing for such studies for many years without success...

We propose the GLA set up and support an independent body to monitor, evaluate and research regeneration. This could be an *Estate Regeneration Board* (to join the other Boards and Commissions in place at City Hall) with an oversight role and a strong research emphasis, led by academics and with representation from primary and other stakeholders.

The term “affordable” has been so badly diluted that we have urged the Mayor to avoid using it altogether. Effective policy-making at London, Borough and estate levels will only be possible with good data on the levels of rent actually being charged so that they may be related to the distribution of incomes among those in need. We have argued this in more detail in our submission on the SHMA and there is an urgent need for the Mayor to secure good data on this for new developments, regenerations and refurbishments. The existing Key Performance Indicator KPI5 for “affordable” housing must be replaced or supplemented by data on housing let at social (target) rents which are the only ones which can meet the needs of those in the worst housing difficulties or even, in many parts of London, on median incomes and make a contribution to reducing homelessness.

London struggles to produce housing which people can afford: it is filling a bath but the plug has been removed. The need now arises urgently for the Mayor to gather and report annually data on **the total stock** of social rent dwellings, taking account of RtB sales and also of tenancies switched from social rents to higher “affordable” levels or to market levels.