Chapter 11 Funding the new London Plan

Policy DF1
Funding Shortfall (11.1.8-11.1.13): We note that the London Plan has a significant funding shortfall. Currently, the Mayor does not have the funding required to build the housing that London needs, and TfL is experiencing financial difficulties due to decline in government grant and fall in user numbers, which will begin to have an impact on services. Furthermore, the financial problems of the LLDC (which needs to repay funds spent developing the Olympic site) continue to cause concern. Public sector funding is mainly achieved through taxing or levying funds from businesses and individuals.

The London Finance Commission outlines the current fundraising powers of the Mayor, as limited to government grant, council tax and business rates, user charges, and third-party contributions such as MCIL. We note that the Mayor seeks devolution of fiscal powers, in line with the recommendation of the London Finance Commission (LFC), in order to give local governments more control over how public money is spent. The Mayor's key ideas for increasing revenue are: Fiscal Devolution (paragraphs 11.1.58-62) and Sharing in Land Value Uplift (paragraphs 11.1.63-65).

Both these plans are in their infancy, with no concrete proposals on the table, and are therefore unlikely to materially improve the funding for implementing this London Plan. Opportunities to raise loans for infrastructure development from business rates uplift may be constrained by the new role of business rates in directly funding core local council activities and TfL borrowing is restricted to potential for revenue increases (11.1.30). In relation to transport it is noted that, "However, most of the schemes listed in table 10.1 are currently unfunded and additional sustainable funding sources and project-specific deals and grants will be needed alongside contributions from London boroughs and the private sector." (11.1.30). This also relates to policy T9 C – using planning to fund transport. In this regard, it is noteworthy that the only policy box on Funding (DF1 Delivery of the Plan and Planning Obligations, p. 441) is focussed on "Applicants" – namely, private developers.

POLICY DF1
A key issue undermining the effectiveness of the London Plan is therefore the significant funding shortfall in relation to meeting its ambitions. Alongside private sector borrowing for utilities, and central government grant for some of the capital costs of schools (about 1/3 of needed – 11.1.35), policy DF1 indicates that S106 income and CIL charges levied on private sector led developments are the only real sources of income identified to implement much of the London Plan including MAJOR STRATEGIC TRANSPORT INVESTMENTS and HOUSING DELIVERY. Although the Mayor argues that "The policies in the London Plan have been subject to a viability assessment which has tested the cumulative impact of relevant standards, obligations and requirements to ensure they do not put implementation of the Development Plan at serious risk.", we argue based on

evidence from the London Plan Viability Study, the London Plan IIA and the Homes for Londoners SPG that this is not an accurate representation of the funding situation. There is not a feasible funding plan in place, which puts at significant risk the delivery of the London Plan policies, notably its overall ambition for supporting “good growth”. We also note that S106 is barely mentioned in the London Finance Commission deliberations (a brief mention on p. 9, as part of the Levies on property development which can be raised by London’s government).

The London Plan Viability Study assessed the viability of a range of sites and development types to deliver the planning obligations implied by the London Plan. The conclusion reached here is that a wide range of sites are viable at some level of delivery of housing (discounted market, London Living/Affordable Rent, Shared Ownership) with some combination of housing tenure and type (LAR, LLR, SO) as well as student and shared accommodation, commercial and industrial developments.

In relation to London Plan funding, we are concerned about the following sequence of statements in the London Plan Viability Study:

Point 5.8.19 and 5.8.20 indicate that average CIL charges (perhaps underestimating viability in some cases) and £1500 S106 charges per dwelling are costed in the viability model.

Sensitivity testing was done in relation to “abnormal costs” (9.3, p. 71), with modeling of abnormal costs for developments (p. 32-33) including demolition costs (£29/m^2) and “for example, service diversions, cut and fill/transportation, use of retaining walls, removal of underground services, amongst others” (modeled at £183/m^2). These raised some questions about viability in lower band value housing; as did the higher land value benchmarks (p. 72). In general viability challenges are seen to result from low value areas i.e. where sale and rental returns will be in the lower value bands.

The findings of the Viability Study are considerably more nuanced than either point 11.1.1 in the London Plan or the conclusion reached in the IIA (pgs. 303-304) and observe that this has not been considered in any detail in relation to the potential to deliver SHMAA identified housing need through the SHLA identified land availability:
“14.2.6. The addition of an allowance for abnormal costs has a bigger impact on schemes in the lower value bands than those in higher value bands and may tip a scheme over into non-viability. However, the addition of grant (we modeled at £28,000 per affordable unit) improves viability and can help secure more affordable housing in some cases. Away from the lowest value area (E), grant can directly impact on the amount of affordable housing achieved although the picture is mixed and varies between the type of development illustrated by the case studies (e.g. two case studies in value area D were originally tested at 20% as they were unviable at 35%, and with

grant one of them is able to provide in excess of 35% while the other is not). " (VIABILITY STUDY, p. 102).

However, we are most concerned with the following observation, made about development costs in addition to the modeled abnormal costs:
"5.6.14 Some sites have other costs that are exceptional, reflecting the specific development found there, and which are not readily replicated for policy testing purposes – for example new transport or social infrastructure. While sites have been tested with onsite and offsite infrastructure requirements, ***scenarios with very substantial exceptional costs are atypical and lie outside the scope of this testing***. Such schemes may be subject to site specific testing where the infrastructure cost is preventing delivery. It is also noted that, where there are exceptional development circumstances and associated costs, these may enhance market values and/or increase costs and it would be expected that these would be reflected in the land value for the site. Furthermore, it is understood that the GLA also engages with landowners and developers and provides funding to accelerate delivery on brownfield land such as in Housing Zones and facilitates funding bids from sources such as the Housing Infrastructure Fund."
(VIABILITY STUDY, P. 33; emphasis added)

We place this alongside the following observations from paragraph 2.04 of the London Plan:

"The areas that will see the most significant change are identified as Opportunity Areas. Many of these Opportunity Areas are already seeing significant development, and they all have the potential to deliver a substantial amount of the new homes and jobs that London needs." (DnLP, p. 27).

And from the Mayor's "Homes for Londoners: Affordable Housing and Viability SPG":

"2.8.0. Opportunity Areas and Housing Zones are key sources of housing supply in London. They are, by their nature, complex to bring forward and often require significant investment in infrastructure. They are also of a scale that can create fundamentally new places and communities. Significant research and an in-depth understanding of the area, its strengths and weaknesses, and how to deliver a successful place underpin the development of an Opportunity Area Planning Framework." (p. 31).

As a response to the evident challenges and costs of developing many opportunity areas, the SPG (2.8.4, p. 32) advocates setting local thresholds for affordable housing delivery through local plans, including varying housing mix and tenure, in OAs, HZs and SIL, possibly lower for some (OAs – as implied in the Draft SPG) and higher for others (SIL), although the expectation is expressed to meet the AH expectations, we contend this is highly unrealistic in terms of delivery achievements across the city in Opportunity

Areas to date. The lack of any review mechanism or monitoring of delivery in Opportunity Areas is an ongoing concern.

However, if most housing is to be delivered in Opportunity Areas, and Opportunity Areas are by definition hard to develop, involving extensive infrastructure investment (a £1bn TIF to fund new tube developments at VNE and a £2.5bn bill for OPDC are only two amongst many examples), the London Plan Viability Study is offering little support for the planned approach to funding the London Plan.

Thus most large areas of planned housing development are in hard to develop, low viability areas that lie outside the scope of the London Plan Viability Study models and parameters.

We contend that in the light of this, the claim that the overall viability of the plan is secure is inaccurate AND the developer-led planning gain approach taken to Funding the Plan in Policy DF1 makes it ineffective and unsound.

This concern was also reiterated in the IIA:

“It was also suggested that the policy could reference the role of density in bringing forward brownfield sites, and how this could impact on viability”. (p. 303)

The GLA’s response to this was to affirm that development should be focused on brownfield land, but that “They also advised that the viability study that accompanied the Plan clearly showed that the policies within the Plan were viable and policy DF1 was explicit that viability issues should be exceptions to the rule.” (p. 303). There is no adequate response to this concern.

Furthermore the IIA assessment of the implications of this observation is weak or non-existent – the table on p. 304 of the IIA shows no entries for Objective 7, for example, where the implications of lack of ability to meet planning obligations for equalities, health and social and community safety can surely not be filed as “not applicable”. This throws a spotlight on the limited and formulaic nature of the IIA.

Policy DF1 is therefore not fit for purpose and needs to be reconsidered. This arguably renders the plan ineffective and undeliverable, which are key criteria for assessment of the soundness of the Plan.

POLICY DF1 D: Prioritising Transport and Housing

The following section considers further implications of Policy DF1 for the London Plan and for London’s communities in more detail, notably its proposal to prioritize funding transport and housing from S106 charges.

A new route for developers to bring forward proposals to planning authorities without evidence of viability testing is offered, but “where there are clear circumstances creating barriers to delivery”, viability testing procedures are presented in the Affordable Housing and Viability SPG, and also discussed in Policy H6 A to C. Here, since strong cost pressures exist in relation to bringing forward brownfield, or sites in existing use, or contaminated sites, or inaccessible sites, a prioritisation of use of “planning obligations” is proposed: first affordable housing and public transport; followed by health and education infrastructure; and finally, “affordable workspace and culture and leisure facilities in delivering good growth”. The overarching goal of this plan, “good growth” is therefore accorded the lowest funding priority.

We also note the wording: “where it has been demonstrated that planning obligations cannot viably be supported by a specific development” – exposing the development model whereby each individual development is meant to generate significant planning gain income to unlock whatever infrastructure is required. Clearly this is not a viable model of development for a major metropolitan region and both expansion of resources and much stronger pooling of available income streams to enable strategic investments is arguably required, rather than burdening specific developments to the point where they are in danger of not delivering London Plan policies.

This policy directs that the highly constrained funds available to deliver this plan (both S106 and CiL charges) are applied AS PRIORITY to the two areas where the Mayor in fact has some scope to secure investment: transport and housing. Dipping into the S106 agreements, which are primarily meant to ensure that developers implement planning policy, in order to primarily fund major infrastructure requirements to unlock sites will render the plan ineffective as a planning policy. It will jeopardise the ability to deliver the basic requirements of sustainable urban development: including provide play spaces, protect green and open spaces, protect and re-provide community facilities. Time and again these elements of lifetime and sustainable neighbourhoods are poorly provided in large scale developments, in increasingly hard-to-develop “opportunity areas”. In addition, brownfield sites with high infrastructure requirements seldom yield much in the way of social rented housing – much “affordable” in these schemes is in fact shared ownership or discounted market. This means a lack of ongoing investment in community needs.

We note from the London Plan Viability Study the following two observations:

The point in 5.8.1 that notes how **many planning policy obligations in fact enhance the value of a scheme**. Diminishing “good growth” elements of the London Plan would detract from the economic return and “taxable” value of places being built, in addition to making them bad places for Londoners to live in.

The viability study also notes:
"14.2.9. Other policies of the plan have also been tested including accessibility and energy standards, transport, community and green infrastructure requirements and Mayoral and Borough CIL and S106. These represent **modest costs as a proportion of development value and typically have limited impact on overall viability**." (p. 103).

Thus we propose that there is no sound basis for diminishing the implementation of key features relevant to the delivery of the community and social infrastructure needed to ensure "good growth", sustainability and lifetime neighbourhoods, and even to maximise the value achievements of developments, and we propose that this policy be reversed:

Proposed change to Policy DF1D: We propose to delete the current sections and replace them as follows:
In order to ensure that all developments meet London Plan policy obligations, planning authorities should firstly apply priority to social and community infrastructure and social rent level housing delivery and then to affordable workspace and local transport schemes.

Communities must be a party to the s106 negotiations as they best know the needs of the local area.

We encourage the Mayor in his efforts to secure proper funding for housing and transport, as per the London Finance Commission work, Text 10.9.5 and 11.1.58-65. Planning gain is not an instrument which is adequate to deliver the substantial infrastructure requirements of this London Plan given that owners of land and housing (public and private) can still realise big profits which need to be appropriately taxed in other ways.

However, we suggest that providing lifetime and sustainable neighbourhoods is crucial to support London's role as an attractive city for both local residents and successful economic activity and to meet his obligations not to cause Londoners harm. Squeezing housing and transport funding out of S106 and CiL charges on specific local developments risks undermining the quality of the built environment. Bringing forward the example of the Old Oak Park Royal Development Corporation, which is an opportunity area with a £2.5bn infrastructure price tag, the Mayor himself observed in his Review of the Old Oak Park Royal Development Corporation, that lack of core financial investment for infrastructure and consequent reliance on planning gain would, "In addition to impacting on the ability of developments to provide an acceptable level of affordable housing, the high cost of infrastructure may force a quantum and scale of development that is unacceptable in height, scale, density or mass – and at the expense of community infrastructure." We note that of the planning determinations to date in the Old Oak area, only 30% of affordable housing seems to have been delivered, 35% being discounted market rents of 50-80% and the remainder are intermediate products. We also note that restricted public realm and planning obligation requirements (including numerous playgrounds on the roofs of buildings, which do not conform to DnLP Text 5.4.3 or Policy S4 B2, both of which were expectations in the previous London Plan. (This and further details are available in the Grand Union Alliance, submission to consultation on Regulation 19 OPDC Local Plan).

POLICY DF1 A, B C
<u>Public Scrutiny of Viability and Planning Gain agreements:</u> The fast track approach potentially further limits public scrutiny of developer proposals. This speaks to our ongoing concerns about the lack of clear policy commitment to community participation in planning in major development sites (see our comments on Chapter 2: Opportunity Areas, Town Centres, Strategic and Local regeneration).

We wish to further press our concerns about the question of public participation in planning on the basis of the over-riding role of private developers in delivering and funding this London Plan. The Mayor does not have a Statement of Community Involvement. This is a significant lack in a context where the Mayor's team is closely involved in planning developments across the city, notably in Opportunity Areas and large scale regeneration. Such an SCI should be produced as SPG to guide all planning and development in the city, and should be summarised and referred to throughout this London Plan. SCIs have been developed by the LLDC and the OPDC.

The need for an SCI with clear guidance on the nature of participation in planning is enhanced in a situation such as envisaged in Policy DF1 A to E and the text of Chapter 11 of the Plan, where most development is to be funded and undertaken by private sector developers, even if some funding from government housing grant or public utility borrowing is available. Details of developments highly relevant to local stakeholders are negotiated and agreed in secretive pre-application discussions from which community voices are absent. We would like to see the Mayor bring forward a best practice guide for planning authority and developer consultation practices, consistent with the Aarhus convention, involving early and effective involvement in decisions. This is especially important given the high legal stakes associated with refusing or seeking to revise planning applications once they have reached the determination stage. Robust and effective developer engagement with communities, overseen by relevant planning authorities, where community concerns are clearly addressed, and early input to the development of plans and alternatives facilitated.

Without clear public scrutiny, safeguards and guidance on the role and behaviour of private sector actors and planning authorities as they negotiate the planning gain obligations in the development process, the Mayor's Plan will not be effective in its aims to meet community needs, or to include communities in decision-making and planning for their neighbourhoods .

PROPOSAL: Insert a statement in Chapter 1 policy box GG1 (and refer to this in other relevant Policies, such as DF1 as well as HD1 and in SD1, SD4, SD6 and SD10) committing to the preparation of a Best Practice SPG on Public Participation in Planning/Statement of Community Involvement.

Conclusions

Clearly housing delivery and transport infrastructure are critical areas for investment but there is also a significant need to invest in other things such as: green and social infrastructure, water, energy, waste and digital connectivity. Regardless of the “good growth” ambitions of this new London Plan, and its range of sustainable planning policies, the absence of funding, and the dependence on private sector developers for delivery mean that the plan is creating a situation in which planning decisions will likely continue to encourage developments that significantly contradict the goals of the London Plan and fail to realise the principles of “A City for all Londoners”: the antithesis of good growth.