

# planning in london – limitations and weaknesses

**Duncan Bowie** reflects on issues raised by the draft new London Plan, including the extent to which it meets the objectives of the original instituting legislation and sets a useful example for city-regional planning elsewhere

One of the key issues presented by the draft new London Plan<sup>1</sup> is whether the current plan is, in fact, a strategic plan in terms of the original intentions for a Spatial Development Strategy for London set out in the provisions of the Greater London Authority Act 1999.

In this context it is important to recognise that this legislation preceded the Planning and Compulsory Purchase Act 2004, which re-introduced the concept of regional planning for the other eight English regions. Whereas the regional functions of this later legislation were repealed by the Localism Act 2011, with the English regional planning authorities abolished before the regional planning system had bedded down (and in fact before all eight Regional Spatial Strategies had actually been approved), the legislative provisions for regional planning in London have continued largely unamended.

The current draft London Plan is in effect the fourth major revision to the London Plan published in 2004 – there have also been three partial reviews, including the review which introduced a Community Infrastructure Levy for Crossrail. More recently, a version of the 1999 Act provisions for a Spatial Development Strategy have been extended to three city-regional combined authorities headed by a directly elected city-regional mayor: Greater Manchester, the Liverpool City Region, and the West of England (although significantly not to the West Midlands city region). It is therefore timely to review whether the London Plan in terms of form and content meets the objectives of the original legislation, and to what extent it sets a useful example for city-regional planning in other regions.

There are two important points to make about the role of the London Plan. First, the Mayor's strategic

planning powers relate only to the Greater London area. The policies in the plan do not relate to the wider functional urban region – the travel-to-work area – beyond the Greater London boundary. It is therefore not a city region plan. The relationship of the London Plan and mayoral policies to the neighbouring authorities continues to be a source of contention. It also means that the London Plan cannot be regarded as a template for city region planning in other city regions in the UK.

Secondly, the 2004 Planning and Compulsory Planning Act made the London Plan part of each London borough's development plan, together with a borough's Local Plan. This means that, in addition to the requirement that each borough plan should be in conformity with the London Plan, a borough can and indeed must use policies in the London Plan as a basis for determining planning applications where a Local Plan is silent on a specific policy matter.

These two points raise questions as to how strategic the London Plan is or could be. Clearly, the inability to consider city-region-wide policy, other than making reference to relevant issues, is a serious limitation. In contrast, the London Plan, in response to representations from specific interest groups, has increasingly included detailed policies which would normally be regarded as matters for a Local Plan. This has the advantage of introducing London-wide consistency, but has led to some boroughs objecting that the Mayor is abrogating to himself planning policies which should be left to the borough level.

The fact that the Mayor not only has the power of veto over major developments, but has the power to take over major strategic planning applications

from the local planning authority has led to developers focusing on negotiating their proposals with the mayoral planning team and in effect bypassing the local planning authority. While the Mayor does not have the power to allocate sites for specific land uses or to zone areas (which actually means that Green Belt designations, Central Activities Zone designations and Opportunity Area designations are actually a Local Plan and not a London Plan matter), the existence of the Mayor's intervention powers through the strategic development management function means that the Mayor has a direct influence on specific development proposals. This influence has increased as the referral threshold for strategic applications from boroughs to the Mayor has been reduced.

However, it could be argued that on key strategic policy areas the London Plan is actually quite weak. While the Plan sets total housing targets for each borough, there are no targets for the type of homes to be provided, other than a general ambition that half should be some form of affordable or sub-market housing. There is no framework for local planning authorities to set their own affordable housing targets. The disaggregation between different tenure/affordability types is largely left to individual boroughs. The guidance on sustainable residential development densities within previous London plans is now being dropped. There is no substantive guidance on the mix of new homes in terms of family size, despite the evidence in the London-wide Strategic Housing Market Assessment (SHMA).

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There is also no overall assessment of the land use requirements for different uses, which also means that there is no strategic target for changes of land use – for example from industrial use to housing use – and the only specific land use target is for no loss of Green Belt land (although specific land use changes are a matter for local determination, so the Mayor cannot actually debar development of

a Green Belt site or stop a local planning authority undertaking a Green Belt review).

It is this lack of specific strategic policies which, combined with the number of detailed policies, in effect gives the Mayor the greatest flexibility in both promoting and determining development, as in the use of strategic development management powers, under which the Mayor can choose which of the detailed policies to apply in a specific case. There is no hierarchy of priorities within the London Plan, and it is unlikely that any development application is fully compliant with every policy, so the framework could be regarded as a fairly extreme form of discretionary planning.

Another area of weakness is the lack of an evidence-based justification for the specific policies in the Plan. While the Plan is proposed as a replacement for the current 2015 London Plan, the draft submitted to the Examination in Public has been written from scratch rather than as amendments to the pre-existing Plan. This is a different approach to that used in the three previous significant Plan revisions, and has meant that the Mayor has not had to explain how specific proposed policies relate to the policies in the pre-existing Plan and justify specific amendments.

The Mayor's team has therefore not been required to comment on the impact of previous Plan policies, on whether they have succeeded or failed in terms of targets and policy objectives, and on whether new policies are required due to changes in external factors, such as population change, changes in employment or commuting patterns, or changes in government policy or because the existing policies have been found to be inadequate in practice. There is, moreover, no substantive evidence of scenario testing. The projections for population, household and employment growth appear to be largely based on previous trends, with no consideration of alternative future contexts or strategies.

It could be argued that there is also insufficient recognition of the seriousness of the challenges arising from climate change. Given the still unknown post-Brexit context, volatility in both inter-regional and international migration, a volatile regional and national economic context, and a fluid political context at national level, it is acknowledged that the consideration of alternative scenarios is problematic, and that a strategic plan does need to be based on one set of assumptions, but the draft new London Plan nevertheless should justify the assumptions used and recognise that, should future reality diverge significantly from projections, policy modifications may be required.

This also raises questions as to the soundness of the Plan's evidence base. While the Plan draws on a wide range of technical reports, what is missing is a comprehensive estimate of London's overall development requirements. While there is an



assessment of London's housing requirements, there is no assessment of the land take for the new housing required and of its impact on other land uses. There is no assessment of the land take required to support new employment growth (the assumption being that the need for employment space can be achieved through the more intensive use of existing capacity) or of the land take for the required transport and social infrastructure. The Plan assumes that there is enough space for all these facilities within the London boundary without any requirement to develop any greenfield sites, whether Green Belt, Metropolitan Open Land, or public or private open space.

The central concept of the draft new London Plan remains the same as for all previous versions since 2004 – the compact city. This is the notion that all London's development needs for the full Plan period can be met within the London administrative boundary. The Plan is predicated on this being achieved entirely on previously developed land. It therefore promotes intensification of the pre-existing urban built form, with higher residential densities but also with a greater mix of uses within individual sites and in effect within single buildings. As the Plan aims at maximising new housing units built (a key source of contention between the Mayor and central government given historic under-performance on housing delivery) while at the same time protecting open space, the effect of the densification agenda, given the lack of brownfield development capacity, has been a requirement not just for much higher development densities, but an emphasis on much higher-rise development.

Whereas 15 years ago there were only a few high-rise schemes consented each year, there are

now over 500 proposals for residential buildings over 20 stories either with planning consent or in the development pipeline. This has an impact not only on London's skyline but also on the type of housing output. Most of these new dwellings are for the market sector (with a few shared-ownership homes included) and are mainly small flats, although the more 'iconic' schemes may include some large and very expensive penthouse suites on the highest floors. Many of these schemes are targeted at the international investment market and do little to contribute to meeting London's more acute housing needs.

So the focus on densification may assist the objective of maximising the number of units completed (or at least consented, which is not the same thing) but actually militates against the delivery of a range of other planning requirements in terms of dwelling type, size, and affordability. It is also evident that densification actually pushes up land values and consequently the sale prices of completed units, worsening the current affordability crisis.

This focus on densification also reflects a wider shift in the approach to planning evident in the draft new London Plan. The Plan and the Mayor's introduction are explicit that the new approach is design led. There is a new emphasis on the role of design panels and design champions. With the abandonment of the specific density guidance set out in the pre-existing density matrix, the argument is that 'good' design can overcome concerns that higher density can mean poor design. This tends to ignore the issue of who we are planning for. If you remove the objective components of a design framework – i.e. the basic principle of sustainable residential quality (SRQ) that the density of people

housed in a new development should relate to the capacity of the local transport and social infrastructure and to the existing neighbourhood character – and instead rely on negotiations between developer and planning officers on subjective factors such as the appearance of the development, we are in fact moving away from any notion of a plan-led system of development.

This approach allows for maximum flexibility but at the same time prioritises the subjective preferences of the decision-maker, whether planning officer, design advisor or the Mayor, over more measurable components of policy compliance. The Plan therefore removes the policy benchmarks which have been the framework for planning decisions in relation to residential-led development (although admittedly they have often been ignored in practice), with a requirement for London boroughs to operate design-led planning decisions which is beyond the capacity of most borough planning departments, and which also introduces the real risk that design concepts will be prioritised over assessments of compliance with other planning policy components.

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The draft new London Plan presents itself as focusing on the achievement of ‘good growth’. This rhetoric is rather lacking in definition. Moreover, it is not recognised that the benefits of growth are not universal. Assuming – as both the Plan and the so-called Integrated Impact Appraisal (IIA) do – that growth is good for all Londoners is naïve to the point of misleading. The IIA completely fails to assess the impact of specific policy proposals (whether as new policies or as revisions to pre-existing policies) on different groups of Londoners.

Leaving aside the issue of the application of equalities legislation which was quite correctly raised at the Examination in Public, neither the Plan nor the IIA actually recognise that both planning policy and individual developments actually have differential impacts on households with different incomes or levels of wealth. The Plan fails to demonstrate that the growth policies it promotes are ‘inclusive’; and in fact, at least as far as housing policies are concerned, the evidence is clearly to the contrary – the backlog of unmet need for low-rent housing will grow rather than be reduced.

One question which can be raised is whether the Mayor has much influence on the strategic plan for London or whether it is the product of professional planners, with only limited political intervention. Sadiq Khan has in practice shown little interest in planning and not attended any events relating to the Plan launch, consultation, or Examination in Public. The Deputy Mayor for planning, Jules Pipe, launched the consultation draft and attended the opening session of the Examination in Public. The professional planning team who presented and sought to defend the Plan appear to have been operating under a number of guidelines – maximise housing targets; protect the Green Belt; seek to demonstrate that the Plan is based on ‘good growth’ principles and is inclusive; and, most critically, encourage as essential in the absence of significant public investment, development and the private investment which supports development.

The Plan is therefore more enabling than directive or even regulatory. The Plan still assumes the ‘trickle down’ theory that investment in London, although mainly targeted at private sector returns, will benefit the population of London as a whole, including lower-income households. There is an assumption that the Plan and its delivery will meet economic, environmental and social objectives. There is no evidence that ‘trickle down’ works in practice, or recognition that some development facilitated by the Plan may actually further disadvantage the most disadvantaged Londoners.

Here, the Mayor’s defence could be that, in the absence of public investment, there is no alternative to facilitating private investment, in the hope that some community benefit will be clawed back through planning gain agreements; but there is no evidence that the benefits of planning gain outweigh the disbenefits of market-led development. While the Mayor focuses on seeking to balance economic growth with environmental protection, it is the social planning component that loses out. This is not unique to the new London Plan and applies not only to the Boris Johnson Plan but to the implementation (or non-implementation) of the original 2004 Livingstone London Plan. It is not, however, a problem that has been acknowledged by either the Mayor, by the Deputy Mayor for planning, or by the professional planners of City Hall.

It might have been expected that a Labour Mayor would not only have recognised the limitations of the Plan but recognised the negative consequences of both the new approach and the specific policies proposed. Unfortunately, this does not appear to be the case. The Plan is in many ways weaker than its predecessor Plans. This is partly attributable to the weakness of the planning framework and the direction of planning policy at a national level, but some of the responsibility must, however, rest with the Mayor himself.

The Examination in Public Panel Report has now been published.<sup>2</sup> The Panel have recognised that the overarching 'Good Growth' policies are actually broad objectives rather than specific policies and thus have been re-designated. The main focus of the Panel Report appears to be on the deliverability of the Plan.

The most significant proposed amendment is the reduction in the housing capacity target by from 65,000 homes a year to 52,000. This is because the Panel considered that the small-sites target was undeliverable – so they cut it by more than half. This, however, leaves an annual deficit of 14,000 homes a year relative to the assessed housing requirement of 66,000 a year. The Panel have endorsed the housing requirement assessment, despite recognising that this assumes a 25-year timescale to clear the housing need backlog, which relates mainly to the need for social rented homes. They also endorse the 50% affordable housing target, despite accepting that the Greater London Authority's own assessment justified 65% – again on the grounds of deliverability.

The Panel also have failed to challenge the draft Plan's 15% social rent target, on the basis that the Plan encourages boroughs to use their discretion to increase it to 35% – hardly a strategic London-wide approach.

The Panel also discount the lack of guidance on the proportion of homes to be family homes. They have also failed to recognise the potential impact on the type of housing output that will follow from the abandonment of the density policy, and seem to accept the Mayor's argument that a development-specific design basis assessment will be more effective than a clear density framework based on the principle of sustainable residential development.

The Panel have no recommendation as to where the 13,000 extra homes a year will go. They do not explicitly criticise the Mayor's continuation of the compact city approach. However, London clearly 'cannot swallow its own smoke'. The Panel have recommended that the Mayor co-ordinates a review of the London Green Belt, following on from the fact that many Homes Counties districts are already reviewing their Green Belt.

Apparently, the Mayor has already rejected this recommendation, on the basis that any development

in the Green Belt is bad for the environment – a very over-simplistic position given the environmental as well as economic and social implications of the alternatives, which of course are not examined in the Plan. The Panel recognise that the current arrangements for planning across the city region are inadequate, but say that it is beyond their remit to make recommendations on how this can be improved – very similar to the points made in the Panel Report on the previous London Plan.

So, again, we have an unhelpful fudge – a ducking of the real dilemmas. It will be interesting to see how the government reacts, especially with the Mayor challenging the government on the Green Belt issue (as well as on some other environmental issues) and with the government having been until recently highly protectionist on the issue.

The Panel have recognised the need for an early review of the Plan, but fail to recommend any timescale. This perhaps reflects the experience of the last four years – the last Panel recommended an early review, which never happened.

It is now nine months since the Examination in Public started in January. I am not persuaded that, after over 80 Examination in Public sessions and a five-month wait for the report, we have made any progress at all. Meanwhile, we await the long delayed publication of the London Plan Annual Monitoring Report for 2017/18, with information on how much of the last Plan has actually been implemented – which might have been useful evidence to inform the determination of the new plan.

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#### Notes

- 1 See the Mayor of London's 'New London Plan' webpages, at [www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan](http://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan)
- 2 *Report of the Examination in Public of the London Plan 2019*. Planning Inspectorate, Oct. 2019. [www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/inspectors-report](http://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/inspectors-report)