

Comments on Inspectors' Report on Draft New London Plan
(Viability, Opportunity Areas, Tall Buildings, Density, Social Infrastructure)
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General comments/assessment

There is Panel support for a strengthening of participation, a redefining of targets for Opportunity Areas, and scope to protect community assets in OA and RAs (and wider role for community participation in social infrastructure – paragraphs 347- 350), as well as a reclaiming of “context” as important in OAs (in relation to tall buildings).

There is a commitment to monitoring OAs which we could follow up on.

The assumption that land prices will come to reflect planning obligations as a result of whole plan viability studies is an important one (paragraph 200).

The grab of Planning Gain incomes for Mayoral priorities is very disappointing – transport infrastructure and affordable housing WHICH SHOULD BE FUNDED THROUGH OTHER SOURCES (central government funding or devolution, or new more robust LVC instruments). We could call out the Mayor's direct ELECTORAL interest in securing this delivery, rather than meeting community needs. And the transport infrastructure benefits developers who receive more value for developing their land.

The recommendation to review the Green Belt potentially draws a firm line under devastating London's poorest communities through (un)Sustainable Intensification. Even though the argument of the Inspectors was mostly linked to the unfeasibility of the small sites policy targets – a victory for middle class outer London suburbs – the effect is also to raise questions about continuing to displace and erase the city of the poor – as Paragraph 599 explicitly states:

“Furthermore, the position in London is that capacity for new housing development is finite. Indeed, the Plan relies on re-cycled land. **The approach of sustainable intensification can only be taken so far without having an adverse impact on the environment, the social fabric of communities and their health and well-being.** Therefore, in our view, there would be little to be gained from requiring an immediate review until such time as a full review of London's Green Belt has been undertaken as recommended to assess the potential for sustainable development there and whether and how the growth of London might be accommodated. Therefore we make no recommendation that an early or immediate review of the London Plan should be carried out.”

Perhaps there will be a breather on intensification plans – and perhaps these observations from the Inspectors provide grounds to contest over-development in many OAs?

(1) Opportunity Areas Targets

Just Space strongly opposed targets for housing and jobs which are set in advance of any planning or evidence-based assessment in the London Plan, established with substantial planning weight through being part of the London Plan, and included in the SHLAA in a circular fashion on that basis. Policy SD1 B4 and B6

Inspectors' paragraphs 119 relates. Targets are now 'indicative' and to be tested in local authority planning processes.

However:

Policies for design-led definition of where tall buildings can be located, and for optimising density do continue to press in the direction of maximising capacities. But, design-led determination of high buildings brings back **local context as a criterion, and SD1B (4) has deleted the expectation that OAs can “define their own character and density”.** They will therefore be subject to the general density determinations of local plans. And the need to respond to “local character, form and infrastructure capacity” (paragraph 275).

Nonetheless, the provision to optimise densities to the future transport capacity of a location also retains the circularity which sees very high densities and heights mobilised to effectively pay for new transport infrastructure. Paragraph 288 – refers to Policy D1A part D and related changes from the Mayor, which are devastating for community concerns and for the likely outcomes of developments, especially given policy DF1D – see financing section below. BUT NOTE THE CAVEAT – WHERE INFRASTRUCTURE CAN'T BE PAID FOR FROM THE DEVELOPMENT, THE DEVELOPMENT SHOULD BE RECONSIDERED. Also to note is the lack of a clear requirement that community involvement in design decisions and location of tall buildings is envisaged. (paragraphs 301-308, where the only actors are the boroughs and the Mayor).

PR19 removes the right to refuse developments on the basis of failing to optimise capacity. **GOOD.**
Policy D1BD.

D1A part D Panel says 285 “When a proposed development is acceptable in terms of use, scale and massing, given the surrounding built form, uses and character, but it exceeds the capacity identified in a local site allocation or the site is not allocated, and the borough considers the planned infrastructure capacity will be exceeded, **additional infrastructure proportionate to the development should be delivered through the development.** This will should be identified through an infrastructure assessment during the planning application process, which will have regard to the local infrastructure delivery plan or programme, and the CIL contribution that the development will make. **Where additional required infrastructure cannot be delivered, the scale of the development should be reconsidered to reflect the capacity of current or future planned supporting infrastructure.**”

(2) Public engagement in Opportunity Areas

Paragraph 120 supports the Mayor’s changes strengthening commitments to “public engagement and consultation at an early stage and throughout their development”. SD1B(9).

Unfortunately we did not convince them that OAPFs (“some through less formal means”) are not appropriate ways to develop plans for OAs, i.e. not in conformity with the NP.

(3) Overlap of OAs and Regeneration Areas

This point which JS made has been recognised in Paragraph 122. This means that OAs and RAs “disproportionately affect BAME communities” (para 125).

An important formulation of this is here:

“That said, there is clearly the danger that the more vulnerable and those with lower incomes, lose what they currently value in an area or are forced to move away due to higher rents and prices, as has occurred in the past in parts of London.” (paragraph 125).

Policy SD10 A2(A) now includes a strong statement of community engagement in strategic and local regeneration areas.

(4) Monitoring of Opportunity Areas and Regeneration Areas

Paragraph 593 refers. This has long been a Just Space demand, and the following addition to the Monitoring Chapter has been approved by the Inspectors in the context of their stated concerns re: displacement and loss of valued cultural assets etc:

DNLP: “12.1.7 For specific geographies such as Opportunity Areas (Policy SD1) and Strategic Areas for Regeneration (SD10), for example, **tailored monitoring and investigations will be carried out to inform the implementation of the area-specific policy objectives.**”

However, this is vague and especially the bit in bold above is open to being focussed on criteria that are not relevant to community concerns. A previous correction which included monitoring “delivery of Homes and Jobs in Opportunity Areas” on an annual basis in 12.1.3 has been deleted and replaced with a vague commitment:

“12.1.3.... **Additional measures to be included in the AMR will be explored over time and this will be informed by engagement with relevant stakeholders in the process.**”

A FOLLOW UP BY JUST SPACE ON THIS CONSULTATION MIGHT BE A GOOD IDEA TO SECURE A MORE ROBUST COMMITMENT TO OA MONITORING, GIVEN THE INSPECTORS’ CONCERNS IN PARAGRAPH 125 AND PARAGRAPH 101.

Inspector ERROR:

I think this is an error. Paragraph 547 claims that all SHLAA targets are based on committed infrastructure. This is NOT TRUE – many opportunity area targets rest on undetermined and unfunded transport infrastructure – OPDC for sure, but also the internal infrastructure needed for all developments (roads, bridges, buses etc – exactly the things that are in Table 10.1). Thus the ten year housing targets are fully dependent on Table 10.1. Transport is largely unfunded aside from planning gain and the Mayor’s own speculative housing developments.

Overview comments on Opportunity Areas

1. Given the broad conclusion of the Inspectors that it is not possible to accommodate all the anticipated growth in houses and economic activities in the existing areas of development, and to open up the Green Belt for review for houses and industrial land development, the assumption that Opportunity Areas MUST carry such a high burden of development must surely be in question, and some of the capacity, density and height issues might have grounds for being revisited.
2. Paragraph 90 which indicates the disproportionately adverse effects of financial shortfalls in the plan on BAME and low-income communities is highly relevant. Paragraph 118 notes that “Clearly the provision of transport, social, green and other infrastructure will be critical to ensure that Good Growth is achieved in Opportunity Areas.”
3. However, as we know, the squeeze on affordable housing and workplaces in OAs, and the lack of funding to cover vast infrastructure requirements, means that this outcome is highly likely in many places. The requirement to achieve Good Growth, in order not to have adverse equalities impacts, is unlikely to be met within the overall financial constraints – the Inspectors call this “aspirational but realistic”. (paragraph 92).
4. The Inspector’s link Paragraph 90 to the effectiveness of Monitoring in Paragraph 91 – and reference the Mayor’s suggested changes, particularly in relation to OAs and SRAs. **This reinforces the point that engaging in any consultation on this monitoring framework could be worthwhile.**

Financing and Viability

(1) Overall sources of funding

The Inspectors acknowledge that the lack of resources could completely undermine the plan; and significantly reduce the policy achievements. They accept it but importantly point out the consequences of not securing funding:

Paragraph 90: “However, if resources are not made available to close the funding gap, it is likely that development needs will not be met, at least not in ways that achieve Good Growth. That would have negative implications for all those living and working in London, **but particularly so for those with lower incomes or with protected characteristics.**”

The only basis they offer for the realistic nature of the plan is that “it is equivalent to 0.9% of London’s Gross Value Added (“GVA”) which is in line with the Government’s fiscal remit for National Infrastructure Commission recommendations. In that context, whilst securing the necessary funding may at this stage be an aspiration, it need not be considered unrealistic.” (Paragraph 74).

HOWEVER: London is a net contributor to the wider fiscal envelope of the UK (as it probably should be) which means that there is no necessary match between the GVA and the money that might realistically come to London for infrastructure and other investment. Also, the Inspectors’ note that Land Value Capture and Fiscal Devolution are also unlikely. It is not at all clear where the realism is located.

The only funding source then becomes planning gain obligations secured at the point of construction, in addition to the Mayor’s grant income for Housing.

(2) Viability Testing

There are some important changes to viability assessments, and while an important change was achieved, overall Just Space made little inroad on this.

On the one hand, the Inspectors have approved and the Mayor has implemented a grab for money from planning obligations which might previously have been allocated to community and social infrastructure. Policy DF1D places transport infrastructure and affordable housing as the priorities in any viability negotiations (non-fast track), and only then to:

“1) recognise the role large sites can play in delivering necessary health and education infrastructure; and
2) recognise the importance of affordable workspace, and culture and leisure facilities in delivering good growth.”

DESPITE THE FACT THAT THESE ITEMS WILL BE A VERY SMALL PROPORTION OF THE VALUE OF DEVELOPMENTS COMPARED TO TRANSPORT AND HOUSING AND ARE CRUCIAL TO “GOOD GROWTH”. Unrealistic conclusions, then, are drawn in paragraph 373 regarding the effectiveness of the social infrastructure policy, as this is largely unfunded. As admitted in paragraph 351, “bearing in mind the reliance on new development to meet these needs”.

On the other hand, **our concerns led to an insertion earlier in this policy** (DF1A) to the effect that, “Development proposals should provide the infrastructure and meet the other relevant policy requirements necessary to ensure that they are sustainable and to support delivery of the Plan.” And in DF1C that subject to viability, it is still necessary to “**ensuring that developments remain acceptable in planning terms.**”

This could provide grounds for community objections to planning proposals which do not achieve the LP policies.

Developer arguments not pandered to:

A lengthy debate from the developers at the hearings questioning the modelling used for the Whole Plan Viability Study – now a requirement of all local plans too – was broadly rejected and the Inspectors agreed the study showed that the cumulative policy requirements of the plan “would not threaten the economic viability of development and put implementation of the Plan at serious risk”. The implied way of working, then, is that all developments are to be considered viable with this level of policy obligation, and that land prices should reflect these policy obligations. The caveat is this can only apply where local plans have also done a relevant whole plan viability study (for the whole borough or planning authority e.g. MDC). This has been added in by **PR54**. But the direction of travel towards land prices that reflect planning obligations is supported by the Inspectors, in the important **paragraph 200**.

Specifically, long and expensive complaints from Sainsbury’s and Tesco’s that mixed use developments were not viable (given the loss of operating income from supermarkets during the development, and perhaps parking requirements) was dismissed as not being a strategic development or critical to meeting homes or other development needs (Paragraph 82).

Some consideration was given to elderly and purpose built student accommodation in relation to securing planning obligations (see paragraphs 217-223 and 224-229). Decision-making on these through viability negotiations seems to be the solution, as with many other potential exceptions. No particular accommodation for these concerns was proposed (e.g. **paragraph 222** insists this in view of the great need for affordable housing, and the viability testing route).

Ongoing in lieu payments

Paragraph 233 does not refute the potential for ongoing contributions based on rental incomes to affordable housing provision in shared living Build to Rent typologies – a long term developer tax!!

Small sites:

One of the main implications of the Whole Plan Viability Study is for small sites. Aside from the extensive complaints from LBs regarding the small site targets, the resourcing costs for them, and

other concerns (perhaps more political than anything else?) (see Paragraph 164: “The main finding of the LPVS is therefore that not many small sites in outer London are viable and it is unreasonable to assume that this will change in the short term. These considerations also indicate that small developments are unlikely to materialise to the extent anticipated.”

The reduction in targets and opening to new areas of development – Green Belt and MOL

Air Quality – OPPOSE INSPECTOR CHANGE

PR42 – Policy SI1 – the Inspector’s proposed rewording completely changes the policy ambition – from ensuring vulnerable people are not exposed to poor air quality, to suggesting that it is acceptable to “minimise exposure” – this is a very low bar and seems out of touch with the Mayor’s ambition.

“Modify part A(2)(d) of policy SI1 as follows:

“Development proposals in Air Quality Focus Areas or that are likely to be used by large numbers of people particularly vulnerable to poor air quality, such as children or older people, which do not demonstrate that design measures have been used to minimise exposure should be refused.””

PLAY SPACES – AN IMPORTANT SUCCESS

Paragraph 363: “Further suggested changes would ensure that good quality accessible play provision for all ages is provided, is overlooked and unsegregated by tenure. The application of these criteria would exclude locations where provision would not be suitable and therefore specific exclusions are not required.”. Refers to Policy S4B 2E and 2F. This should provide scope to oppose roof top and isolated play space provision, as well as tenure segregated provision.

Some general comments

PR3: If GG sections are “objectives” not “policies” will that diminish their status in terms of their usefulness in local planning processes? Does this make mismatches between these GG sections and other policies which seem to undermine them therefore more important? I think we could object to this change on this basis, that our comments on the plan were based on the assumption that GG were policies and therefore would carry significant planning weights

Review of Green Belt

This seems to draw a line under the assumption that “London can consume its own smoke” – but together with the amendments proposed on MOL PR36-38, weakens protections for open space. We will need to find out more about what makes for “very special circumstances” in which MOL (which should be very strongly protected) will be open to development.

Industrial and Affordable workspace policy

Is broadly supported to be secured through planning obligations. It seems PR26 may not be such a significant proposed change. Although paragraph 442 indicates how Mayor changes limit the applicability of this policy to designated areas, or replacement of lost space. The need for a wide range of shops and services, and rents, is recognised in paragraph 393. High Streets are also positively viewed giving discretion to Local Boroughs though (paragraph 391).

PR32 seeks to strengthen protection of non-designated industrial sites (paragraph 426).