

Affordable Housing and Development Viability – consultation on LPGs

Response from London Tenants Federation

London Tenants Federation is a membership organisation bringing together a range of borough, neighbourhood and London-wide federations and organisations of tenants (including leaseholders) of social housing providers (both council and housing association). Our membership also includes the London Federation of Housing Cooperatives and the National Federation of Tenant Management Organisations. Together these organisations form our decision-making membership focused on strategic housing, planning and regeneration policy.

We also have individual tenants' and residents' associations, tenant management organisations and cooperatives as members. These along with individual social housing tenants are able to engage in a wide range of London Tenants Federation meetings and events that feed into the London Tenants Federation members' decision-making processes.

London Tenants Federation members engage in Examinations in Public of the London Plan, respond to regional and national consultations related to housing, planning and regeneration and at times are invited to engage in London Assembly Housing and Planning Committee meetings. London Tenants Federation is a member of the London Housing Panel.

We often produce tenant-led policy alternatives, significantly including the London Tenants Manifesto for a Positive Future for Social Housing in London (published in January 2021).

We are responding to the draft LPGs (London Plan Guidance) on Affordable Housing and Development Viability in the following context.

Between 2005 and 2018, an additional 397,000 homes were built in London. Just 12 per cent were social rented, an average of 3,801 each year (Annual Monitoring Reports of the London Plan). In 2019/20, of 38,577 homes of all types delivered in London, 30,387 were market homes. Only 822 were social rented ('Only two per cent of new and additional homes delivered in London in 2019/20 were social rented', LTF, November 16, 2022).

The Mayor of London's assessment of Londoners' housing needs in 2017, the last time such an assessment was completed, showed that to address existing unmet need and that of newly forming households in the capital, a total of 65,878 additional homes would have to be built each year from 2016-41. 30,972 (47 per cent) would have to be social rented. London's unmet housing need was 78 per cent social rented (2017 London Strategic Housing Market Assessment). There is no doubt that the need has only grown since then.

Since 1997, 55,000 London council homes on 166 estates have been demolished and 131,000 tenants and leaseholders have been displaced (Professor Loretta Lees's ESRC grant funded research: 'Gentrification, displacement and impacts of council estate renewal on 21st century London'). Over 35,000 homes on 100 plus London estates are at risk of demolition (Estate Watch).

London Plan Guidance: Affordable Housing: May 2023

London Tenants Federation has long been critical of the use of the term 'affordable housing' and remains so. The term encompasses **shared ownership**, aimed at households earning up to £90,000 a year, **London Living Rent**, aimed at households earning up to £60,000 a year who intend to save to buy a home (Affordable Housing LPG section 3.2.7); and even certain types of housing for sale, as the two LPGs confirm. Even **London Affordable Rent** costs up to 50 per cent more than social rent.

We state once more that the only type of housing that meets the needs of most Londoners from the point of view of cost and security is social rented housing. This especially applies to those in the greatest need: those on borough housing lists, those in temporary accommodation, those in poorly regulated, insecure, expensive, often poorly maintained private rented housing, those forced to move out of London, or those among the homeless and hidden homeless.

Developers, councils and housing associations can meet their obligations to provide 'affordable' housing by building all the other types included in this category. The London Plan only stipulates that 30 per cent of such affordable housing as is provided should be 'low cost', which includes London Affordable Rent as well as social rent, further diluting the numbers of social rent properties. Of the other 70 per cent, 30 per cent is intermediate and 40 per cent is left up to the provider to decide. We very much regret that this is unchanged in the two LPGs.

Even the term 'low cost' can be contested. To those in social rented housing, let alone London Affordable Rent, the ever rising rents are often a large part of their outgoing costs; this is attested to by the proportions who require partial or full payment of their rents by types of state benefits.

Affordability for low-cost rent previously used to be set on the basis of 30 per cent of the lowest quartile median household income. There is no reference to this in the document.

The London Plan has adopted two methods of dealing with planning applications, the threshold / 'fast track' approach (FTR) and the viability tested approach (VTR). We feel that a minimum of 35 per cent affordable housing to be able to follow the FTR and avoid the VTR is too low and that the minimum should be raised to at least 50 per cent. This is particularly true if we calculate what a small amount of social rented housing is able to be delivered on the basis of the 35 per cent given the split described above. In 2.2.1 the Affordable Housing LPG refers to the 'strategic 50 per cent target'. Why not make it a consistent, actual target instead of a theoretical 'strategic' one?

However, we welcome the attempts in both LPGs to tighten up on requirements of developers, and make it harder for them to avoid their obligations. We welcome such statements as this in the Affordable Housing LPG; '2.1.9 As set out in London Plan Paragraph 4.4.5, given the extent of housing need in London, the delivery of overall housing targets should not be relied on as a reason for reducing affordable housing delivery' and hope that this becomes a watchword for councils and housing associations as well as developers.

We welcome Section 6.1.1 'Applicants and LPAs should ensure that the delivery of affordable housing provision is robustly secured through a S106 agreement. The amount of affordable housing should be clearly set out by unit and habitable rooms for each tenure' and 6.1.2 'The agreement should include restrictions on the occupation of a proportion of market housing before an appropriate proportion of the affordable housing, particularly low-cost rent, has been constructed and disposed of to an RP or the council' and urge that this section is even strengthened by the addition of figures of what such proportions should be.

We are wary and concerned about references to estate regeneration in both LPGs, for reasons cited in our preliminary remarks. The experience of such regenerations in recent years has shown that the numbers of social rented homes are reduced, sometimes very considerably (see the Heygate Estate), and that much denser developments ensue, largely made up of market homes for sale, while the social housing tenants on the estate live for years, even for decades, on a building site in increasingly neglected homes.

We therefore welcome the fact that, as in Affordable Housing LPG 2.32, the VTR must be followed 'where demolition of existing affordable housing (in particular estate regeneration schemes) is proposed'. We highlight section A.2.3.1 'Before considering the demolition and replacement of affordable homes, boroughs, housing associations and their partners should consider alternative options first. They should balance the potential benefits of demolition and rebuilding against the wider social and environmental impacts and consider the availability of Mayoral funding and any conditions attached to that funding'. We would welcome more stringent conditions attached to such funding and any other tightening of conditions that makes it harder to demolish London's housing estates. We are not convinced that tenants faced with ballots on demolition receive an unbiased presentation of the options and likely outcomes. Section A.2.3.3 deals with provision of social rented housing and right to return, but while we strongly support the right to return, we do not feel that this alone justifies demolition, particularly since additional social rent homes are provided so seldom by these regeneration schemes.

London Tenants Federation believes that public sector land should be used to provide public, social rented housing. We therefore welcome section 2.4 Public-sector land, in the Affordable Housing LPG which emphasises that public sector land must deliver at least 50 per cent affordable housing. We welcome 2.4.3 'The 50 per cent affordable housing threshold cannot be avoided through transfer of land to a separate company or organisation, or through the disposal of the land' although we regret that this does not apply to sites disposed of before August 2017. In section A3.4.2, 'Sites acquired by public authorities', we believe the 50 per cent affordable housing threshold should universally apply.

We would like the Mayor to strenuously use his powers, as in Affordable Housing LPG 2.6.2, 'to become the Local Planning Authority for the purposes of determining an application (often referred to as a "call in"), or 'directing refusal' for planning applications that do not meet the stipulated levels of affordable housing. We welcome the reference to 'family-sized homes' in 2.7.1 and would like the provision of family-sized housing to be more clearly prioritised in both documents, given the numbers of children currently in temporary housing for lack of a permanent social rented home. We strongly support 2.8.6 'The Mayor should be consulted where a scheme amendment ... reduces the level of affordable housing or affordability from the original planning permission' and would urge the Mayor never to allow such reductions to take place.

In the section on London Living Rent, we are concerned by section 3.2.2, which states: 'The GLA publishes ward-level bench-mark rents for LLR homes annually ... inclusive of service charges and based on one-third of the estimated median gross household income for the local borough, varied by up to 20 per cent in line with ward-level house prices.' This is a product that is sometimes described as being aimed at key workers, and key workers often have low wages. House prices are no guide as to how much people who do not own a home earn. We would suggest something nearer to the previously adopted guidance for low-cost rents of 30 per cent of lowest quartile median household income is a better guide.

We are also concerned at 3.2.5. It seems very likely to us that a LLR tenant will not be in a position after ten years of tenancy to buy the property. Does this section mean that the tenant will then lose their home? Does it also mean that this home will then cease to be a rental property and become a shared ownership property? We would reject such a policy, particularly in view of the fact that, as stated in the section, LLR homes are eligible for Mayoral grant. Although LLR homes are too expensive and otherwise inapplicable for tenants requiring social renting, they are nevertheless sub-market rental properties and should remain so.

We also disagree with any section that means that a home would become more expensive, for example Affordable Housing SPG 3.2.8 on Intermediate Housing: 'If a home is not reserved within that period, the provider may revert to the upper income cap.' If anything, a home should be made available to people on lower, not higher, incomes, because that is where there is the greatest need. We also disagree with section 3.2.15 in 'Affordability Criteria' which states that in 'intermediate homes, to be considered affordable, annual housing costs...should be no greater than 40 per cent of the net household income'. 30 per cent is already too much!

In 4.3 'Other funding programmes', we particularly welcome the Mayor's Right to Buy-Back Fund and Right to Buy-back Revenue Fund, as these should return some of the 40 per cent of Right to Buy bought homes now in the private rented sector to the public rented stock.

We welcome every action that makes information more easily available to tenants and other members of the public, for example section 7.1.2 'As soon as is practicable following the grant of

planning consent, this information should be submitted to the LPA in a standardised format specified by the GLA...This will enable the data to be recorded, monitored and provided for the Planning London Datahub' and 7.2.5 'LPAs should submit relevant data to the Planning London Datahub at least quarterly'.

We welcome section 7.2.6: 'LPAs should ensure that sufficient resources are in place to negotiate, monitor, implement and enforce S106 agreements, and it is strongly recommended that this is undertaken by specialist officers and teams wherever possible' and all such references to the expertise required to match that of the developers in both documents.

London Plan Guidance: Development Viability: May 2023

We firmly believe that housing should be provided on the basis of need. Therefore we would raise questions about 'viability' as the basis for deciding what type of housing should be built. However, we have responses to some of the issues raised in the LPG.

We welcome the stated aim of the Development Viability LPG, to provide 'a further step towards ensuring that developments assessed through the planning system maximise affordable housing delivery, setting out how viability assessment should be carried out where a planning application follows the Viability Tested Route...'

We welcome this approach: 'The costs of this should be met by applicants', which is repeated in Development Viability 2.1.2: 'If an applicant considers that a scheme is not capable of providing the threshold level of housing...this should be evidenced at an early stage...with the evidential burden falling on the applicant.' Likewise welcome is 2.1.5: 'If it is considered that an applicant has not demonstrated clear evidence of specific barriers to delivery, the scheme should meet the policies of the Development Plan including providing the relevant threshold level of affordable housing.'

However, difficulties arise in determining the basis on which decisions should be made. 1.3.2 in Development Viability states: 'The development typologies tested...should represent the type of developments likely to come forward in the area.' This is vague and in some ways self-fulfilling. 3.1.1 refers to 'minimum reasonable returns for a landowner and developer' and 3.2.1 describes 'the benchmark land value (BLV), which is the minimum return required for a reasonable landowner to make the site available for redevelopment'. Who decides what is reasonable and on what basis? 3.2.3 appears to be aware of these difficulties, saying 'Residual valuations are highly sensitive to changes in value and cost assumptions...inputs should be fully justified and evidence-based' but difficulties remain. It comes down to, in 3.7.1, the vague: 'Assessors should undertake a "stand back and check" exercise to consider whether the outputs of the residual valuation are realistic based on experience and the market.' Often references are simply made to 'market value' and 'comparable schemes'. Some more detail is provided in examples in 4.5; hopefully this will be helpful.

We welcome 2.4.3:.. ‘viability information [should be] ..made publicly available in full unless there are statutory grounds not to. Where viability information is not published by the LPA as part of the application documents, the GLA reserves the right to publish the information’ and 2.4.5: ‘In submitting viability information, an applicant does so in the knowledge of the approach set out in this guidance, and knowing that the LPA or the GLA may not accept the applicant’s view that information should not be made publicly available.’ We welcome all other such statements in favour of transparency.

We welcome 2.5.1: ‘Where schemes are subject to the VTR, this has resource implications for the planning authorities. These costs of resourcing should be met by the applicant..’ and all other such statements. Where applicants do not choose to meet the policies to provide affordable housing, they should meet the costs of the consequences. We hope that these payments should meet the cost of 2.5.5: ‘...authorities are recommended to develop and enhance internal expertise in S106 agreements, affordable housing, viability and related matters.’ It is essential that local authorities should be the match of the consultants hired by developers.

We also welcome all requirements for detailed viability assessments, as in 4.1.2: ‘For site-specific viability assessments...Residential unit numbers, the number of habitable rooms, and unit sizes for the proposed tenures should be set out in a clear table(s)...’

We have stated our reservations on regeneration schemes which entail demolition. In this context we draw attention to 4.4.15; we can’t decide whether this paragraph is naïve or a pious hope: ‘A premium should not be applied in the case of estate-regeneration schemes, given that the typical owners of a housing estate will not require an additional monetary incentive to release a site for development. This is because the proposed scheme will be fulfilling their primary objective of enhancing affordable housing provision.’ Judged by this standard most estate regeneration schemes would never have been approved, and we hope that in future the Mayor will bear this statement in mind when estate regeneration schemes come before him through ‘call in’.

5.2.1 says ‘Fast Track and VTR schemes are subject to an Early Stage Review mechanism to determine whether additional affordable housing and a higher proportion of Social Rent or London Affordable Rent housing can be provided.’ This suggestion also comes up in other places. We very much hope that more social rented housing will appear through these mechanisms but wonder how realistic this is. If it isn’t, getting the maximum amount of social rented housing at the earliest possible stage remains the priority. In this connection we welcome 5.6.6: ‘Affordable housing requirements are applied where they are required to make an application acceptable in planning terms ... review mechanisms should not be used to reduce ... affordable housing...’

As in the Affordable Housing LPG, we welcome all reporting requirements so that tenants and the public are fully and publicly informed, as in the section on review mechanisms, in 5.6.3: ‘Require reporting of information to the Planning London Datahub on the number and tenure of affordable housing by unit and habitable room secured in the application and the outcome of reviews including additional affordable housing, changes in tenure and any financial contributions.’