

PD/P7022  
02 March 2018

Sadiq Khan (Mayor of London)  
New London Plan  
GLA City Hall  
London Plan Team  
London  
SE1 2AA

Dear Sir,

### **Representations on Draft London Plan on behalf of the Ballymore Group**

We write on behalf of our client, the Ballymore Group, to make representations on the draft new London Plan which is currently released for consultation. We welcome this review of strategic planning policy and see this as an invaluable opportunity to ensure that the London Plan facilitates the delivery of much needed housing across London.

Ballymore is a leading mixed use developer working to enhance, grow and build thriving communities for long term sustainable living. The Ballymore team has worked on landmark schemes across London and the UK for over 25 years, and the team's track record includes some of the UK's most successful and iconic residential and mixed-use developments.

Ballymore has significant land interests across London which are intended to be brought forward for redevelopment in the coming years. The draft new London Plan has the potential to directly influence the future development of these sites so our client is keen to input into the formulation of these policies below.

### **Representations on Draft London Plan**

Overall, Ballymore welcomes this new draft London Plan as an innovative and ambitious document. They strongly support the Mayor's approach to encouraging more homes to be built across London and the majority of the mechanisms through which to deliver them.

The Mayor's London-wide target within Policy H1 of 64,945 homes per annum (increased from 42,389 homes per annum under the current London Plan) demonstrates an ambitious target which will help provide a range of housing choice. His objective within Policy D6 of making the most efficient use of brownfield land in accessible locations through a design-led approach is the best way of delivering more homes and one that Ballymore have championed for many years.

However, as an experienced property developer Ballymore does have concern about the wording of certain policies in terms of their practical implementation and the restraints they are likely to impose on housing delivery. These concerns are outlined below:

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### Policy SD 1 – Opportunity Areas

The identification within the new Plan of the key inter-relationship between new infrastructure delivery and future growth is a positive one and Ballymore fully endorses the strategy to cluster Opportunity Areas into growth corridors. The recognition within Policy SD1 B that larger areas can define their own character and density, provided they integrate into the surrounding areas, is sensible and has proven to be an enormously successful approach in developing large swathes of obsolete former industrial land such as Ballymore’s developments at London City Island and Royal Wharf.

In respect of the Royal Docks Opportunity Area, where Ballymore has a number of landholdings, it is encouraging that a Royal Docks Delivery Team has been established to guide development of the Enterprise Zone and surrounding Opportunity Area. As recognised in the Plan a key challenge for this team will be investigate and resolve the most effective way of encouraging the intensification of industrial logistics and commercial uses whilst also delivering on the target for 30,000 new homes. In this respect Ballymore would request that major landowners and developers with an interest in the area are invited to participate in the discussions and plan-making for this area at an early stage.

Ballymore is also in the early stages of a masterplanning partnership with adjoining landowners such as Sainsburys to deliver a minimum of 3,500 new homes in the Kensal Canalside Opportunity Area (KCOA). As this would align with the housing target for the Opportunity Area it is important that regular and positive engagement takes place with the Greater London Authority and the local authority on the emerging masterplan. This will ensure an agreed way forward from the outset in terms of land use, urban design and built form as well as dealing with the issue of heritage given the location of this new strategic development adjacent to the Grade 1 Listed Kensal Green Cemetery and its 150 listed buildings and structures.

### Policy H2 - Small Sites

Ballymore are concerned that a reliance in Policy H2 on ‘small sites’ (schemes of less than 25 units and 0.25 hectares in size) to deliver around 40% of the c. 65,000 new homes a year may be optimistic. Many such small sites are often difficult to deliver and are known to become embroiled in a protracted planning process due to the proximity of neighbouring uses and fervent local objection.

By applying a presumption in favour of development for housing schemes of less than 25 units we believe that developers will intentionally submit lower density schemes to improve their chances of obtaining local consent. Furthermore we can foresee LPA’s, particularly those in the outer London Boroughs, supporting lower density schemes as these may be less contentious locally. This will result in fewer homes being delivered, impacting on the Mayor’s target of 66,000 homes per annum.

We therefore recommend that the threshold of 25 units be removed from Policy H2 and that the size criteria of 0.25 ha be retained as the threshold to define what constitutes a small site. This will allow delivery of higher density schemes when considered appropriate to its context, which will in turn maximise the use of brownfield land.

### Policy D4 - Housing Quality and Standards

Policy D4 sets out detailed requirements for housing quality and standards which seek to capture many of the design standards previously contained in supplementary guidance such as the Mayor’s Housing SPG (both 2012 and 2016). The policy contains wording which seeks minimum sizes for

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room widths, headroom in units including within sloping roofs, private amenity space and internal storage space. It is considered that this is too detailed and prescriptive for a Spatial Strategy which is providing a policy framework for London.

A previous iteration of the London Plan was criticised by an EIP Examiner at draft stage for including matters related to design standards which would be more appropriate in an SPG and which reflect the National Technical Standards and Optional Requirements for Part M Building Regulations. The current draft is therefore open to potential challenge during EIP on a similar basis.

As for previous iterations of the London Plan, the detailed guidance on the application of design standards should be placed into supplementary guidance which sits alongside/beneath the London Plan. The policy should be simplified by removal of all of the standards and replacement with a cross reference to the relevant section and detailed guidance of the adopted Housing SPG 2016 (Section 2) or any future replacement document. Reference should also be made to the National Technical Standards.

Furthermore, Ballymore fully support the requirement within Part F of the Policy for the design of development to provide sufficient daylight and sunlight to new housing that is appropriate to its context. However, it should be acknowledged within the policy, or perhaps within the justification text supporting the policy, that in order to support the higher densities and housing targets across London there may be instances where a more flexible approach to daylight and sunlight levels achieved for existing and proposed homes should be applied.

#### Policy D11 - Fire Safety

Our client supports the Mayors efforts to achieve the highest possible standards on fire safety for new and refurbished buildings in London. However there is a need for clarification in terms of a precise benchmark for 'highest fire standards'.

We look forward to more detail being provided on this matter in due course.

#### Policy D12 - Agent of Change

Policy D12 of the draft new London Plan seeks to incorporate the Agent of Change principle set out within paragraph 123 of the National Planning Policy Framework. This paragraph states that existing businesses should not have unreasonable restrictions placed on them because of changes in nearby land uses. Policy D12 seeks to reinforce this principle by placing the responsibility for mitigating impacts from existing noise-generating activities or uses on the proposed new noise-sensitive development.

Ballymore has extensive experience throughout London of bringing forward residential-led mixed use schemes in close proximity to existing noise-generating industrial activities. They are therefore well placed to comment on the practical implementation of this policy.

Our client recognises the importance of ensuring that existing and proposed uses can live in harmony and has no in-principle objection to the requirement for development proposals to mitigate and minimise existing and potential impacts of noise generated by existing uses located in the area as required with Policy D12. However, it should be acknowledged that many of the Opportunity Areas identified for strategic housing within the draft new London Plan encapsulate land that has

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historically been used for industrial purposes and will continue to have operating industrial functions both within and adjacent. In the interests of ensuring effective delivery of strategic housing it is therefore important to carefully consider the wording within Policy D12 so that it does not become an unduly restrictive policy.

Neither the 'Noise Policy Statement for England – March 2010' nor the National Planning Policy Framework expect noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development. Policy D12 should therefore incorporate a degree of flexibility to ensure that new developments are not subject to excessive requirements that may ultimately jeopardise their deliverability or the standard of accommodation as acknowledged by Part a (3) of Policy D13 (Noise).

Paragraph 2.24 of the 'Noise Policy Statement for England – March 2010' is consistent with the objectives of Policy D12 in so far as it requires that all reasonable steps should be taken in new developments to mitigate and minimise adverse effects on health and quality of life. However, it also states that *"This does not mean that such adverse effects cannot occur."* There will undoubtedly be occasions where, despite the best efforts of the developer, it is not possible to satisfy to all parties that no impact will occur.

It is therefore considered that a degree of flexibility should be introduced into the wording of Policy D12 that would require developers to demonstrate to the local planning authority and the GLA that 'all reasonable endeavours' have been taken to ensure that proposed new noise-sensitive development mitigates impacts from existing noise-generating activities or uses. Where appropriate, this will allow for a more pragmatic and balanced judgement to be made in respect of all relevant economic, social and environmental considerations.

Further to the above, Paragraph 3.12.2 of the justification text for Policy D12 states that the Agent of Change Principle places the responsibility for mitigating the impact of noise firmly on the new development. However, it is our client's view that Policy D12 should also account, and make provision, for instances where an agreement could be reached between the developer of new noise-sensitive uses and the owner of the established noise-generating uses on the issue of mitigation. For example, a developer may have the opportunity or ability to assist in the upgrade or improvement of existing facilities so that the level of noise-generation is reduced or mitigated. This in turn would reduce the requirement for mitigation within the new development, a potentially major consideration for a residential developer whose sales values and build costs might be substantially affected by the extent of noise mitigation internally within the scheme.

#### Policy H6 – Affordable Housing Threshold Approach

The 50% affordable housing threshold for Strategic Industrial Locations, Locally Significant Industrial Sites and other industrial sites deemed appropriate for release for other uses is a highly onerous one that will in Ballymore's view be extremely difficult to achieve from a viability perspective.

The justification for this requirement appears to be predicated on the difference in values between industrial and residential development. However, this presumption fails to acknowledge that many industrial sites have been acquired for their redevelopment potential prior to the formulation of this draft policy and on the basis that other strategic and local policy documents supported their regeneration in principle for residential or other uses. Whilst it is appreciated that this could be interpreted as developer risk it must also be considered a practical challenge in ensuring that a viable

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redevelopment scheme can come forward during the lifetime of the Plan.

By complying with Policy E4 (C) of the draft London Plan developers will already be required to ensure no net loss of industrial floorspace on their sites. To implement the intensification and co-location approach set out in Policy E7 it would be necessary for any developer to finance more complicated and often expensive scheme designs that successfully intensify the replacement business uses on a smaller area of the site (often with a poor rental return versus the level of investment required). Design and construction costs would be further increased by the need to ensure an appropriate relationship between the replacement business uses and new residential homes on the site and the responsibility for mitigating impacts from existing noise-generating activities in line with Policy D12 (Agent of Change).

Poor quality and underused industrial land provides the greatest opportunity to deliver large-scale genuine mixed use schemes. If it has been identified through a plan-led process or as part of a co-ordinated masterplanning exercise that an industrial site is underperforming and would benefit from intensification then it is considered unreasonable for a potential developer to also accept the burden of a complicated and expensive mixed use development alongside a 50% threshold requirement for affordable housing. Ballymore feel that this will either a) discourage intensification as a tool for regeneration or b) de-incentivise developers from seeking the Fast Track Approach. This would result in either the continued decline of existing floorspace through underperformance or a missed opportunity in terms of on-site affordable housing delivery.

Ballymore therefore suggests that Part B (3) of Policy H6 is removed from the Plan so that a 35% minimum threshold applies to industrial sites (including SIL, LSIS, and non-designated industrial sites).

#### Policy H6 - Fast Track Approach of the Threshold Approach

Viability discussions throughout the course of a planning application can result in lengthy delays to the planning process and subsequently the delivery of housing. Ballymore therefore strongly support the Mayor's concept for a Fast Track approach in Policy H6 whereby a viability assessment is not required to be submitted provided certain criteria are met. However, the criteria that needs to be met in order to follow the Fast Track Route (as outlined in Policy H6(C)) is difficult to achieve and will limit the number of applicants being able to benefit from this approach.

Ballymore are supportive of the need to meet or exceed relevant threshold levels of affordable housing and be consistent with the relevant tenure split outlined in Policy H7 in order to benefit from the Fast Track Route. However, Part 3 of the criteria to require applications to *'meet other relevant policy requirements and obligations to the satisfaction of the borough and the Mayor'* is a highly vague and easily exploited criterion given the wide breadth of planning policies applicable to any particular scheme. There are few planning application schemes that achieve full compliance with all relevant planning policies and Ballymore believe that this fact will enable Boroughs to conclude that the requirements for eligibility to the Fast Track Approach route have not been met and that a full viability assessment is required.

In the interests of ensuring efficient housing delivery we therefore recommend that Part C (3) of Policy H6 is removed so that residential schemes which seek to deliver the minimum affordable housing threshold and relevant tenure split can benefit from the Fast Track route.

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Policy E4 - Protection of Industrial Land

The Draft London Plan goes further than its predecessor in protecting against loss of industrial land, with a principle of 'no net loss' of industrial floorspace capacity. Only 3 out of the 33 London Boroughs are identified for 'Limited release' of industrial floorspace, with all other boroughs and two Development Corporations flagged for either 'Retain Capacity' or 'Provide Capacity'.

Industrial sites present the greatest opportunity to deliver large-scale mixed use development schemes in London. Our client is deeply concerned that the protection of industrial land through a blanket no net loss of industrial floorspace is highly inflexible and will hinder the delivery of large-scale mixed use schemes and the overarching intent of Policy H1 to significantly increase the number of homes to be provided across the lifetime of the plan.

There are considered to be many instances where industrial sites are experiencing significant decline and stagnation, due to factors such as poor accessibility or an increasingly obsolete business location. In such cases industrial units might remain occupied by tenants on nominal rents to simply avoid the site becoming run down or vacant.

However, the current wording of Policy E4 appears to suggest that the opportunity for the release of such sites for other uses may not be appropriate, despite the site clearly having no further use as an industrial/business location. Part C of Policy E4 states that the retention and provision of industrial capacity across all types of industrial land should be planned, monitored and managed by Figure 6.1 and Table 6.2. As Figure 6.1 and Table 6.2 state that only 3 out of the 33 London Boroughs (all in the Thames Gateway) are suitable for 'Limited Release' of industrial land this indicates (perhaps unintentionally) that the release of industrial land for intensification, co-location or substitution in line with Policy E7 is unlikely to occur in the remaining 30 Boroughs.

Given the wording of other policies and the level of focus given to the concept of intensification, co-location and substitution as a tool for regeneration of industrial lands within the Plan it is assumed that it was not the intention of the wording of Policy E4 to limit the scope of this initiative to only three boroughs. If this is the case then Ballymore feel it is necessary for clarity within Policy E4 on the following:

- Would the 'release' of industrial land to allow for intensification through a plan-led approach be acceptable in policy terms in those Boroughs categorised as 'Retain capacity' and 'Provide capacity' in Figure 6.1 and Table 6.2;
- If so, what does the term 'Limited Release' actually allow for in Newham, Havering and Barking and Dagenham that is different to the other 30 Boroughs? Does it suggest that the SIL/LSIS designation could be removed entirely from some sites to allow for development for alternative uses without any requirement for replacement industrial floorspace?

The ambiguity in approach to industrial land across all Boroughs in Policy E4 can perhaps be partly attributed to the use of the term 'release'. This has previously been used in planning terms to signify the complete removal of a site from the SIL or LSIS designation and therefore the removal of any requirement to replace / re-provide existing floorspace. However, Policies E4 and E5 both use the term 'release' to describe those areas that might be subject to a strategically co-ordinated process of SIL consolidation as part of a planning framework or Development Plan document review process.

Ensuring clarity in terminology and approach is critical so that local authorities have clear guidance

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on the approach to be taken to the management of industrial floorspace capacity at borough level. Without this there is a danger that some local authorities categorised as having to 'Retain Capacity' or 'Provide Capacity' may conclude that they are not required to actively or fully investigate the potential for intensification and co-location through plan-led release. This interpretation of Policy E4 may in turn be used as an excuse for their inability to meet housing targets.

Further to the above, paragraph 6.4.5 of the justification text for Policy E4 defines floorspace capacity as either the existing industrial and warehousing floorspace on site or the potential industrial and warehousing floorspace that could be accommodated on the site at a 65 per cent plot ratio (whichever is the greater). As plot ratio is normally calculated as a ratio (floorspace to site area) rather than a percentage it is assumed that the use of the term in this case is to be interpreted as a level of replacement of floorspace that is equivalent to 65% of the site area. If this is the case this should be confirmed in the Plan with a clarification that this replacement floorspace can be provided in the forms identified in Part A of Policy E7.

#### Policy E7 – Intensification and Co-Location

Our client supports the Mayor's recognition of the ability of industrial uses to be 'co-located' or mixed with residential through intensification and considers Policy E7 to be a worthy attempt to marry key objectives of the Plan to protect existing industrial floorspace and promote the delivery of new homes. However, the wording within this draft policy and supporting text is considered to be unclear and ambiguous, which in turn will reduce the success of this initiative.

Policy E7 states that intensification of SIL and LSIS should only be considered on sites that have been specifically identified through a plan-led process or as part of a coordinated masterplanning process. As stated earlier in this representation, the term 'release' has been used in Policy E4 and E5 to describe where certain industrial lands might be identified through a plan-led approach for intensification of existing industrial uses and co-location with other uses such as residential. However, the term 'release' is not used in the main text of Policy E7 with the use of alternative terms such as 'intensify', 'co-locate' and 'consolidate'.

Paragraph 6.7.2 of the justification text for Policy E7 further adds to the confusion in terminology when it states that a plan-led approach should be used to "*deliver an intensification of industrial and related uses in the consolidated SIL or LSIS and facilitate the **transfer of some land** for a mix of uses including residential.*" In advising local authorities on how to implement this approach through their Development Plan the same paragraph then suggests that the Local Plan Policies' map should indicate clearly:

- (i) The area to be retained and intensified as SIL and LSIS; and
- (ii) The area to be removed from SIL or LSIS (as shown in the illustrated examples in Figure 6.3)

The illustrative examples in Figure 6.3 then show land being consolidated through multi-storey industrial development on a 'retained' portion of SIL/LSIS with the remaining portion of SIL/LSIS being 'released'.

In the first instance, it is requested that the Mayor review the terminology used within Policies E4 to E7 so that a clear distinction can be made between the 'Limited Release' of SIL/LSIS identified to take place in Newham, Havering and Barking and Dagenham and the consolidation / intensification /

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co-location approach promoted more generally across all of London for some SIL/LSIS sites through a plan-led approach.

Secondly, it would be extremely difficult and indeed premature in most cases for the Local Plan policies' map and/or OAPFs to clearly indicate which portion of a SIL/LSIS site should be retained and which should be released, as currently required by Policy E7. To successfully implement such a requirement would require detailed masterplanning work to be undertaken to establish the most appropriate layout and distribution of uses across the site. This level of analysis would often not be available in advance of Plan preparation.

It would instead be simpler and more effective to retain the SIL/LSIS designation within an overall site allocation boundary until such time as a scheme has come forward that successfully implements the intensification and consolidation approach to the Council/GLA's satisfaction. Any approved or implemented development could then be reflected in an updated Policies Map at a later stage. It is therefore recommended that paragraphs 6.7.2 of the justification text for Policy E7 and Section C-C of Figure 6.3 are amended to reflect this approach.

#### Policy E2 – Low-cost business space

This policy seeks to protect and re-provide existing low-cost business space on a site through intensification or reconfiguration of space within any redevelopment proposal. Whilst this is supported in principle by Ballymore it must be remembered that many underused and often well located development sites may currently accommodate a range of low cost business users on nominal short-term rents for the sole purpose of avoiding vacancy and the payment of empty business rates.

In such cases, it would be unreasonable to expect a developer who is seeking to deliver much needed new housing and/or employment on the site to finance the full re-provision of the same level of existing floorspace or floorspace at similar rental levels. Whilst it is important to deliver a specification and range of business spaces within a new development that would be attractive to SMEs it should be clarified within Policy E2 that these spaces can be let at market rents that are commensurate with established local levels.

#### Policy E3 - Affordable Workspace

This policy seeks in certain circumstances for planning obligations to be used to secure affordable workspace for SMEs, charities, artists and education uses at rents maintained below the market rate for that space. Part B lists occasions where such affordable workspace should be provided including where there is existing affordable workspace on-site or in areas where cost pressures could price SME tenants out of the market.

As mentioned above in relation to Policy E2, there are often occasions where outdated or poor quality floorspace on well-located but underperforming sites is let to tenants on a short-term basis at a nominal rent. The lack of clarity within the current wording of Policy E3 may therefore lead to instances where developers are being asked to fully re-provide the same level and type of existing floorspace at the current rental level. This would represent a major and unreasonable constraint to the delivery of the site and the viability of any redevelopment scheme.

It is on this basis that Ballymore would request that more consideration be given to the wording of



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Policy E3 so that it provides clear guidance to local authorities and developers on the physical and financial requirements for affordable workspace. This could include confirmation of what is considered to be a reasonable discount below market rental levels (and how long this rental level might need to be maintained) and what proportion of new business floorspace on the site should be subjected to these discounts.

*Policies T6 and T6.1 – Residential Car parking*

Our client supports the Mayor's recognition of the importance in reducing the number of cars within London and promoting the use of other sustainable forms of transportation. However cars and private vehicles still make an important contribution to living conditions within Greater London. This is especially important for young families, the elderly, people who work outside of London and those who use a private vehicle as part of their work, including many small business owners. The current policy wording through a blanket restriction of car parking could place a restriction on the ability for these people to operate their day to day lives and have a significant impact on their ability to live in the more urban areas of London.

The December 2017 Residential Car Parking Study by TFL acknowledges while many (approximately three quarters) of the existing journeys made by Car in London could be made by other modes of transport that people are still making car trips that cannot be switched. The report outlines that many of these residents reside in the outer areas of London and while this general assumption may apply to many people the report does not demonstrate a de minimis need for the car within more accessible areas. In addition with a significant proportion of London's housing targets being allocated for inner areas it is clear there will be some necessity for car parking within urban London.

We therefore consider that outside of the Central Activities Zone the Mayor should, within table 10.3, acknowledge the need for low levels of car parking within proposals in areas of PTAL 4-6. This approach should be subject to a series of requirements which ensures a significant proportion of the spaces are capable of supporting electric vehicles as well as ensuring that the car parking does not compromise the ability to deliver high quality urban design within the public realm.

**Summary**

Ballymore strongly supports the recognition within the new London Plan of the need for additional homes across London. They recognise that initiatives such as optimising housing density through a design-led approach, the promotion of one and two beds in more central or urban locations and the co-location of residential and industrial uses on industrial sites through plan-led intensification have the potential to be very positive in contributing towards this increased housing supply.

Ballymore would however like to emphasise the importance of more positive engagement with key landowners and developers within Opportunity Areas to ensure co-ordinated and effective delivery of strategic targets.

This representation also expresses some concern about the perceived over-reliance on small sites to deliver a significant percentage of the housing targets. Furthermore, there is a concern that the Agent of Change Principle could be interpreted too inflexibly by local authorities to the extent that it may unnecessarily inhibit regeneration.

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In respect of industrial lands the 50% affordable housing threshold for industrial lands, to be intensified through a plan-led approach, will in the majority of cases prove to be unviable and prevent the unlocking of land for redevelopment. Ballymore also contend that the overly restrictive wording of certain policies may deter local authorities (or provide them with an excuse) from fully investigating the potential for intensification of industrial lands within their area, thereby impacting significantly on housing delivery. This concern is exacerbated by considerable ambiguity within policy wording as to how the plan-led approach to intensification, co-location and substitution of industrial land should take place.

The representation also highlights further potential issues of implementation and delivery in respect of the affordable housing Fast Track Approach, which is currently too loosely worded and potentially ineffective, and the requirements for re-provision of low-cost business space and affordable workspace.

We trust that Ballymore's comments within this representation, including the suggested amendments to the Plan, will be carefully considered as part of the formulation of the new London Plan. We would welcome the opportunity to discuss in further detail if required.

If you have any queries, please do not hesitate to contact the writer on 020 7556 1500.

Yours faithfully

For and on behalf of  
Rolfe Judd Planning Limited

cc John Turner

Ballymore