

## 1. OVERVIEW

- 1.1. Berkeley Group welcomes the publication of the draft London Plan, setting the strategic direction for London. Berkeley Group is responsible for about 10% of the new homes delivered in London, including 10% of the affordable homes. We currently have 42 developments under construction in the capital including estate regeneration projects at Woodberry Down and Kidbrooke Village, major regeneration projects at Southall Waterside, Royal Arsenal and Beaufort Park, and town centre developments in Kingston, Twickenham, Ealing and Hammersmith. Our joint venture with National Grid, St William, will regenerate twenty redundant gasworks across the capital and will deliver thousands of new homes and thriving new communities.
- 1.2. Most of our developments are large and developed over many years, often decades. Our approach is to create fantastic places and strong communities. We achieve this by investing in the public realm and landscaping up front to create the place; delivering a mix of uses to create activity throughout the day; and nurturing and supporting the community. On each development we are committed to increasing net biodiversity and do this in a number of ways including green roofs, parks and through wetlands at Kidbrooke Village and Woodberry Down.
- 1.3. The draft London Plan sets an ambitious target to deliver 65,000 more homes each year. This is significantly above the current target of 42,000 and the current level of delivery, but is critical to address London's housing crisis. As the London target is a fifth of the Government's national target of 300,000 new homes a year, achieving the target in London is fundamental to achieving the national target. It is therefore critical that the policies in the draft Plan are drafted and applied in a way that supports achieving the target.
- 1.4. We fully support the revised 65,000 annual target and will play our part in meeting it. Our comments on the draft plan relate to how the proposed policies will support increasing housing delivery. We have highlighted where some of the proposed policies may be technically challenging to achieve, such as those relating to energy. In our response we have set out proposed wording changes to policies where appropriate.
- 1.5. Fundamental to delivering 65,000 homes each year and increasing the delivery of homes is ensuring there is sufficient land, an effective planning process and investment in the infrastructure needed to support a growing population. Our comments on the draft London Plan focus on:
  - a) The impact of the draft policies on land supply and the ability to bring forward sufficient land to meet the housing target;
  - b) Cumulative impact of the cost of policies which could make development unviable, or make residential development less viable than other uses; and
  - c) Implementation of the policies to support an efficient and quick planning process which ensures delivery of new homes.

## Land Supply

- 1.6. Achieving the increased housing target will be extremely challenging and a crucial determinant will be ensuring sufficient supply of land. We are concerned that, as a result of policies in the draft Plan, at the time that housing delivery is expected to double, that sufficient land will not come forward, or will not come forward for housing.
- 1.7. The draft Plan reduces sources of land for development through greater protection of the green belt, seeking extensions to Metropolitan Open Land (MOL), no net loss of industrial land and policy resisting residential development in the CAZ. We are also concerned and that the removal of the density matrix will not support increased density of development and may in fact reduce development density.
- 1.8. When the Inspector reported on the last draft London Plan (adopted in 2016) he raised concerns about the ability to meet the housing target (42,000 homes against identified need of 49,000) and suggested an immediate review of the London Plan. The Inspector questioned whether the review would need to go beyond the current approach in the London Plan, and specifically queried whether further consideration was needed of the approach to the Green Belt and MOL. It is now proposed to significantly increase the housing target, but with less land supply and a more restrictive approach to Green Belt and MOL.
- 1.9. The draft Plan proposes extending the protection afforded to Strategic Industrial Land to all industrial land, with no net loss. This will have a significant impact on potential land supply and the ability to achieve the housing target of 65,000 homes each year. Where land is to be released, potential for homes will be diminished by the requirement to re-provide industrial uses. A similar approach is suggested for offices.
- 1.10. Whilst an element of delivery may be achieved through increased development densities, the scope to do so is limited by policies which seek incorporation of different uses and also by removal of the density matrix which may result in a reduction in development density. 38% of the target is expected to be achieved through the delivery of small sites at higher densities than previously achieved. This equates to 247,000 homes on small sites over ten years or 25,000 annually; twice the current rate of delivery on small sites of 12,800. We are concerned that this is not realistic or achievable. This means that land is required from other sources to ensure that the housing target is achieved.
- 1.11. We agree that development should be design-led, and the best use should be made of all sites. Our approach is to focus on the place being created, the mix of uses and the public open space, rather than starting with density. The density matrix can be helpful in providing context and establishing parameters for discussions with communities and councillors. It is a simple tool that is well understood. The fact that many planning permissions have been granted above the matrix, after assessment and scrutiny, is testament to an effective planning process, rather than an indictment of the matrix. Removing the matrix may lower expectations of what can be delivered.

## **Cumulative Impact**

- 1.12. The draft policies will result in considerable additional cost for development and we are concerned that the cumulative impact of these costs will be to make development unviable, or make residential development less viable than other uses. This is an important consideration in London where most areas are mixed use and sites can be developed with different uses and also as sites can be converted through permitted development rights.
- 1.13. The draft plan introduces the threshold approach to viability into planning policy, with the threshold set at 35% and 50%. This will prove challenging for many sites where considerable investment is needed in decontamination, demolition, servicing, infrastructure and place making.
- 1.14. In addition to affordable housing, direct costs will result from policies on energy with significant off-set payments required to achieve 'zero carbon'; air quality where the policy is not clear but the implication is that there will be contributions to air quality measures in the local area; affordable workspace; and policies to mitigate transport impacts. In addition other policies will increase development costs for example energy policies, housing standards and urban greening.
- 1.15. Other policies will reduce the viability of development such as the restriction on parking provision which is important for sales, especially of family homes, and policy requiring re-provision of industrial floorspace. For development on former industrial land, the private homes will have to cross-subsidise provision of industrial floorspace including possibly affordable workspace, affordable housing, CIL, open space and other planning benefits. A reduced quantum of homes will have to bear higher costs. We do not believe these costs have been fully taken into account in the viability assessment.
- 1.16. Over time it may be possible that the costs of policies will be reflected in land values, albeit the viability assessment technical report (paragraph 26) highlights that land values are driven by house prices. As development accounts for only 1% of the housing stock in London, it is the second hand market that establishes house prices and therefore land values.
- 1.17. To the extent that costs flow through, it will take time and many sites that are going through planning now were bought historically, and there will be new applications/amendments (S73 applications) brought forward on land purchased some time ago. Even with extensive due diligence not all costs can be known at the outset and there will still be considerable risk to the developer.
- 1.18. Landowners are not compelled to sell and may decide not to if they do not consider there is sufficient incentive to do so. The policies could therefore result in reduced land supply.

- 1.19. As recognised in the NPPF, landowners must be incentivised to sell sites for development, and developers rewarded for the risk of development. This is a sensitive equation that will vary according to different circumstances, but if the returns are not sufficient land will not be brought forward, development will not happen and the much-needed homes and other investment will be lost.
- 1.20. For brownfield sites, the position will be complex with existing uses on site which will have a value to the landowner; the possibility of different types of development and possibly conversion through permitted development rights; and high costs of redevelopment such as decontamination and demolition. Brownfield developments tend to be complicated, risky and costly.
- 1.21. The policies in the London Plan cover the period to 2040. Whilst it is likely that there will be a review in this period, it is important that the policies can be applied across economic cycles. The draft plan would therefore benefit from greater prioritisation with a clearer policy hierarchy.

### **Implementation**

- 1.22. The test of the effectiveness of the plan will be in its implementation. Ultimately, the draft London Plan will be judged on whether 65,000 homes are delivered each year in London. The London Plan is part of the statutory development plan and is therefore implemented by the Mayor and boroughs. It is critical that it is couched positively and clearly and in a way that supports, rather than restricts, development.
- 1.23. We are concerned that many of the policies are drafted in a restrictive way, including some that promote refusal of applications such as those with unnecessary street furniture [D7], that have not clearly demonstrated how noise impacts will be mitigated and managed [D12], exceeds the threshold height of a Landmark Viewing Corridor [HC4], would harm the Green Belt [G2] or MOL [G3] and those with impermeable paving [SI13].
- 1.24. Planning is always a matter of balance, judgement and trade-offs. It is important that this is recognised in the drafting of policy and its application. It would not be possible to meet all the policy requirements in the draft London Plan, nor those in borough local plans. In making decisions, the decision maker has to 'weigh the balance' of policies and material considerations, prioritising objectives and applying flexibility and pragmatism. As it is drafted, most applications could be refused if the draft London Plan policies are applied without sensitivity or a desire to support development. If this were the case the housing target would not be met. It is imperative that the policies are drafted in a way that considers their application and the draft Plan's ultimate goal; to deliver good growth and more homes. It is critical that the Plan encourages flexible application of policies to take account the specific circumstances of different applications as well as the changing economic and other circumstances over the course of the Plan.

1.25. The London Plan is the strategic plan for the capital and we are concerned that in places it is not strategic and is too detailed. This adds to the policy burden that applicants have to deal with and could lead to conflict with local policies and priorities which could delay the planning process. The London Plan should also be consistent with national policy unless exceptional circumstances justify otherwise.

1.26. We would be pleased to discuss our draft response with officers ahead of the Examination to establish where there is common ground and to gain clarity where we have raised queries on the proposed approach.

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## **2. PLANNING LONDON'S FUTURE GROWTH**

- 2.1. We support the Mayor's principle of good growth: building strong and inclusive communities; making the best use of land; creating a healthy city; delivering the homes Londoners need; growing a good economy and increasing efficiency and resilience.
- 2.2. We agree that partnership is required to deliver the homes Londoners need. Achieving the annual housing target of 65,000 homes will require a doubling of the rate of delivery. This will require an efficient and positive planning process, more land, better use of land and sufficient skilled labour as well as innovation in precision manufacture.
- 2.3. We support incentives to support swift delivery (GG4). Many of our planning permissions include pre-implementation reviews, at appropriately agreed milestones, to provide comfort to planning authorities and the community that the homes will be quickly delivered. We commence development as soon as we are able to, but given the complex nature of our developments, this can be slowed by a number of factors such as achieving vacant possession, resolving rights to light claims, reaching agreements with neighbouring landowners, and securing servicing, power and access.
- 2.4. Build out rates on individual sites will be determined by a number of factors:
- a) A strong market enabling sufficient pre-sales to give the confidence to commence phases and balance the finance risk.
  - b) Effective management of financial and operational risk. The availability and cost of finance, allied to a strong market, is fundamental to fund development and manage risks. Throughout the development process we are managing a range of risks including planning, contractors and other third party risks.
  - c) Logistics including construction access for deliveries, availability of sufficient, skilled labour and use of off-site manufacture to speed up delivery and reduce contractor risk.
  - d) Fundamental to the pace of build is the ability to manage construction logistics. Constrained sites with a single entrance, as is often the case in London, will slow the ability to build. One of our recent developments was constructed between a rail line and red route, causing significant logistical complexity. The use of cranes, which are frequently required in London, will also limit the pace of delivery.
  - e) A supportive local authority working in partnership throughout the development to resolve issues and swiftly process reserved matters applications, clear conditions and manage minor/non-material amendment applications. These are a frequent part of long term development and might be to meet customers' requirements, including commercial occupiers or be changes to commercial space as a result of changed market conditions.

2.5. Policy GG4 should recognise this level of complexity and uncertainty:

**Policy GG4 Delivering the homes Londoners need**

E Establish ambitious and achievable build-out rates at the planning stage, **reflecting the nature and complexity of the proposed development**, incentivising build-out milestones to help ensure that homes are built quickly and to reduce the likelihood of permissions being sought to sell land on at a higher value.

### 3. SPATIAL DEVELOPMENT PATTERNS

3.1. Meeting the housing target will require more land for development and a mix of sites.

We welcome the designation of new Opportunity Areas which will play an important role in providing new capacity and are appropriate for high density development. Given the longer term nature of many areas and sites, ensuring delivery of smaller sites in the short and medium term will be important to increasing supply. Small sites and those in town centres will be important to this.

3.2. Opportunity Areas should maximise the delivery of all housing, not just affordable housing.

3.3. A frequent challenge in Opportunity Areas is securing sufficient energy provision to support construction and the new homes/workplaces. The nature of many Opportunity Areas will mean that provision is low and requires a substantial increase. It would be helpful if this was explicitly acknowledged in policy SD1:

**Policy SD1 Opportunity Areas**

To ensure that Opportunity Areas fully realise their growth and regeneration potential, the Mayor will:

1 b) assist in delivering specific infrastructure requirements, **including utility provision**, that unlock capacity for new homes and jobs

5) ensure that Opportunity Areas maximise the delivery of **housing**, including affordable housing and create mixed and balanced communities

3.4. Given the need to double housing delivery, and the need to make the most of all development opportunities, the CAZ policy should recognise that whilst CAZ functions are predominant, there may be opportunities for residential development. We suggest that policy SD5 is amended:

### **Policy SD5 Offices, other strategic functions and residential development in the CAZ**

H Residential development proposals should **normally** not lead to a loss of office floorspace in any part the CAZ unless there is no reasonable and demonstrable prospect of the site being used for offices and/or alternative provision is made for the provision of net additional office space near the development (including through swaps and credits – see part I below).

- 3.5. Town centres can and should play a significant role in increasing housing delivery; making the best use of land as the role of town centres evolves with changing retail habits. Redeveloping under-utilised and redundant sites in town centres will add to their vitality by delivering public realm and environmental improvements and will provide an important customer base for shops and services. In Ealing we will shortly complete development of 700 homes, 100,000 sq. ft. of retail and restaurants and a new public square, on a former council car park. We have commenced development of a new cinema, shops and restaurants, new public realm and 209 homes also in Ealing town centre. In Kingston we are delivering 319 homes, a high-tech office hub, a new square, restaurants and shops on a site that has been vacant for decades and includes two buildings on the Heritage at Risk register, which will be brought back to life.
- 3.6. The accessibility of town centres, including to transport, amenities and facilities, means that they are appropriate for higher density developments, especially for smaller households. Policy SD6 should acknowledge that town centres are appropriate locations for tall buildings:

#### **Policy SD6 Town centres**

C The potential for new housing within and on the edges of town centres should be realised through higher-density mixed-use or residential development, **including tall buildings**, capitalising on the availability of services within walking and cycling distance, and their current and future accessibility by public transport. Residential-only schemes in town centres may be appropriate outside of primary and secondary shopping frontages where it can be demonstrated that they would not undermine local character and the diverse range of uses required to make a town centre vibrant and viable.



## 4. DESIGN

- 4.1. High quality design is critical to ensuring sustainable and successful places. We support the proposals in policy D2 to ensure that development design is carefully considered and scrutinised. Given the scale of development required in London, it is important that it is of the highest quality and that local communities are involved in the preparation of masterplans and applications.
- 4.2. It is important to balance the desire for information early in the design process with the cost and time taken to prepare masterplans and planning applications. It will not be possible to provide construction details at application stage as the detail will not be developed, especially for outline elements of masterplans. Policy D2 should be amended:

### **Policy D2 Delivering good design**

H The design quality of development should be retained through to completion by:  
1) having a sufficient level of design information, including key construction details provided as part of the application, **where possible**, to ensure the quality of design can be maintained if the permitted scheme is subject to subsequent minor amendments.

### **Housing Standards**

- 4.3. Berkeley Group is proud of the quality of our developments and homes. The design of each development evolves through extensive consultation, challenge and peer review. Each site is different and will face different challenges from its context, orientation and the mix and type of uses. When considering housing standards there are often trade-offs and balances to be achieved. It is therefore important that housing standards are applied flexibly to support good design and development.
- 4.4. In some instances, in the appropriate context and subject to exceptional design, it may be acceptable for homes to be smaller than the minimum standards, for example where there is generous communal amenity space and facilities. We therefore suggest that policy D4 is amended and the forthcoming guidance sets out what the exceptional circumstances could be, such as areas designated for transformation and high density residential development:

### **Policy D4 Housing quality and standards**

D **Other than where justified in exceptional circumstances**, housing developments are required to meet the minimum standards below.

- 4.5. Due to site orientation there may be instances where single aspect north facing homes cannot be avoided. They should be permitted in exceptional circumstances:

**3.4.5 Single aspect dwellings** are more difficult to ventilate naturally and are more likely to overheat, and should normally be avoided. Single aspect dwellings that are north facing, contain three or more bedrooms or are exposed to noise levels above which significant adverse effects on health and quality of life occur should not be permitted. **North facing single aspect homes should only be permitted in exceptional circumstances and where justified.** The design of single aspect dwellings must demonstrate that all habitable rooms and the kitchen are provided with adequate passive ventilation, privacy and daylight, and that the orientation enhances amenity, including views. It must also demonstrate how they will avoid overheating without reliance on energy intensive mechanical cooling systems.

- 4.6. The Housing SPG (March 2016) recognises the challenges of applying BRE in a densely developed area like London. This has been further recognised in a recent appeal decision (APP/E5900/W/17/3171437, 21/02/18) where the inspector highlighted the importance of the flexible approach advocated in the Housing SPG for the appeal site which is in an area of transformation through high density housing development. The following should be added to part F of Policy D4 (from Housing SPG paragraph 1.3.45):

**F An appropriate degree of flexibility should be applied when using BRE guidelines to assess the daylight and sunlight impacts of new development on surrounding properties, as well as within new developments themselves. Guidelines should be applied sensitively to higher density development, especially in opportunity areas, town centres, large sites and accessible locations, where BRE advice suggests considering the use of alternative targets. This should take into account local circumstances; the need to optimise housing capacity; and scope for the character and form of an area to change over time.**

- 4.7. The following should be added to the supporting text (paragraph 1.3.46 of the Housing SPG):

**The degree of harm on adjacent properties and the daylight targets within a proposed scheme should be assessed drawing on broadly comparable residential typologies within the area and of a similar nature across London. Decision makers should recognise that fully optimising housing potential on large sites may necessitate standards which depart from those presently experienced but which still achieve satisfactory levels of residential amenity and avoid unacceptable harm.**

### Optimising housing density

- 4.8. We support a design-led approach to optimising the density of development sites, which takes account of a range of factors including infrastructure provision. Whilst it is desirable to provide infrastructure in advance or in tandem with development, this may not always be possible, especially in Opportunity Areas. Delivery of development will provide the impetus for infrastructure development (including Government commitment to funding where appropriate) as well as funding through the Community Infrastructure Levy (CIL) and S106. This is the case in Nine Elms where development is funding delivery of the Northern Line Extension. If it had been necessary to wait for the delivery of the extension, no homes would have been delivered yet, nor funds generated.
- 4.9. We therefore think that making development contingent on infrastructure provision could be counter-productive and may ultimately undermine the ability to deliver the infrastructure. We suggest that policy D6 is amended:

#### **Policy D6 Optimising housing density**

B3 Where there is currently insufficient capacity of existing infrastructure to support proposed densities (including the impact of cumulative development), boroughs should work with applicants and infrastructure providers to ensure that sufficient capacity will exist at the appropriate time **including making the most effective use of receipts from the Community Infrastructure Levy. This may mean, Only in very exceptional circumstances, that development is should be contingent on the provision of the necessary infrastructure and public transport services. In such cases and that the development is should be phased accordingly. Boroughs should have regard to the role of development in supporting infrastructure provision through Community Infrastructure Levy funding and by providing a customer base.**

- 4.10. We agree with the principle that high density development is subject to greater design scrutiny. The detail suggested for management plans such as service charge costs for different users, will not be available at the planning application stage. We also question the relevance of the service charge when considering the appropriate density of a development. We suggest that the wording is changed to:

**3.6.8 Management plans** required to be submitted with higher density development proposal ~~must~~ should include details of day-to-day servicing and deliveries, and longer-term maintenance implications. ~~Management plans should provide details on the affordability of running costs and service charges (by different types of occupiers).~~

## Public Realm

4.11. Through our developments we deliver substantial public realm including new parks and squares. We design the public realm to be inviting and enjoyed by all. We would welcome the opportunity to work with the Mayor's team in preparing the Public London Charter, drawing on our experience of delivering and managing public realm across London.

## Tall Buildings

4.12. The need to increase housing delivery requires that the best use is made of all development opportunities. In some cases this might include tall buildings. Tall buildings can play an important role in regeneration and delivering new homes and commercial floorspace. Given their potential for wider impact (visually and resulting from the quantum of development) it is right that they are thoroughly assessed and scrutinised. Whether a building is tall is about its relationship with its local context; what is tall in suburban London is not the same as what would be considered tall in the City. It is appropriate that the definition assesses this, rather than leaving it to individual boroughs to define what is tall. We therefore propose that policy D8 is amended:

### Policy D8 Tall buildings

#### A Definition

~~Based on local context,~~ Development Plans should define **tall buildings as those that are substantially higher than their surrounds.** ~~what is considered a tall building, the height of which may vary in different parts of London.~~

B Tall buildings should be part of a plan-led approach to changing or developing an area. **Tall buildings are likely to be appropriate in town centres, Opportunity Areas and at transport nodes.**

4.13. Whilst local policy may suggest general heights for tall buildings, it is appropriate that height is tested rigorously through the design process rather than arbitrary limits imposed through planning policy. In a number of instances our building heights have been pegged at the highest building locally, as this is seen as politically defensible, whereas as a higher building would have been more elegant and aesthetically appropriate, and would deliver more homes and local benefits. Replicating past decisions is not the most appropriate basis to make planning judgements. For most sites, the opportunity for development will not happen again for decades or longer; it is therefore vital that the most is made of the opportunity when it arises.

#### B Tall Building Locations

Boroughs should identify on maps in Development Plans the locations where tall buildings will be an appropriate form of development in principle, and should indicate the general building heights, **to be tested through the detailed design process,** that would be appropriate...

## 5. HOUSING

5.1. The draft London Plan sets an ambitious target to deliver 65,000 homes each year (policy H1). This is significantly above the current target and level of delivery, and is critical to address London's housing crisis. We support the new target and are committed to play our role in helping to achieve it.

5.2. Even though the housing targets may be challenging, it is important that the targets are considered to be minimum. Policies H1 and H3 should be amended:

### **Policy H1 Increasing housing supply**

A Table 4.1 sets the **minimum** ten-year targets for net housing completions which each local planning authority should plan for. Boroughs must include these targets **as minimum** in their Development Plan documents.

### **Policy H3 Monitoring housing targets**

A The **minimum** ten-year housing targets set out in Table 4.1 should be monitored in net terms taking into account homes lost through demolition or change of use.

5.3. We support delivery-focused borough development plans (H1B) which will be critical to turn targets into homes.

5.4. Identifying and delivering sufficient land will be critical to achieving the housing target. Berkeley Group is involved in a range of developments including town centre renewal, major regeneration projects and redevelopment of public land. St William, our joint venture with National Grid, will regenerate redundant gas sites into thriving new communities. We welcome recognition of surplus utility land as an important source of housing capacity. Given their former use, these sites tend to be extremely complex, highly contaminated, environmentally degraded and often with poor access and servicing. They will also require significant investment in new gas infrastructure.

### **Small Sites**

5.5. We support the proposed presumption in favour of sustainable residential development on small sites (H2). Small sites can be developed relatively quickly and play an important role in increasing housing supply. The target assumes the rate of delivery on small sites will double which is very challenging, especially as they are often quite contentious locally due to their potential impact on the character of areas.

5.6. We would therefore query whether it is realistic for 38% of London's housing target to be delivered on small sites, and 24% of the target to be on small sites in outer London and would suggest that the Mayor addresses other sources of land supply to meet the target.

5.7. Meanwhile housing use (H4) needs to be addressed carefully to ensure that it is of appropriate quality and that meanwhile provision does not hinder or delay long term development. The cost associated with meanwhile housing will need to be taken into account when the viability of the eventual development is considered.

5.8. Affordable housing delivery is important to meeting the needs of the many Londoners who cannot afford market homes. Development viability is complex, and changing, and there will be instances where developments are not able to meet the Mayor's thresholds, especially with high rates of CIL and other policy requirements. Whilst the need to increase housing delivery should not be 'relied on as a reason for reducing affordable housing delivery' (4.5.4); the need for affordable housing should not jeopardise the overall delivery of homes, especially given the need to double delivery. A pragmatic approach is required, and delicate balance, between maximising housing delivery and that of affordable housing. Housing development delivers many benefits and it is important that these are not put at risk by unrealistic policies. Greater recognition of this delicate balance is important.

5.9. We would not agree that there has been a 'relaxation in affordable housing and other planning requirements.' In our experience, the level of affordable housing has reduced as boroughs have adopted very high CIL charges and as a result of reduced grant availability. We suggest that paragraph 4.5.4 is redrafted:

**The need to deliver 65,000 new homes each year means that applications should be dealt with positively, and the need to deliver more homes and affordable homes should be carefully balanced.** Given the extent of housing need identified for affordable housing in the 2017 SHMA, the delivery of overall housing targets should not be relied on as a reason for reducing affordable housing delivery or other policy requirements, subject to the approach in this policy, Policy H6 Threshold approach to applications and Policy DF1 Delivery of the Plan and Planning Obligations. ~~In previous years where there has been a relaxation in affordable housing and other planning requirements this has typically led to higher land values, rather than an increase in housing delivery.~~

5.10. There will be exceptional circumstances where more/better affordable housing can be provided off-site or through a payments in lieu. It is important that this is supported to ensure the best possible affordable housing contribution is made. We support monitoring and reporting of payments in lieu. Where we have made such payments, it is beneficial to be able to tell the community local to our development where new homes have been delivered as a result of our payment.

5.11. The Mayor's intention is that the threshold approach embeds affordable housing policy in land values. This is a complex equation and ignores that house prices are the main determinant of land value, as highlighted in the Mayor's evidence base. It also relies on landowners being prepared to sell sites at lower values or not redevelop through permitted development rights. The threshold also applies to S73 applications and new applications made on sites purchased historically. Changes may be important to the design, marketability, efficiency and usability of developments, but may not make a substantial change to the number of homes. It will be important to apply the threshold approach sensitively, ensuring that the change can be made without jeopardising a better development and penalising a historic permission.

5.12. Development on industrial land released through the processes outlined in Policy E7 may have to provide new industrial floorspace, including affordable floorspace, depending on the scale, and invest substantially in demolition, remediation, environmental and access improvements and place making. The development costs for industrial land are high, especially where industrial and residential uses are being combined. We therefore consider that the threshold approach at 50% could compromise the ability to deliver high quality new places and 35% would be more appropriate given the other policy requirements. Policy H6 should be amended to delete section B3.

#### **Policy H6 Threshold approach to applications**

The threshold level of affordable housing is initially set at:

- 1) a minimum of 35 per cent
- 2) 50 per cent for public sector land
- 3) ~~50 per cent for Strategic Industrial Locations, Locally Significant Industrial Sites and other industrial sites deemed appropriate to release for other uses (see Policy E7 Intensification, co-location and substitution of land for industry, logistics and services to support London's economic function).~~

5.13. We note that the 35% threshold will be reviewed in 2021. If it is to increase, given the implications for viability and deliverability of the London Plan, this should be supported by evidence and through a review of the London Plan which undergoes full consultation, assessment and examination:

The 35 per cent threshold will be reviewed in 2021 and if appropriate **and supported by evidence** increased through ~~Supplementary Planning Guidance~~ **a review of the London Plan.**

5.14. It will not always be possible to meet with the proposed tenure split, depending on the affordability criteria of homes, their size mix and other priorities. It is important that the tenure of affordable housing meets local need. The presumption that 40% determined by the borough should be rented (paragraph 4.7.2) should therefore be deleted:

C 2) be **broadly** consistent with the relevant tenure split (Policy H7 Affordable housing tenure)

5.15. The nature of planning policy and requirements is such that few developments can be expected to meet all policy. A sensitive approach is therefore required when considering qualification for the threshold route; few if any applications would pass a dogmatic application of policies:

To follow the Fast Track Route of the threshold approach, applications must meet all the following criteria:

C 3) **taking into account the overall benefits of the proposal, as far as possible** meet other relevant policy requirements and obligations to the satisfaction of the borough and the Mayor where relevant

5.16. The inclusion of review mechanisms is likely to increase the cost of capital as it is seen as an increased risk by funders. If the terms are too draconian, funders may not wish to take on the additional risk and will not be willing to fund development.

5.17. Review mechanisms should only be included on long term developments (reflecting guidance in the NPPG), where the viability of the affordable housing is not reliant on growth assumptions, and should result in capped payments in lieu. The financial cap should be on the value at the date of permission. Where there is a review the surplus should be shared equally between the developer and local authority. On major, complex regeneration projects reviews should be downward as well as upward, recognising the significant risk.

E 2 Viability tested schemes **may** ~~will~~ be subject to:

5.18. We support greater clarity to aid delivery in Opportunity Areas (4.6.13). Given the infrastructure requirements in Opportunity Areas, including social infrastructure and high quality open space, many are subject to very high Community Infrastructure Levies and S106 requirements. It is therefore unlikely that affordable housing in excess of 35% can be supported.

5.19. Amendment applications are likely during the course of a long term development to improve the permission/respond to changing circumstances. At the outset, when planning permission is initially being sought, it will not be possible to anticipate all aspects of what will be appropriate decades in advance. Typically changes might be to accommodate specific commercial operators (physical configuration, hours of operation); change uses if there is not demand for a particular use; amend apartments to meet purchasers' requirements; and secure other design changes. This is an important element of development and ensures that development remains appropriate and current. During the course of long term developments there are likely to be significant social, economic and technological changes and it is important that developments are updated to accommodate these.



- 5.20. Where S73 applications are made it is not appropriate that the original permission is reviewed (section G) as it will have been granted at a different time, under specific circumstances and policies, and considered appropriate at that time. Many such permissions will not have met the threshold approach as they predated it. Seeking to review the permission, rather than assess the proposed amendment, is tantamount to a retrospective tax. Re-appraisal of such applications increases cost, risk and uncertainty and could act as a disincentive to improve planning permissions. Section H of policy H6 should be deleted.
- 5.21. As identified in policy H9, the vacant building credit has been introduced to incentivise development of vacant buildings and there will be circumstances where it is an important incentive. Policy H9 should be edited to reflect this.
- 5.22. It is unduly onerous to expect demonstration of vacancy for five years. This requirement could also have the perverse effect of delaying development. The period should be reduced to three years.

#### **Policy H9 Vacant building credit**

~~A The Vacant Building Credit is unlikely to bring forward additional development in London, therefore in most circumstances, its application will not be appropriate in London. However,~~ There may be some limited circumstances where the **vacant building** credit would, in line with the intention of the credit, provide an incentive for development on sites containing vacant buildings that would not otherwise come forward for development. As part of assessing whether this is the case, decision-makers are advised to take account of the criteria below as well as locally-specific factors influencing the site.

~~B In the limited circumstance where a borough feels the credit should be applied, boroughs are advised to~~ **may** consider applying the credit only where all of the following criteria are met:

~~C To demonstrate that a building has not been made vacant for the sole purpose of redevelopment, an applicant will be required to demonstrate that it has been vacant for a continuous period of at least five~~ **three** years before the application was submitted and will also be required to provide evidence that the site has been actively marketed for at least two of those five years at realistic prices.

- 5.23. We agree that it should be for applicants to determine the appropriate size mix for market and intermediate homes (H12C). Frequently we are required to include an unviable mix of homes with large homes where there is no demand.
- 5.24. We welcome recognition (4.12.3) that two bedroom homes can be family homes as this is the experience on our developments. Well-designed energy efficient smaller homes on attractive, well-located and well-managed developments play a very important role in aiding down-sizing; freeing up larger homes for families. Many of our purchasers are local downsizers leaving the former family home.

- 5.25. Development of bespoke build to rent is an important element of housing supply, especially as many young people have to rent for longer. Recognition of the importance of build to rent is welcome. Ensuring the quality of the homes and buildings is important, including ensuring efficient and effective management. We support the proposed threshold of buildings containing fifty homes, and do not consider that boroughs should set different thresholds. Policy H13 footnote 53 should be deleted.
- 5.26. We welcome recognition of the importance of specialist older people's housing which is going to become increasingly important with an aging population. This is important in its own right as well as to free up family homes. Such housing is often use class C2 because of the additional services and facilities provided; a position supported by Inspectors in appeal decisions. In a recent appeal decision (The Knowle, Station Road, Sidmouth, Devon, APP/U1105/W/17/3177340, 22/01/18) the Inspector concluded that, whilst the apartments were self-contained, their specification, tailored to the needs of older people, included features and adaptations unlikely to be found in other housing stock. He also highlighted that communal facilities and services, such as physiotherapy, would be beyond those found in other developments. The Inspector concluded that the proposed development offered much more than a normal home, and was designed to meet the needs of the target occupants and facilitate assisted living as well as social well-being and interaction with the outside world, as well as provide care specifically tailored to the needs of the occupant.
- 5.27. It is therefore not appropriate for the London Plan to seek to determine the use class, nor is it right to conclude that specialist older persons housing is use class C3:

**Policy H15 Specialist older persons housing**

B Specialist older persons housing (~~use class C3~~) provision should deliver:

~~C Sheltered accommodation and extra care accommodation is considered as being Use Class C3.~~

- 5.28. The economics of specialist housing is such that applying affordable housing requirements in the same way as for market housing will be highly problematic. Specialist homes are larger, are tailored to the needs of older people, and include substantial communal spaces making them less efficient than market housing. We would suggest that if affordable housing is required the threshold approach should be at a lower level, no higher than 20%, to ensure that the provision of specialist housing is not made unviable. If the Mayor is to achieve his target of 4,000 specialist homes a year their provision needs to be encouraged.

## 6. SOCIAL INFRASTRUCTURE

- 6.1. We support a co-ordinated approach to planning for, and delivering, the social infrastructure needed to support London's growing population (S1).
- 6.2. Provision of appropriate playspace for children is an important element of residential development and something that we incorporate on our developments. On constrained sites, it may not always be possible to provide 10 sq m of playspace per child, and in some areas it may be more appropriate to improve existing local provision. Policy S4 should be amended:

### **Policy S4 Play and informal recreation**

B Development proposals for schemes that are likely to be used by children and young people should:

2 for residential developments, incorporate good-quality, accessible play provision for all ages, of ~~at least~~ 10 square metres per child **where possible** that:

## 7. ECONOMY

7.1. Redevelopment of obsolete and surplus offices, especially in town centres, is an important source of land for housing and delivers wider benefits such as to the public realm and through providing a customer base for town centre uses. Such developments are likely to contribute to environmental improvements and affordable housing as well as the Community Infrastructure Levy. Any requirement to provide affordable workspace would be a further burden on viability and could prevent development.

7.2. Whilst a large office may physically be able to be subdivided it may not be economically viable to do so, nor provide appropriate office space. Policy E1 should be amended:

### **Policy E1 Offices**

G Development proposals should:

- 1) **Where appropriate**, take into account the need for lower cost and affordable workspace (see Policy E2 Low-cost business space and Policy E3 Affordable workspace)
- 2) **Where feasible and viable**, examine the scope for the re-use of otherwise surplus large office spaces for smaller units

7.3. Delivering the target of 65,000 homes each year requires a sufficient quantity of land for residential and mixed use development. All B1 space (including studios) should not be subject to a policy of protection and requirement for re-provision. This risks fossilising poor quality and poorly-utilised offices, placing onerous burdens on development and increasing cost and complexity of development. The policy risks dis-incentivising granting short/flexible leases to businesses at the end of a building's economic life if it could create a barrier to redevelopment.

7.4. Requirements for affordable workspace should be confined to commercial developments in exceptional circumstances where evidence demonstrates the need. If affordable workspace is exceptionally to be included in mixed use developments it is not practical to require provision in advance of residential occupations. Market housing carries an increasing cost burden of CIL, S106, affordable housing as well as supporting other uses. The cumulative impact of these burdens could make development unviable, or make residential less viable than other uses.

7.5. Requiring mixed use elements to be 'operational' prior to residential occupations may not be physically possible or desirable depending on the phasing and configuration of the development, and will add a further drag on cash flow. Forward sales of residential are likely to be needed to fund the development.

7.6. Policies E2 and E3 should be amended:

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

Development proposals that involve the loss of existing B1 space (including creative and artist studio space) in **exceptional circumstances, in** areas where there is an **evidence base to demonstrate** identified shortage of lower-cost space should:

- 1) demonstrate that there is no reasonable prospect of the site being **viably** used for business purposes, or
- 2) **Where feasible and viable seek** ensure that an **equivalent appropriate** amount of B1 space is re-provided in the proposal (which is appropriate in terms of type, specification, use and size), incorporating existing businesses where possible, or
- 3) demonstrate that suitable alternative accommodation (in terms of type, specification, use and size) is available in reasonable proximity to the development proposal and, where existing businesses are affected, that ~~they are subject to~~ relocation support arrangements **are in place** before the commencement of new development **where possible**.

C **Where feasible and viable, and subject to other priorities,** development proposals for new B1 business floorspace greater than 2,500 sqm (gross external area) should consider the scope to provide a proportion of flexible workspace suitable for micro, small and medium sized enterprises.

### **Policy E3 Affordable workspace**

A In defined circumstances, planning obligations may be used to secure affordable workspace at rents maintained below the market rate for that space for a specific social, cultural or economic development purpose.

Such circumstances include workspace that is:

B Particular consideration should be given to the need for affordable workspace for the purposes in part A above:

- 4) **Where the development is solely of commercial floorspace and does not include housing or affordable housing.**

C Boroughs, in their Development Plans, ~~are encouraged to~~ **might** consider more detailed affordable workspace policies in light of local evidence of need and viability **and where other requirements such as affordable housing are not being sought**. These may include policies on site-specific locations, or defining areas of need for certain kinds of affordable workspace.

F ~~The affordable workspace elements of a mixed-use scheme should be operational prior to residential elements being occupied.~~

7.7. Industrial land is important to London's economy and we recognise the need to protect strategic industrial sites that have been designated as such, reflecting their strategic importance to London. However, we are concerned that the extension of protection to all industrial land could have a significant impact on the ability to meet the housing target, especially when coupled with the requirement to re-provide industrial floorspace and the affordable housing threshold proposed at 50%. There is strategic industrial land in Opportunity Areas and Housing Zones, which has been identified/designated as it is appropriate to increase housing delivery and is appropriate to do so. At the very least, a differential approach would be appropriate in these cases.

7.8. Policy E4 seeks to ensure that there is sufficient industrial land to support London's economy and identifies what 'industrial and related functions' are, for which provision should be made. This includes utilities infrastructure. The purpose of the policy is to plan for future provision. Whilst there are some utilities for which provision needs to be made, the draft Plan identifies the scope for redevelopment of redundant utility land, including gas-holders, which are specifically addressed in policy H1 which identifies them as a specific source of housing capacity.

7.9. The draft plan acknowledges the different status of these sites in paragraph 6.4.5 which states that the principle of no net loss should not apply to 'sites previously used for utilities infrastructure or land for transport which is no longer required.' For clarity, this should be included in footnote 78 in policy E4:

**Policy E4 Land for industry, logistics and services to support London's economic function**

Footnote 78: Sites containing industrial and related functions that are not formally designated as SIL or LSIS in a Local Plan. **They do not include sites previously used for utilities infrastructure or land for transport functions which are no longer required.**

7.10. The calculation of floorspace capacity (6.4.5) on a 65% ratio reflects historic, inefficient use of industrial land. Modern industrial developments make more efficient use of land and this should be reflected in the floorspace requirements which should be in the region of 50%.

7.11. Given the historic nature of many industrial sites and the need to identify land for housing, policy E6 should seek that boroughs review as well as define Locally Significant Industrial Sites as required by the NPPF (paragraph 22):

**Policy E6 Locally Significant Industrial Sites**

A In their development plans, boroughs should:

**1) Review designations for Locally Significant Industrial Sites to ensure that they are still needed, identifying scope for release of sites/parts of sites for other uses including housing.**

7.12. The process of consolidation and release of SIL or LSIS might ideally be through the development plan process or a masterplan, but there may be circumstances where this would be more expedient through the planning application process, if appropriately consulted upon and in agreement with the borough:

**Policy E7 Intensification, co-location and substitution of land for industry, logistics and services to support London's economic function**

Parts B, C and F:

...and ~~not through a~~ **should only be through the planning application process where agreed with the borough and subject to appropriate consultation.**

7.13. The requirement to include industrial, storage or distribution floorspace in a mixed use redevelopment might be technically very challenging to achieve, compromising the ability to deliver a high quality and attractive environment, and may also be unviable, especially when coupled with the proposed affordable housing threshold of 50%. The nature, orientation and size of sites will be an important consideration. Whilst some industrial uses may be better suited to co-location than in the past, it is important that the right quality of place and residential environment is created, recognising the needs of the residents as well as the industrial users. When considering the feasibility and appropriateness for the inclusion of industrial floorspace, regard must be had to the quality of the place being created, the direct and opportunity costs of providing industrial floorspace and the need to deliver 65,000 homes a year. The cumulative burden of policy requirements risks making residential/mixed use developments unviable.

D3 industrial, storage or distribution floorspace is provided as part of mixed-use intensification where this is feasible **and viable, having regard to the amenity and quality of the place being created, and the overall benefits of the proposal;**

7.14. Given the need to make the most efficient use of land, yard space should only be sought where needed, especially as existing yard space may be a reflection of historic under-use of sites, rather than the level of demand:

E1 the industrial uses within the SIL or LSIS are intensified to deliver an increase (or at least no overall net loss) of capacity in terms of industrial, storage and warehousing floorspace with appropriate provision of yard space for servicing **if needed.**

7.15. Where industrial uses are being re-provided, this should not be subject to a requirement for their re-provision in advance of residential occupations. This might not be possible logistically in terms of phasing and place-creation, and would also have a significant impact on development cash-flow and therefore viability. Forward residential-sales will be important to funding the development:

~~3) the intensified industrial, storage and distribution uses are completed and operational in advance of any residential component being occupied.~~

7.16. It will not always be necessary or desirable for a development agreement to be in place between a residential and industrial developer and the suggestion is inappropriate for a strategic plan. This should be deleted from paragraph 6.7.2.

7.17. The test of 'no reasonable prospect' for industrial use of a site (6.7.4) should simply be that the premises have been marketed on reasonable lease terms.

7.18. We support the approach for S106 agreements to enable trainees to complete their training and apprenticeships and for all Londoners to benefit from opportunities, including through cross-borough working (E11). London is highly accessible with many people living in one borough and working in another. This more pragmatic approach will ensure that the best is made of opportunities secured in development.

## 8. HERITAGE AND CULTURE

8.1. London's heritage and culture are important to making it an attractive place in which to live, work and visit. It is important that it is appropriately protected, whilst ensuring the new homes, employment floorspace and other development that is needed is delivered.

8.2. London's strategic views have been designated, and are protected, reflecting their strategic importance to the capital and its heritage. Their designation, and review, is subject to rigorous testing and scrutiny given their strategic importance and the implications of their designation. It is not appropriate to apply the same strength of protection to local views as it is to the strategic London views. It is appropriate that there is a hierarchy of views afforded different levels of protection.

### Policy HC3 Strategic and Local Views

Boroughs should clearly identify important local views in their Local Plans and strategies. Boroughs are advised to use **appropriate** the principles of ~~Policy HC4 London View Management Framework~~ for the designation and management of local views. Where a local view crosses borough boundaries, the relevant boroughs should work collaboratively to designate and manage the view.



## 9. GREEN INFRASTRUCTURE AND NATURAL ENVIRONMENT

- 9.1. The Green Belt plays an important role in preventing urban sprawl and safeguarding the countryside from encroachment. However, there are significant parts of the green belt that are of poor quality, are not enjoyed by the public but have good accessibility, and could provide much needed new homes as well as amenity space for the benefit of the wider community.
- 9.2. We support continued protection of the Green Belt, but there should be recognition that sites with no amenity value could be redeveloped to provide high quality new homes and amenity space. 42% of non-environmentally protected Green Belt land is within 2km of a station. A fifth of land within London's boundary is Green Belt. Only 28% of land within London's boundary is built upon, 65% is green. Fourteen boroughs have more land designated as green belt than is built on for housing.
- 9.3. The Mayor should not seek to prevent boroughs from considering opportunities to release poor quality green belt to deliver new homes, amenities and high quality public space that can be enjoyed by the local community. Indeed, the Mayor should be encouraging the boroughs to do so. Boroughs should be able to review green belt appropriately through the local plan as considered in the NPPF. Policies G2 and G3 should be amended to better reflect the NPPF (paragraphs 82 and 87):

### **Policy G2 London's Green Belt**

A The Green Belt should be protected from inappropriate development:

- 1) development proposals that would harm the Green Belt should be refused **except in very special circumstances.**
- 2) the enhancement of the Green Belt to provide appropriate multifunctional uses for Londoners should be supported.

B The extension of the Green Belt will be supported, ~~where appropriate~~ **in exceptional circumstances.** Its de-designation will not **be supported other than in very exceptional circumstances.**

### **Policy G3 Metropolitan Open Land**

A Metropolitan Open Land (MOL) should be protected from inappropriate development:

- 1) development proposals that would harm MOL should be refused **other than in exceptional circumstances**

- 9.4. Local green and open spaces are important in providing local amenity. There may be instances where they could be redeveloped with new green/open space provided. Policy G4 should be amended:

### **Policy G4 Local green and open space**

A Local green and open spaces should be **protected or appropriately re-provided within the local catchment area.**

D The loss of green and open spaces should be resisted in areas of Deficiency **unless appropriate re-provision is made.**

- 9.5. Urban greening is important to the environmental, amenity and attractiveness of London. Berkeley Group developments incorporate substantial public realm, including landscaping and parks. We have committed that all our developments will increase biodiversity, incorporate measures to adapt to climate change, and include living roofs. We are currently delivering over 500 acres of parks, public realm and open space, and planting over 9,500 trees. We support the principle of urban greening but consider that flexibility is needed in application and further research and consultation is needed to ensure that the factors are achievable.
- 9.6. The ability to deliver urban greening will be determined by factors including the size and nature of the site and the need to accommodate other infrastructure such as plant and machinery which is often located on the roof as is renewable energy infrastructure. The factors will be particularly challenging on constrained sites where there is a small site footprint, including the small sites which the Mayor is encouraging through the presumption in favour and which make up 38% of the housing target. On the most constrained sites, achieving the factor might require additional floorspace to accommodate plant which may not be physically possible or acceptable in planning.
- 9.7. The viability assessment of the draft Plan needs to consider the cost of urban greening as well as the potential opportunity cost of reduced floorspace.
- 9.8. We have tested the proposed factor of 0.4 for residential developments and this is very challenging; we would recommend that 0.2 would be more realistic especially for inner London sites. We do not think that boroughs should set separate factors, rather the application should have regard to site circumstances and context.
- 9.9. The calculation proposes that all the factors are calculated by area. For trees it would be more appropriate to use the size of the tree canopy rather than the number of trees. As green walls and hedges are linear features, clarification should be provided on how to calculate their area. Further guidance and worked examples would be helpful.

#### **Policy G5 Urban greening**

Boroughs should ~~develop an~~ sensitively apply the Urban Greening Factor (UGF), ~~having regard to the size and context of the site, and overall nature and benefits of the proposal,~~ to identify the appropriate amount of urban greening required in new developments. The UGF should be based on the factors set out in Table 8.2, but tailored to local site circumstances. ~~In the interim, The Mayor recommends~~ suggests a target score of 0.4~~2~~ for developments. ~~that are predominately residential, and a target score of 0.3 for predominately commercial development.~~

- 9.10. We support improved biodiversity and access to nature (G6). Berkeley Group has developed a biodiversity toolkit that ensures that from the outset we are considering biodiversity in the design of our developments. Our developments include parks, lakes, swales, nesting boxes and bee hives.

9.11. Designing masterplans is a complex balance of different objectives; creating connections and enhancing permeability and accessibility; provision of public open space and integrating different uses. It may not always be possible to retain trees and protection should only be afforded to those that have been formally protected i.e. are subject to tree preservation orders. Policy G7 should be amended:

**Policy G7 Trees and woodlands**

C Development proposals should ensure that, wherever possible, existing trees of quality ~~are~~ **that are subject to tree preservation orders should be** retained. ~~If it is imperative that trees have to be removed,~~ **Where this is not possible,** there should be adequate replacement based on the existing-value of the benefits of the trees removed, determined by, for example, i-tree or CAVAT.

## 10. SUSTAINABLE INFRASTRUCTURE

### Air Quality

- 10.1. We support the Mayor's objective to improve air quality. In order to understand the practical and cost implications of the proposals in policy SI 1 improving air quality, clarification is needed on a number of elements of the policy:
- a) A2 what is meant by "make provision to address local air quality." This suggests that measures may be beyond the application site which will have technical, practical and financial implications.
  - b) A3 the definition of "an Air Quality Positive approach" and the mechanisms to achieve it.
  - c) A3 In what circumstances emissions need to be reduced, how it is envisaged that this is achieved on site and what measures would be appropriate to do so off site.
- 10.2. Without this information it is not possible to fully evaluate the implications, feasibility and cost of the policy. The cost implications will need to be considered in the viability assessment.

### Zero Carbon

- 10.3. We support the objective for London to be zero carbon by 2050. As only 1% of the housing stock is new development, tackling the existing stock is critical to achieving the target. If the cost and complexity of development is too great the Mayor risks undermining development of energy efficient new homes and the other benefits that development delivers, preventing replacement of older, inefficient housing stock.
- 10.4. The zero carbon agenda for development was dropped by the Government in recognition of the considerable progress already made, and the costs involved in achieving it. The Government has also made clear that energy efficiency should be addressed through Building Regulations rather than planning policy. The London Plan should not set a target for carbon reductions over building regulations.
- 10.5. It is not technically feasible to achieve zero carbon on most developments due to site constraints and technological challenges. The approach to offsetting is essentially another tax on new development and the cost must be taken into account, and prioritised, alongside the Mayor's other requirements.
- 10.6. The Mayor is proposing a 60% increase in the cost of carbon per tonne which is a significant impact, especially in the light of the other costs proposed by the draft Plan. The Mayor should provide justification for the cost and also ensure there is a clear structure for the use and management of offset funds.

- 10.7. Energy assessments that accompany planning applications, as required in Part L of the Building Regulations, are based on outdated carbon factors used in the SAP methodology. Since 1990 the carbon intensity of the grid has nearly halved with a 42% reduction at a time that the economy grew by two thirds. The Government has consulted on updates to the SAP calculations. The new calculations will be published in 2018 but will not come into force until after the revisions to Part L of the Building Regulations, which have been delayed by the Hackett Review. The BEIS Clean Growth Strategy expects that this will be by 2020. This update is expected to have a substantial impact on the assessment of carbon reduction. The Mayor should commit to review policy when Part L is updated, and periodically thereafter reflecting the continuing decarbonisation of the grid.
- 10.8. In light of the pace of technological development, policy should set a strategic target, but not seek to specify technology as this will vary according to developments/sites and will change over time. The most appropriate technology will be determined by a number of factors including site size, orientation and context; and the scale and mix of development. Technology needs to be assessed according to cost (installation, maintenance and energy supply), performance and carbon reduction. As a developer we have a responsibility to our customers to ensure that they receive the most cost effective and efficient energy supply, and their interests are protected in the long term. Whilst most of the energy market is highly regulated, decentralised energy is not, and it is important that residents of new developments are appropriately protected.
- 10.9. We put our customers at the heart of decisions and need to consider the cost of energy and the service charge implications of potential energy solutions. Whilst the cost of energy from decentralised systems may be low, our residents pay for the long term management and maintenance of the system, which can be a considerable cost. As the building envelope becomes more efficient, to achieve the energy savings we are required to utilise increasingly complex solutions such as external heat sources, ground source heat pumps, or photovoltaic panels which all involve complex mechanical plant, systems and controls. The maintenance and replacement of these systems is a burden on our residents.
- 10.10. Given the fast-changing regulatory and technological environment, it would be appropriate to have zero carbon transition strategies for long term developments to ensure that the most appropriate technology that minimises carbon is utilised when the development is delivered. Given the length of the planning process and of major developments, what is considered appropriate at planning stage, is unlikely to be the best solution as technology changes and the grid decarbonises. For a major planning application being prepared now, the first residents are unlikely to move in before 2022/23. Given the pace of grid decarbonisation, electric heating may become the most carbon effective solution.

### **Minimising greenhouse gas emissions**

- 10.11. It is proposed to change the energy hierarchy to include consideration of usage during construction, and storage of energy. Given the challenges of meeting these elements, it is important that there is flexibility for the industry to determine how they are best met. This will foster innovation, and competition. The ability to generate and store green energy will be determined by the nature of the site and development.
- 10.12. Further clarification is needed on the 'Be Lean' element of the hierarchy to determine how the energy demand in construction and operation will be measured. As part of Berkeley Group's commitment to be carbon positive we have set a target to reduce emissions by 10%. We have instigated a number of measures on our construction sites to reduce emissions, which include how we set the site up at the outset and measures to monitor and reduce energy usage in welfare facilities and in operations. We were able to achieve this as we had the data on what our usage was, so we could therefore measure and achieve a reduction against this. As there are no benchmarks for construction emissions, and they will vary considerably between the size of sites and nature of construction (e.g. use of cranes and hoists), it is not clear how it will be possible to demonstrate construction emissions reductions, and what this is measured against.
- 10.13. Consideration is needed on how energy demand and emissions are monitored post-construction (SI2B) including issues such as data protection, timing of reporting and who will be responsible for reporting. Timing is particularly important on large developments which are partially occupied over time, as the energy centres will have been designed to run most efficiently once the development is complete and may not be delivered in the early phases. Energy usage data will be meaningless without very detailed data on the design and fabric of the building, and energy solution to understand and contextualise it. This will be costly and unwieldy to supply.
- 10.14. Some of the information sought in energy strategies (9.2.10) will not be available at the planning application stage, especially for outline elements, and is also likely to change over the course of long term developments. It is important that energy strategies are not unduly onerous in what they are seeking and that they allow flexibility to adapt over time. The most appropriate energy solution could change over time; those that provide the greatest savings now may be more carbon intensive as the grid continues to decarbonise. For long term developments this means that there should be flexibility in energy strategies to enable review and changes made if necessary as technology develops. This approach has been adopted for our Kidbrooke Village development where an energy review panel has been established with RB Greenwich to monitor the energy implementation plan.

- 10.15. It is proposed that energy strategies include proposals to minimise embodied carbon (9.2.10 k) further guidance is required on this and any consequent cost must be taken into account in the viability assessment.
- 10.16. Given the pace of technological change, it is unlikely that an application now will be able to establish how a development will be zero carbon by 2050 (9.2.10 i); strategies must be flexible to adapt to changing technology.

### **Policy SI2 Minimising greenhouse gas emissions**

A 2 Be clean: exploit local energy resources (such as secondary heat) and supply energy efficiently and cleanly. Development in Heat Network Priority Areas should ~~follow the heating hierarchy~~ **consider the heat options** in Policy SI3 Energy infrastructure.

Major development should include ~~an detailed~~ energy strategy to demonstrate how the zero-carbon target will be met within the framework of the energy hierarchy and will be expected to monitor and report on energy performance.

### **Energy Infrastructure**

- 10.17. In assessing potential to connect to heat networks or use secondary/waste heat it is important to consider the technical and legal implications of doing so. The cost and legal implications of connections are considerable; a third party cannot be put in a monopoly position where a developer is forced to contract with them. This has to be considered at the initial contract stage as well as after the initial contract period, in order to protect the residents' long term interests. Residents cannot be exposed to a ransom situation in order to secure energy in the future. Consideration needs to be given to the event that the heat source is not available in the future.
- 10.18. Each development and its context is different and it is important that the right approach for the site is achieved which delivers the lowest carbon outcome. Different technologies are suited to different circumstances and development types; for example air source heat pumps require a substantial amount of roof-space which would limit the ability for green roofs and urban greening, and means that there is insufficient space on buildings taller than seven storeys.
- 10.19. The energy efficiency of modern homes means that there is very low demand for heating, the consideration in energy supply is therefore hot water as there is little demand for space heating. Communal heating may not be the most appropriate solution in all cases and needs to be balanced against other objectives, such as tackling over-heating.
- 10.20. Given the legal and technical challenges, policy SI3 should offer a menu, rather than hierarchy, of heat options, with selection made on the lowest carbon option for the development. It should not be necessary for applicants to commission extensive and expensive reports on why different options are not viable.

### Policy SI3 Energy infrastructure

D Major development proposals within Heat Network Priority Areas should **minimise carbon and** have a communal heating system **where appropriate and the least carbon option.**

1) the heat source for the communal heating system should ~~be selected in accordance with~~ **take into account** the following heating ~~hierarchy~~ **options according to feasibility and viability:**

- a) connect to local existing or planned heat networks
- b) use available local secondary heat sources (in conjunction with heat pump, if required, and a lower temperature heating system)
- c) generate clean heat and/or power from zero-emission sources
- d) use fuel cells (if using natural gas in areas where legal air quality limits are exceeded all development proposals must provide evidence to show that any emissions related to energy generation will be equivalent or lower than those of an ultra-low NOx gas boiler)
- e) use low emission combined heat and power (CHP) (in areas where legal air quality limits are exceeded all development proposals must provide evidence to show that any emissions related to energy generation will be equivalent or lower than those of an ultra-low NOx gas boiler)
- f) use ultra-low NOx gas boilers.

### Managing heat risk

- 10.21. Our developments incorporate features to ensure resilience to climate change. We have developed a risk assessment that each of our sites undertakes pre-planning which identifies potential for overheating and suggests measures to reduce it.
- 10.22. The risk of overheating is exacerbated by buildings being more air tight and the preference for district heating systems which results in hot water pipes running laterally through each floor. The risk of overheating should be a consideration for selection of heating systems.
- 10.23. Another contributing factor to the increased risk of overheating is that designers are required to comply with outdated Part L SAP methodology which drives a very efficient and air tight façade but without allowing an appropriate mechanism to adjust the performance criteria of the communal heating system. This has the potential to make the system oversized to remain compliant with temperature extremes which are in reality unlikely to occur. Berkeley Group would welcome a more rational approach in this area.



## Waste and the circular economy

- 10.24. We support the objective to minimise waste and promote the circular economy. It will not be possible to prepare a circular economy statement for the outline element of applications where building materials will not have been considered. On long term developments it could be decades before the last phases are built and it will not be possible at the application stage to forecast what materials may be used. During that time the ability to recycle and reuse materials could also change.
- 10.25. Even on detailed applications, at application stage every element of a building's construction will not be defined. At application stage it is unlikely that details of handling of waste will be known as this will be determined by/with the contractor. It is important that a proportionate and pragmatic approach is taken and that the statement outlines the approach to be taken.

### **Policy SI7 Reducing waste and supporting the circular economy**

B Referable applications should promote circular economy outcomes and aim to be net zero-waste. A Circular Economy Statement should be submitted, to demonstrate **where possible**:

- 10.26. Policy SI7 refers to 'net zero waste'; we would welcome clarity on what this relates to. We promote sustainable behaviour to our residents through guides and by providing recycling facilities, but we cannot be held accountable for residents' behaviour should they choose not to use the facilities.

## 11. TRANSPORT

11.1. Transport infrastructure is critical to the sustainable development of London. We agree that development should make the most effective use of land, reflecting its accessibility and connectivity. Development principally contributes to the mitigation of impacts on transport through the Community Infrastructure Levy (CIL); at a strategic level to Crossrail and locally to other transport infrastructure. In addition to CIL, current policy and the draft London Plan impose significant costs on development, including the new threshold approach to affordable housing. These must be prioritised and balanced to ensure that development is viable. It is not appropriate that policy T1 states that development should ensure any impacts are mitigated as this is the purpose of CIL. This should be deleted:

### **Policy T1 Strategic approach to transport**

~~B All development should make the most effective use of land, reflecting its connectivity and accessibility by existing and future public transport, walking and cycling routes, and ensure that any impacts on London's transport networks and supporting infrastructure are mitigated.~~

11.2. We support the approach to healthy streets (policy T2) which is embodied in our approach to place making. Our developments are large and mixed use, and from the outset seek to create successful and sustainable places which promote healthy lifestyles and foster strong communities. Our developments are located to provide sustainable transport choices and are carefully designed to be pedestrian centred, encouraging people to walk in a safe and pleasant environment.

11.3. Continued investment in London's transport is vital to support sustainable growth and London's economy and people. We welcome the list of transport schemes (Table 10.1) and we will support the Mayor in lobbying Government for the investment needed.

11.4. For the reasons outlined above, policy T4 should not refer to financial contributions as these are secured through CIL. TfL should work with the boroughs to ensure that borough infrastructure lists include appropriate transport projects.

11.5. Whilst it is desirable to provide infrastructure in advance or in tandem with development, this may not always be possible. Delivery of development will provide the impetus for infrastructure development (including Government commitment to funding where appropriate) as well as funding through the Community Infrastructure Levy, S106 and retained business rates. Making development contingent on infrastructure provision could be counter-productive and may ultimately undermine the ability to deliver the infrastructure.

### **Policy T4 Assessing and mitigating transport impacts**

Where appropriate, mitigation, either through direct provision of public transport, walking and cycling facilities and highways improvements or through ~~financial contributions~~ **the Community Infrastructure Levy**, will be required to address any adverse transport impacts that are identified.

D Where the ability to absorb increased travel demand through active travel modes has been exhausted, existing public transport capacity is insufficient to allow for the travel generated by proposed developments, and no firm plans and funding exist for an increase in capacity to cater for the increased demand, planning permission may **exceptionally** be contingent on the provision of necessary public transport and active travel infrastructure, **having regard to the role of development in supporting infrastructure provision through Community Infrastructure Levy Funding and by providing a customer base.**

E The cumulative impacts of development on public transport and the road network capacity including walking and cycling, as well as associated effects on public health, should be taken into account and mitigated **through the Community Infrastructure Levy.**

- 11.6. Our developments currently provide considerable cycle parking which is not fully utilised. The minimum cycle standards (table 10.2) increase this further. We would propose that rather than seek 1.5 spaces per one bed home, which in our experience exceeds demand, provision is made at one space per home with usage monitored and further provision made if it is demonstrated to be needed:

#### **10.2 Minimum cycle parking standards**

C3-C4 dwellings

1 space per 1.5 bedroom unit (**to be monitored and increased to 1.5 spaces if required**)

- 11.7. New development represents about 1% of London's housing stock. Restricting parking in new developments will not fundamentally address congestion/air quality in London, but will make older stock more attractive to the many people to whom it is important to have a car. Car-free development is challenging and that policy should promote reduced, rather than no parking. Parking is particularly important for some households such as older people, those with caring responsibilities and families. Table 10.3 should be amended to replace 'car free' with up to 0.25 spaces per home. Provision of spaces for car clubs should not be counted as part of the residential parking allowance.

11.8. The draft London Plan encourages redevelopment of single storey shops such as supermarkets to provide new housing and retail facilities (H1B2b). This can and should be an important source of housing supply. For many supermarkets provision of adequate parking will be a fundamental consideration when evaluating redevelopment potential. The operator's principal concern will be the successful and competitive operation of the new store and it is unlikely that development will go ahead if it is necessary to reduce parking provision, and therefore undermine the store operation. Policy T6 should be amended:

**Policy T6 Car parking**

**Where possible**, where sites are redeveloped, existing parking provision should be reduced to reflect the current approach and not be re-provided at previous levels where this exceeds the standards set out in this policy.

**10.6.8 The Mayor wishes to encourage the mixed use redevelopment of single storey retail developments. Where possible the new development should provide fewer spaces than the existing development but the Mayor recognises that parking may be needed for operational reasons and redevelopment may not come forward without sufficient parking.**

11.9. It is not appropriate for the London Plan to seek to determine whether parking spaces are sold or leases. T6.1 B should be deleted.

11.10. We support the provision of electric car charging points with 20% of spaces are active and the rest passive (T6.1). We would suggest that the passive requirements consider the changes to the technology, specifically the requirement to include cabling for the passive spaces is not sustainable as the most efficient cabling is likely to change by the time the spaces become active. We would therefore suggest that sites provide the capacity in the connection to the local electricity distribution network and electricity distribution board but the cabling is provided at a later date when required.

11.11. We support the approach of providing 3% disabled parking and monitoring take up to assess whether further provision is required

11.12. The Community Infrastructure Levy has been established to pool funding from developments to contribute to transport and other infrastructure. The Mayoral CIL contributes to Crossrail, and in the future, Crossrail 2. The assumption should be that other transport will be paid for through borough CIL, other than in exceptional circumstances. The draft London Plan places considerable cost burdens on development, including the threshold approach to affordable housing. Policy T9 should be amended:

### **Policy T9 Funding transport infrastructure through planning**

~~B Planning obligations (Section 106 agreements), including financial contributions, will be sought to mitigate~~ **The Mayor will work with boroughs to use the Community Infrastructure Levy to mitigate the** impacts from development, which may be cumulative. ~~Such obligations and contributions~~ **This** may include the provision of new and improved public transport services, capacity and infrastructure, the expansion of the London-wide cycle networks and supporting infrastructure, and making streets pleasant environments for walking and socialising, in line with the Healthy Streets Approach. **In exceptional circumstances, taking into account the other benefits being delivered, planning obligations (Section 106 agreements), including financial contributions, may be additionally sought to mitigate development impacts.**

## **12. FUNDING THE LONDON PLAN**

12.1. The threshold approach to affordable housing provides simplicity and clarity and a faster route to determination where the threshold can be met. The full cost of policies may not be known (and is not currently known for the draft London Plan policies), and even with extensive due diligence all the risks and costs may not be known when a site is purchased. It is therefore not possible to ensure that all policies are reflected in land values, and indeed the Mayor's evidence base recognises that the key determinant of land values is house prices. Applications will also be brought forward on sites purchased before publication of the draft plan. This may be on historic sites that have existing uses or on long term masterplans that are subject to amendments to reflect changing circumstances. There will therefore remain circumstances where it is not possible to meet the threshold and it is necessary to submit a viability assessment in support of an application. The ability to submit a viability assessment should not be at the discretion of the local authority, nor should the weight ascribed to it. Policy DF1 should be amended:

### **Policy DF1 Delivery of the Plan and Planning Obligations**

~~B~~ **If** ~~Where~~ an applicant wishes to make the case that viability should be considered on a site-specific basis, they should provide clear evidence of the specific issues that would prevent delivery, in line with relevant Development Plan policy, ~~prior to submission of an application.~~

~~C~~ ~~Where it is accepted that viability of a specific site should be considered as part of an application, the borough should determine the weight to be given to a viability assessment alongside other material considerations. Viability assessments should be tested rigorously and undertaken in line with the Mayor's Affordable Housing and Viability SPG.~~

### **13. VIABILITY ASSESSMENT OF THE DRAFT LONDON PLAN**

- 13.1. Fundamental to delivering good growth, the draft plan's policies and objectives, and achieving an increased rate of housing delivery to achieve the new target, will be ensuring that development is viable and the draft plan does not place onerous obligations that will prevent development (NPPF paragraph 173).
- 13.2. We have reviewed the viability assessment of the draft Plan and have set out our observations below. In summary, we do not consider that the assessment has reviewed a representative sample of site typologies, in sufficient areas across London, and insufficient account is taken of the cost of proposed policies. Based on these comments we do not believe that it is possible to conclude from the assessment that the draft London Plan does not pose a risk to the viability of development.

#### **Development typologies**

- 13.3. The developments are not geographically representative of development across London; 15 of the 33 developments are in two boroughs (Hounslow and Waltham Forest).
- 13.4. The typologies are generally small, the largest being 750 homes (residential) built over six years and 1,500 homes (mixed use) built over ten years. Many of the sites, especially in Opportunity Areas will be considerably larger and may be delivered over decades. Large sites account for about a third of capacity in the SHLAA.
- 13.5. Many Berkeley Group developments are far larger than 1,500 homes; Beaufort Park will be 3,500 homes, Southall Waterside 3,750 homes and Royal Arsenal, Woodberry Down and Kidbrooke Village will all have more than 5,000 homes. The development programme, over decades and economic cycles, means that the risk and finance profile will be very different than for smaller developments. It is important to test examples of developments of this scale.

#### **Assessment inputs**

- 13.6. The build costs do not take sufficient account of abnormal costs of regeneration projects such as remediation and demolition. Given the nature of the developments that we do, the abnormal costs will be significant and need to be taken fully into account to understand viability. For example, at London Dock demolition of the 1.2 million sq ft print works commenced before development adding significant cost and affecting cash flow. Most sites require significant remediation. At Southall Waterside the soil is so contaminated a 'soil hospital' has been established on site. Other costs might include build-over agreements for utilities or asset-protection indemnities for example when developing adjacent to a rail line.

- 13.7. The build costs are generally lower than we experience and are agreed in viability assessments for planning applications. There are costs, such as the LEAN premium, externals and fire safety, that are highlighted in the technical report but do not appear to be reflected in the appraisals.
- 13.8. The assessments assume that construction starts at the same time that the land payment is made, there is usually a lag of about six months where pre-commencement conditions are cleared, contracts are tendered and site set up is undertaken.
- 13.9. Our experience is that S106 costs exceed those used in the assessments.
- 13.10. The assessments assume that costs for basements/car parking are generally covered by revenues. This is not our experience and some allowance should be made as parking will still be required as will basements for energy and plant and cycle parking.
- 13.11. It is assumed that all homes are sold prior to the completion of construction, although the technical report (paragraph 44) notes that in London 40% of homes are pre-sold.
- 13.12. The development programme is highly simplified with no information on construction spend timing i.e. pre-construction (including basement); CIL / S106 initial payments, pre-planning fees and affordable housing revenues.
- 13.13. The marketing costs are at 3% rather than the standard rate of 4.5%.
- 13.14. The developer return is varied according to height (2 to 5 storeys at 15%; 6 to 20 storeys at 17.5%; and 21 plus storeys at 20%). We assess the expected return according to the risk, which may relate partly to height, but not solely.
- 13.15. Development returns for the largest site typologies, where IRR would normally be used as a benchmark, appear to be significantly understated.
- 13.16. The revenues for affordable housing is not evidenced and in our experience are very high.
- 13.17. The revenues from ground rents are high, and are applied to affordable housing. Given the recent Government announcement regarding legislation on ground rents they should be removed.

**Impact of draft London Plan policies**

- 13.18. The draft plan adds a number of new obligations and costs on development some of which have not been tested through the viability assessment.
- 13.19. We note that low cost business space and affordable workspace are assumed at 10% of space at 80% market rent.
- 13.20. No allowance is made for the cost implications of the policy for developments to be air quality positive which we expect could be significant. Greater clarity is required.
- 13.21. The cost of urban greening is not included in the external works. Consideration is also required of the potential loss of floorspace to accommodate urban greening.
- 13.22. The proposed restriction on residential occupation until industrial/mixed uses are completed and operational (policy E7) would impact on development cash-flow and the ability to fund the development.