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**Proposed Draft London Plan Policies H6, H13,  
H15, H17 & H18.**  
**Financial Viability Orientated Representations.**

**1/3/2018**

Proposed London Plan Policies H6, H13, H15, H17 and H18 are not justified by robust viability evidence because the evidence in the London Plan Viability Study ('LPVS') is fundamentally flawed and/or wrong.

We assume that there is an onus on the GLA to provide appropriate evidence to justify the proposed London Plan policies and that, where this evidence is missing or lacking, the consequence will be (or should be) that the proposed policy cannot be adopted.

The London Plan Viability Study ('LPVS') is fundamentally flawed and/or wrong because:-

*(N.B. We refer to the main body of the LPVS as the LPVS and its accompanying Technical Report as the LPVSTR below).*

**a) Support or Inform:-**

Para 1 of the LPVS Executive Summary says its purpose is to 'support' the new London Plan. However, this implies a fait accompli as surely the main purpose of the LPVS should have been to 'inform' the potential policies in the new London Plan.

As the LPVS is dated December 2017, it would not seem credible that the proposed new London Plan policies were generated almost immediately thereafter. Para 1.2.4 of the LPVS suggests that consultation on the proposed London Plan started at the end of November which pre-dates or almost coincides with the LPVS.

The LPVS appears to have been written to support pre-determined policies in the new London Plan rather than inform policy making which is in-appropriate and undermines its credibility as 'evidence'.

**b) Intervention & Justification for 35%:-**

Whilst planning policy has been intervening in the affordability and consequential value of housing for some years now, is this fundamentally legal and/or a planning policy matter? What part of what law permits and/or promotes this?

**c) Data Sources, Analysis and Non-Ascertainable Logic through to Conclusion:-**

The LPVS/LPVSTR is a very thin on data, detail and analysis.

We have regularly seen more substantial viability reports relating to a single site.

There is no clear audit trail from data to conclusion, especially as there are no explicit financial viability appraisals provided. As such, the LPVR does not represent evidence.

**d) Incorrect and/or Misrepresented Data:-**

We are familiar with the Savills forecasts on page 16 of the LPVS but the LPVS fails to clarify that these forecasts do not apply to 'new build' which London Plan policies are aimed at.

Furthermore:-

- the forecasts listed on page 16 of LPVS are already out of date as most of the cited forecasters have since pegged back their growth forecasts, and;
- the LPVS fails to use 'independent' data sources rather than estate agent forecasts (who might wish to avoid gloomy predictions). Forecasts from independent bodies (e.g. MOLIOR) should feature.

Assuming the LPVS has used incorrect and/or has misrepresented base data such as this throughout, the LPVS is not professionally reliable.

**e) Build Costs:-**

Although the build cost rates are reported to have been produced by Turner & Townsend, this is not evidence in itself. Detailed comparable contract evidence is surely needed to justify these rates to represent 'evidence'.

In our experience the build cost rates suggested by Turner & Townsend are un-realistically low even if they relate to total scheme GIAs (which the LPVS fails to clarify). If they relate to NIAs

The LPVS needs to provide extensive and explicit evidence regarding build costs as, at the moment, the build cost rates used are unclear and un-substantiated.

**f) Model:-**

Although one cannot see any of the financial viability assessments that we assume the authors of the LPVS have prepared using the Three Dragons/GLA Toolkit, we question why the authors (i.e. The Three Dragons et al) have used the Three Dragons/GLA Toolkit software bearing in mind the vast majority of viability consultants (acting for either Councils and/or applicants) dispensed with this as an inferior model several years ago.

Independent reviews of the Three Dragons/GLA software (e.g. by BNP Paribas) have previously confirmed that it is inferior to software such as ARGUS, so why use it?

We fully expect the appraisals prepared by The Three Dragons et al in the LPVS to contain 'error equivalents' as a consequence of the software used which undermines its conclusions.

**g) General Approach to Viability Testing:-**

The LPVS makes no reference to (and does not appear to have given any consideration to) the RICS's Guidance Note 94/2012 (Financial Viability in Planning).

The RICS has been the pre-eminent professional institution representing the UK property and development industry for many decades.

To evade guidance provided by the RICS ignores input from most of the UK development industry which is not reasonable and questionable.

Charles Solomon (now head of viability at the GLA) was part of the Core Working Group that produced the RICS GN 94/2012 and so one would reasonably expect viability studies instructed by the GLA to consider it.

**h) Approach to BLVs (echoing the Mayor's Affordable Housing SPG and referred to in notes to proposed London Plan Policy H6):-**

The approach used within the LPVS to derive BLVs is misguided and the evidence used is not evidence.

In our opinion, the RICS's guidance on arriving at BLVs as set out in their GN94/2012 is well thought through and reasonable, albeit unavoidably open to some criticism.

However, certain stakeholders in the planning system are seeking to dismiss the RICS's guidance in favour of guidance within the Mayor's Affordable Housing SPG which is open to a lot more criticism.

There is no perfect approach and cannot be for a variety of reasons.

The LPVS has heeded the Mayors guidance on viability and therefore inevitably concludes what the Mayor's Affordable Housing SPG promotes. This is a major problem as the required approach to viability within the Mayor's Affordable Housing SPG is echoed within the proposed London Plan (particularly via H6 and Sections 4.6.1 to 4.6.15).

We have already made representations on the Mayors Affordable Housing SPG and its viability guidance and we would re-iterate everything we said therein (see **Appendix A**).

Via the new London Plan, we feel the Mayor is in-appropriately seeking to politically intervene in the free market via the planning system by unduly influencing/directing how Benchmark Land Value ('BLVs') should be arrived at (whereupon the required approach is also poorly defined). We think the Mayor's guidance needs to be less prescriptive.

Via Section 4.6.10, 4.6.11 in the proposed London Plan plus the Mayor's SPG and the LPVS/LPVSTR, the narrative is in danger of practically enforcing the use of 'EUV plus a land-owner's premium' ("EUV Plus") as the only acceptable approach to BLVs. The Mayor and the proposed London Plan (including numerous references to the Mayor's Affordable Housing SPG) effectively suppress Alternative Use Value ("AUV") and/or Market Value (as defined by the RICS in their GN 94/2012) as an approach to BLVs.

In reality, land values are ultimately determined by the market and prospective vendors of land will always consider AUVs and Market Value before selling. Meanwhile, purchasers of development land will usually seek to minimise what they need to pay for development land and so it would be wrong to assume that they readily over-pay.

'EUV Plus' is poorly defined compared to the extensive/clear definition and explanation provided by the RICS for Market Value in their GN 94/2012. AUV is also poorly defined but is effectively a component of Market Value.

With respect to EUV Plus, the key question is what the 'Plus' bit should be? For no apparent or logical reason, the GLA and their supportive consultants keep pointing to '20%' on numerous projects we have worked on but this is arbitrary. It also makes no sense whatsoever on sites that are cleared but have obvious 'alternative use' potential.

The Mayor's Affordable Housing SPG says that land-owner's premiums "could be 10 per cent to 30 per cent, but this must reflect site specific circumstances and will vary". This Mayoral SPG wording is in danger of being interpreted to mean land-owner's premiums should or must be 10% to 30% which is highly problematic and in-appropriate. We think the London Plan needs to absolutely clarify this if the EUV Plus approach is to be endorsed as the preferred approach (and/or used as alternative terminology for Market Value as defined in the RICS's GN 94/2012).

In reality, the 'Plus' percentage or sum (as there is no logic to suggest it should ever be any particular percentage) will or should take the BLV up to the sum that is equivalent to Market Value (as defined by the RICS in their Guidance Note GN 94/2012, as opposed to the 'Red Book', and whereupon full regard to planning policy must underpin development land purchaser prices). This may well be via the identification of alternative use development potential.

Some people point to 'Parkhurst' as important appeal case precedent on the topic of BLVs.

At the Parkhurst appeal (APP/V5570/W/16/315698) the Inspector considered an SVB of £6.75m to be reasonable even though the EUV was negligible or, at best, up to £700,000. Whatever terminologies one wants to use, the Inspector effectively considered a BLV equivalent to EUV plus 868% as reasonable. This confirms that it is not appropriate or reasonable for the Mayor or any Council to try and claim that a land-owner's premium should be 20% or within the range of 10% to 30%.

The Mayor's Affordable Housing SPG requires that landowner premiums are justified and yet, ultimately, there is no way of justifying any particular landowner premium (be it zero, 20%, 300% or £3m) without some kind of reference to land transaction evidence as it is otherwise arbitrary. Whilst the Mayor's SPG indicates that the level of premium can be informed by benchmark land values that have been accepted for planning purposes on other comparable sites, we do not think this is reasonable. It would not necessarily mean a 20% premium (for

example) is reasonable just because 20% was agreed (by way of an incidental 'equivalent' percentage) on a neighbouring site. Firstly, it may not have been 'agreed' but rather accepted under protest and, secondly, it would be equally reasonable to suggest that if a BLV equivalent to £10m per acre was agreed on a neighbouring site, that £10m per acre should be applied to the subject site – whether this equates to a premium over and above EUV of 20% or indeed 300%. In other words, references to and/or the application of land-owner's premiums via 'percentages' is in-appropriate and the London Plan should clarify this.

Furthermore, AUVs (which are effectively a component of Market Value) should not be suppressed by the wording of the proposed London Plan policies and/or by its references back to the Mayor's Affordable Housing SPG. The London Plan should support the use of an AUV and/or Market Value approach where the subject site is cleared (i.e. with no physical existing use thereon). N.B. We are currently working on a cleared un-contaminated 3.8 acre site in an urban centre in a south-eastern London Borough where a prolific viability consultant to London Boroughs and the GLA is seeking to apply a BLV of £1 based upon EUV Plus. In practice, this is where EUV Plus can lead (i.e. to a nonsense).

A BLV is the most crucial assumption within financial viability assessments and yet contention still exists with regard to how these should be reasonably derived.

There is no meaningful, logical or reasonable evidence supporting the Mayors guidance to viability. The RICS is apolitical and is surely the appropriate body to provide guidance in this regard.

Returning specifically to the LPVS/LPVSTR, this seeks to use BLVs agreed on certain planning consents by alleging that BLVs in associated S.106 Agreements (e.g. within review clauses) were 'agreed'.

We believe most of the LPVS BLV examples cited in Annexe J to the LPVSTR are connected to one particular viability consultant who only act for certain Boroughs and who will not negotiate on their approach to BLVs at local level (i.e. effectively EUV Plus only). However, we were involved in some of those projects where we know the BLVs were/are not agreed and that the applicant was practically force fed the EUV Plus approach by the Councils advisor (with the Mayor's SPG in the background) and where the 'Plus' bit has typically been 20% without evidential justification. In some cases, this has led blighted and un-implementable consents. Furthermore, there are only 35 BLV examples relied upon by the LPVS in Annexe J across only 13 London Boroughs. This is a completely deficient sample size and a fundamental flaw which undermines the LPVS.

Para 2.1.12 in the LPVS confirms that land values (and therefore BLVs) "should be informed by comparable, market-based evidence but excluding transactions above the norm". The LPVS does not present and has not considered any true comparable market-based evidence. This should reasonably include actual development land transaction evidence and analyses thereof.

**i) Profit:-**

Para 2.5.6 of the LPVS says its viability testing assumes a 'private developer'.

Clearly, the identification of reasonably necessary profit targets to private developers is therefore crucial to determining viability.

The LPVS states at Para 2.5.4 that "residential values and profit targets have been compiled by Housing Futures Ltd".

Having sought to establish what experience Housing Futures Ltd have with regard to residential values and profit targets, there is very little information available on the internet and we cannot find their web site. It appears that Housing Futures Ltd may be a person called Peter Redman who, some internet references say, has 'worked in social housing for 40 years' including a number of housing association and local authorities.

With respect, we are concerned that 2 crucial assumptions (i.e. profit targets and values) that are fundamental to the LPVS's conclusions and London wide planning policy have been 'compiled' by a consultancy that might not have sufficient experience in this regard. Furthermore, it is not clear what 'compiled' means in context. Have they determined what reasonable profit targets are?

The LPVS makes no mention of having gathered any evidence from Banks, financial intermediaries, equity and mezzanine financiers/funders with regard to what they need to see as prospective development profits in order to satisfy their conditions precedent to lending across a variety of property types and development risk profiles. If this evidence has not been obtained and considered as part of the LPVS, the LPVS cannot be credible as, without funding, development cannot happen.

At the moment, we are not convinced that sufficient evidence has been obtained and analysed to determine what a reasonable/necessary development profit is across the various housing, quasi-housing and mixed-use development projects considered within the LPVS because it is not apparent.

**j) Finance Costs:-**

Table 5.15 (page 34) in the LPVS indicates that the GLA have instructed the authors of the LPVS what finance rates to use. Surely the authors of the LPVS should produce evidence and express a justified opinion in this regard? This is not evidence.

Although Table 5.14 suggest that the GLA have evidence to support the instructed finance rates, we have looked at 'The Value, Impact and Delivery of Community Infrastructure Levy' (University of Reading, Three Dragons, Smiths Gore and David Lock Associates – Feb 20127) for example but see nothing in there that represents evidence to support any particular finance rate assumption.

Our experience of finance rates to the average hypothetical developer is that they are significantly higher than the GLA are suggesting including finance facility fees (which should not be ignored). Up to date explicit evidence is required regarding finance cost assumptions before the LPVS can be considered credible in this regard.

With respect to footnote 50 on page 34 of the LPVS, it is not appropriate to spread land finance costs over half the development period as professional development valuers would confirm. It is usually reasonable to spread finance costs on construction in this way because construction costs are indeed spread over the development period. However, finance costs on land compound from the day of purchase and usually continue compounding until the end of the development (or close to) unless the development is substantially phased (which is rarely the case with student accommodation development). This indicates that, in all likelihood, the results from the LPVS's viability testing of their 2 student development archetypes are wrong for this reason alone.

In conclusion, finance rate/cost assumptions significantly affect viability tests and yet the LPVS provides no evidence in support of its assumed rates/costs and has also applied them incorrectly with respect to land finance. This undermines the LPVS's conclusions regarding student accommodation development.

Proposed London Plan Policy H17 should not be adopted for this reason.

**k) Transparency & Financial Viability Assessments:-**

The LPVS/LPVSTR needs to provide the explicit financial development appraisals that must have been prepared to arrive at viability testing results.

Without these, one cannot reasonable scrutinise the workings behind the LPVS.

**l) Review Clauses:-**

If Policy H6 applies to student accommodation development and review clauses will end up being required on viability tested schemes that do not offer 35% affordable housing as a consequence of the London Plan, this would be unreasonable, unjustified and in-appropriate because:-

- The LPVS is fundamentally flawed for a number of reasons identified above and so 35% is not justified by evidence to start with, and;
- Evidence demonstrating that review clauses are not prejudicial to the fundability of development has not been provided and has not been properly considered (if at all). In earlier London Plans, review clauses were only considered appropriate on long term phased development projects and nothing has occurred since to warrant any deviation from that approach, and;
- Sound advice from the RICS (in their GN 94/2012) indicates that, for short term projects, review clauses are not appropriate and, for longer term phased projects, only pre-implementation reviews are appropriate. There is no evidence or ultimately constructive sense to have 'near end of development' reviews on short term projects and no need for pre-implementation reviews if a viability exercise has just been gone through. Review clauses are a serious threat to development especially as the GLA will combine them with un-realistically low BLV references. Although some review clauses have been agreed in what has been a rising market over recent years, we think these are in danger of seriously blighting development over the next few years where growth is not forecast, and;
- Banks, equity and mezzanine development financiers/funders need to be consulted directly, independently and comprehensively to establish what they will do if review clauses coupled with low BLVs become the norm. This is an imperative but has not apparently been done, and;
- Review clauses will seriously damage the ability to fund schemes as, in particular, loan security valuers will not be able to demonstrate adequate loan to value cover and risk cover.



# APPENDIX A

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## **WITHOUT PREJUDICE**

23<sup>rd</sup> February 2017

Dear Sirs,

### **COMMENT ON THE DRAFT AFFORDABLE HOUSING & VIABILITY SUPPLEMENTARY PLANNING GUIDANCE (SPG).**

#### **Introduction:-**

My views herein are on behalf of; James R Brown & Company Ltd and all past/present/future clients whether they are planning applicants or Boroughs.

We mainly act for planning applicants but occasionally act for Boroughs.

I have been appraising the viability of development projects for approaching 30 years and I am a qualified RICS Registered Valuer. I have also been directly employed by property development companies in the past.

Over the last 5 years (i.e. since the demise of Housing Association Grant), I estimate that I have produced viability reports for planning purposes on over 350 projects in London ranging from a two house scheme up to individual projects with Gross Development Values approaching £1bn (e.g. Whiteleys, W2).

Affordable housing provisions have been agreed at local level on about 98% of those projects following scrutiny of my reports by independent viability consultants. On average, the vast majority of those projects ended up with significantly less than 35% affordable housing but more than the 13% referred to in Section 1.2 of the SPG.

## General Response to the SPG:-

- a) The current system of negotiating affordable housing provisions on a site specific basis often involves numerous debates/issues but it is the optimum reasonable system in so far as Section 106 ("S.106") is capable of delivering affordable housing.
- b) Whilst greater certainty in development would theoretically be welcome, any quasi fixed affordable housing percentage (especially a high one like 35%) will eliminate numerous potential sites which can only come forward viably with less than 35% affordable. Recent history tells us that this is indeed most sites (hence the recent 13% delivery quantum referred to within the SPG).
- c) Although, the SPG does not prevent viability representations being submitted for schemes with less than 35% affordable, the implication of extended review clauses (bearing in mind how these are panning out in terms of how Boroughs are requiring them to operate seemingly without full appreciation of the related funding implications or the delays review clauses tend to bring about with respect to structuring and policing them) is such that either path to agreeing affordable housing provisions presented by the SPG (i.e. Routes A or B via the Threshold Approach) are un-sustainable. I do not think either option will incentivise the market, quite the opposite.
- d) Whilst everybody would like to see more affordable homes and a greater percentage proportion of affordable homes, the S.106 model is not the answer. The S.106 model is not meant to be a tax but a means to address harm caused by development. The Mayor and Government need to look at other affordable housing delivery models (and/or be more flexible with respect to the time duration of affordable housing 'restrictions' on S.106 affordable housing and affordability issues) as the S.106 model is already delivering as much quantum/quality as it can.
- e) As we all know, property markets move in cycles and most market commentators were calling the top of the market in London (notwithstanding that there are variances between Central & Outer London etc) towards the end of 2015.
- f) Recent 'start on site' statistics (e.g. as reported by MOLIOR – Page 14 Quarterly Analysis: Sales – January 2017) indicate a sharp reduction in the number of starts between 2015 and 2016. Now is not an appropriate point in the market to introduce an SPG like this.
- g) I believe that, in summary, this is because short to medium term markets are particularly uncertain, particularly since the Brexit referendum.
- h) Whilst the SPG seeks to help create certainty, it is seeking an average quantum of affordable housing that, on average, is too high and the main certainty will unfortunately be that this will substantially diminish development implementation and progression.
- i) Whilst the GLA may witness some planning applicants offering 35%, the overall picture in terms of starts on site will be the key measure as to the success or calamity of this SPG.
- j) It is clear that 35% is too high because, even in a rising market over recent years, 35% has not been delivered despite vigorous independent viability scrutiny.
- k) Where has 35% come from? Is there any up to date evidence to support this percentage as being, on average, viable? The fact that only 13% (if correct – as this does sound low) affordable housing has been delivered recently (following scrutiny by independent consultants) and that starts on site are currently falling sharply clearly indicates that 35% affordable is not typically viable.

- l) Whilst it is obvious that the GLA want to diminish land costs/values down to try and forcibly assist viability, I fear this will simply stop many sites coming forward for development. Does the Mayor have any considered evidence with respect to quantifying this substantial risk?
- m) The SPG is not clear upon whether a review clause route will be required if the tenure split and/or affordability split of a 35% provision is not policy compliant. What is most important between; affordable housing quantum, the tenure type of affordable housing and/or the affordability of affordable housing? I would suggest that the latter is the most important but this does not facilitate the highest quantum of affordable housing.
- n) The SPG and rapidly emerging advice to Boroughs from their viability consultants (following this draft SPG) does not appear to appreciate how most private residential led development is funded. Most involves a significant amount of Bank finance. To secure this, certain loan to value ratios have to be identified as well as prospective profit/risk levels. Currently emerging review clause concepts are in serious danger of rendering many prospective development projects un-fundable.
- o) Overall, I think this SPG will unfortunately damage housing delivery at this time.

Using the numbering in the SPG from hereon to make specific points, we comment against these as follows:-

Page 5

(S.9) – a move to 35% when schemes that have actually been delivered are averaging 13% affordable is substantially more than a ‘nudge’. It is not reasonable to expect, on average, developer’s to move from delivering 13% to more than double. Has the Mayor prepared any hypothetically ‘typical’ residual appraisals across the Boroughs to see what Residual Land Values (“RLVs”) are produced with 35% affordable housing along-side CIL payments etc and has the Mayor considered how these compare to ‘reasonable’ land values in the context of existing and competing land uses other than residential? If not, I would ask again - how is 35% justified and is there any up to date evidence to support this?

Page 6

(S.6) – the ‘debate’ about appropriate approaches to Benchmark Land Values (“BLV” – a.k.a. SVB) has been around for several years but remains critical. I believe that, if approached appropriately and reasonably, all of the current guidance (i.e. whether from the RICS, the GLA and/or other bodies) should lead to the same BLV number. In my experience, Boroughs and the GLA tend to shun the words ‘Market Value’ with respect to BLVs as they suspect this inevitably means high BLVs which lead to lower affordable housing provisions. However, this view of Market Value is unnecessary as the specific definition of Market Value in the RICS’s Guidance Note 94/2012 (Financial Viability in Planning) is well thought out by highly experienced professionals (who advise both private and public sector clients) and it is not the same as the definition of Market Value in the RICS ‘Red Book’. This means that, if approached correctly, the use of Market Value as defined within GN 94/2012 will not lead to SVBs which are purely based upon what similar sites may have recently sold for. Regard will had to whether or not such transactions appropriately accounted for planning policy.

Existing Use Value, Current Use Value and Alternative Use Values are a component of Market Value (as per RICS GN 94/2012). Whilst I understand the GLA’s concerns in how BLVs are arrived at, it is not realistic, reasonable or constructive to seek to cast aside Alternative Use Value as a key driver of BLVs and, furthermore, land transaction evidence needs to be considered (albeit with caution and with appropriate analysis) in deciding what ‘land-owner’s premium’ should be added to a CUV or EUV assessment.

A problem has developed amongst some viability consultants advising Boroughs whereupon they typically apply a ‘semi-fixed’ 20% land-owner’s premium (or less) for no discernible or evidential reason. The somewhat excessive but nonetheless valid example I tend to cite when querying this is what would happen if one had a garden shed on an acre of land in the middle of Mayfair. If the shed had an EUV /CUV of £1,000, it is clearly un-reasonable to suggest that the site would come forward for development for £1,200. General land transactions in the area would influence the minimum price at which a vendor would sell. The EUV or CUV plus land-owner’s premium approach has merit but not if a land-owner’s premium of 20% is considered to be ‘standard’ (which it should not be). Unless we are all going to be completely unrealistic, consideration must surely be given (albeit with caution and based upon appropriate/reasonable analysis) to:-

- Land transaction comparables.
- Whether the site is in a particularly low value use surrounded by high value uses and/or in a high value area.
- Whether the site is income producing or not.
- Whether there are any ‘push’ influences on a hypothetical vendor to sell.
- Any other valid/reasonable evidence or logic.

If one adds an appropriate land-owner's premium to a reasonable EUV or CUV, one effectively ends up with Market Value as defined by the RICS in their GN 94/2012. In this sense, the EUV/CUV plus land-owner's premium becomes a valuation 'method' with Market Value being the valuation 'basis'.

Whilst references are made amongst some viability consultants to typical land-owner's premiums ranging between 10-40% over EUV/CUV, it needs to be appreciated that, if expressed as a percentage, it might well be substantially above 40% (e.g. in the case of the garden shed in Mayfair example mentioned above).

On the ground, I have found some viability consultants, Boroughs and the GLA unfortunately seeking to unreasonably translate the EUV/CUV plus land-owner's premium approach and seemingly apply a cap of 20% on land-owner's premium. For example, I had one case where the site was about 8 acres and accommodated a football stadium and hotel. The Borough and their viability consultant were insistent that an appropriate BLV in that instance was £zero. Clearly, that was beyond unreasonable. To a lesser extreme, another project I have recently worked on involved a cleared site in E16. The Borough, their viability consultant and the GLA all recently claimed that a reasonable BLV is one which happens to equate to about £1.56m per acre. Unfortunately, even accounting for the fact that the Mayor wants to diminish land values to assist viability, vendors will simply not bring prospective development land forward at these levels. This is a major concern.

- 1.3 I do not believe the SPG's main aim to accelerate overall housing delivery will be achieved. An aim to secure more affordable housing in a more uncertain market cannot surely happen.
- 1.14 A number of Boroughs have used one or two viability consultants to produce viability reports to underpin and justify their Borough Wide affordable housing target. These were often produced some time ago and are out of date. In my experience, those same consultants have subsequently agreed that most of the individual projects that they have gone on to consider cannot deliver anywhere near 50% or even 35%. In conclusion, the evidence used to support the S.106 affordable housing policies adopted by most Boroughs are out of kilter with what has subsequently been agreed on average by the same consultants who have indicated that 35% or more is, on average, viable. There is a serious 'dis-connect' in this regard and this ideally needs to be considered by all stakeholders.
- 2.4 The Threshold Approach does not provide a realistic 'incentive' to developers. It effectively implies that developers can either go down Route B (and try and absorb a percentage of affordable housing which is too high) or face complication and delay via Route B (i.e. the viability 'and reviews' path).
- 2.6 Does this imply that The Mayor discourages the Threshold Approach for schemes under 10 units? Please can the Mayor clarify !

Page15

RouteA Current GLA policy and sound advice from the RICS indicates that, for short term projects, review clauses are not appropriate and, for longer term phased projects, pre-implementation reviews are appropriate. There is no evidence or ultimately constructive sense to have 'near end of development' reviews on short term projects and no need for pre-implementation reviews if a viability exercise has just been gone through. This will seriously damage the ability to fund schemes as, in particular, loan security valuers will not be able to demonstrate adequate loan to value cover and risk cover.

Page16

RouteB History tells us that 'delivered' schemes have only contained 13% affordable on average in what has been a rising market. This surely indicates that 35% in what is now a significantly uncertain market is un-sustainable.

- 2.14 As per my comments earlier, does the Mayor have any up to date evidence testing what 35% affordable typically does to land values across London and how these compare to existing use values and/or whatever might be deemed to be reasonable land values. I believe that this blanket approach will unfortunately damage land supply substantially.
- 2.15 Whilst the SPG indicates that Route B (i.e. 35% affordable) is not fixed, Route A is equally detrimental to development given the new/extended 'review' proposals.
- 2.29 Leaving LPA's to choose what affordable tenure (and presumably how affordable that tenure is) will be required on 40% of the affordable housing provision creates uncertainty and is likely to lead to additional viability issues due to that uncertainty and as most LPA's will probably choose the most affordable (and therefore least valuable) affordable housing tenures.
- 2.44 More affordable housing would be deliverable if it did not have to be perpetually affordable. Why shouldn't this be an option?
- 3.1-
- 3.6 Why does the Mayor effectively reject RICS guidance in favour of guidance on viability produced by the Boroughs? The RICS has members that act for private and public sector bodies and has been setting standards and providing advice on property development matters for decades?
- 3.14 Over the last 2 years, many RPs do not seem to have been interested in getting involved with S.106 affordable housing unless the site has consent. Understandably, they do not wish to waste their limited time resources on something that their organisation may never get an opportunity to own. Furthermore, as an increasing number of RPs are increasingly more focussed on doing private led residential development themselves, the requirement to involve them in financial matters pertaining to a planning application can present serious conflicts of interest. What does the Mayor advise in this regard?
- 3.33 The Mayor seems to be advising the market how they should assess necessary profit. However, in reality, applicants have to see profit targets based upon how Banks/shareholders etc measure profit and it is not reasonable for the GLA to tell the market how profit should be targeted. In reality, most developers and their funders target profit via profit on cost as a single percentage. They do not split profit between various elements within a scheme. Why is the Mayor trying to tell the market how they should target profit as this will surely lead to artificial viability assessments?
- 3.42 If thought through logically, EUV or CUV plus land-owner's premium should lead to the same BLV number as the definition of Market Value in the RICS's GN 94/2012.
- 3.46 In reality, AUV is a substantial influence on the price at which vendors are willing to sell land. Pushing this aside will damage land supply. Why does the Mayor think the EUV+ approach is usually the most appropriate approach for planning purposes? What evidence does the Mayor consider appropriate with respect to justifying the level of land-owner's premium?
- 3.48 An inappropriate interpretation of the RICS's definition of Market Value can lead to excessively high BLVs. Equally, and indeed more so in practice based upon my experience, viability consultants acting for LPAs can arrive at excessively low BLVs by mis-interpreting and/or not properly justifying (with evidence) EUVs/CUVs plus land-owner premiums. As such, it is unreasonable for the Mayor to not accept the RICS's recommended approach especially as the RICS is, collectively, the most knowledgeable non-political institution with respect to property development, valuation and viability matters in the UK.

3.49 It does not seem reasonable for the Mayor to direct that an AUV approach to BLVs should only be accepted if a planning consent for that alternative use exists. This surely has no regard to reality. Again, with respect to my 'garden shed on 1 acre of land in Mayfair' example referred to earlier, a vendor would not realistically sell that site for £1,200 if there is no planning permission for, say, an office block on the site. However, the scope to obtain a planning consent for office use might be realistic and would/should therefore be reflected in its value. Again, I believe the Mayor's proposed approach in this regard will seriously damage land supply.

3.50-

3.54 We have indicated our views on review clauses earlier herein. Compared to the GLA's previous policies on review clauses, no new evidence suggests that it is now appropriate to impose review clauses on single phase relatively short to medium term schemes. Indeed, current and foreseeable market uncertainty connected to Brexit (for example) mean that there is certainly no justification for this more than ever in the current market as it would be highly prejudicial to scheme fundability and deliverability.

4.1-

4.15 In simple terms, 'Build to Rent' and/or PRS schemes will typically be significantly less able to viably sustain an affordable housing provision as BtR and PRS are generally worth less than unrestricted C3 residential, especially if 'conditioned'. Is this fully accepted by the Mayor in principle?

Yours faithfully,

A black rectangular redaction box covering the signature of James Brown.

**James Brown BSc (Hons) MRICS**  
RICS Registered Valuer  
Director