

GREATERLONDONAUTHORITY

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Our ref: MD323

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Dear Jenny

Mayor's Response to London Assembly on Proposed London Plan Alterations – the use of planning obligations in the funding of Crossrail.

Thank you for your response of the 20 February 2009 to the draft proposals to alter the London Plan to enable the raising of contributions towards the funding of Crossrail. This letter constitutes my formal response as required under Section 335 (1B) of the CLA Act.

I am grateful for the detailed work done by your committee in considering this issue, and for the support you have expressed for the principle of what we are trying to do. The points you have raised are important ones, and have been very carefully considered.

There are a number of issues raised by you that I would like either to comment on, or reply to:

- *The Assembly is content to accept the Mayor's proposals to limit contributions to net new commercial floorspace over the threshold of 500 square metres on the basis that this type of development will have the most significant impact on the rail network in the morning peak and that other uses will still contribute to the funding of Crossrail through the supplementary business rate.*

Your support for my suggested approach is welcomed.

- *The Assembly has concerns that the level of the charge may affect the wability of some schemes in the current economic climate and the calculation of potential "leakage" may have been underestimated.*

If the proposed alteration becomes part of the London Plan, it will apply until 2026. If it becomes part of the review of the London Plan it will apply until 2031. Economic conditions will vary over this time frame, the current economic circumstances will not last forever. The position will be carefully monitored, and periodic reports will be made on amounts raised and their application. I believe a conservative approach has been taken in calculating potential leakage, but again this will be carefully monitored.

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- *The level of the charge is a consequence of the decision to restrict contributions to developments in the CAZ and the northern part of the Isle of Dogs. This limits the number of developments subject to the charge making it higher than it need be with potential impacts on the viability of some development within the CAZ and the northern part of the Isle of Dogs.*

This is a function of the legal and policy framework within which Section 106 operates. It can only be used in situations where it is necessary to make a development acceptable in planning terms. In this case to mitigate congestion impacts on the rail network a development may cause. This impact is at its highest in CAZ/IoD and much less elsewhere. The draft SPC makes it clear contributions will be sought elsewhere where appropriate, but this is unlikely to make a substantial difference to the level of the standard charge.

- *In the pursuit of ensuring simplicity of operation and administration, and providing certainty to developers, the proposals should pay due consideration to the tests of being fairly and reasonably related in scale and directly related to the development.*

Agreed. This is necessary under the relevant legislation and guidance.

- *Assessments should be made as to whether some of the marginal areas contained within the CAZ either contribute to congestion or benefit from its relief compared with some of the major centres outside the CAZ.*

It is of course a principle of planning law that every application has to be determined on its own merits. There may be cases where I do not seek a contribution for Crossrail from schemes in the CAZ. This is an issue that has been given very serious consideration in the light of the responses made during the first round of consultation, and I will continue to look at the issues involved.

- *The Assembly would recommend the Mayor consider levying the charge to other areas that will directly benefit from Crossrail possibly with adjusted tariffs to reflect land values and other considerations. This should have due regard to the value for money of such contributions, the effect on the local area and the viability of local developments.*

The draft Supplementary Planning Guidance encourages boroughs in outer London to implement the charge in light of local circumstances. However, I have redrafted this wording to give greater clarity. In general, I have aimed at making the policy as simple and clear as possible in order to promote certainty.

The degree of sophistication it is possible to embody in a policy of this kind is limited by the nature of section 106. The relevant Government circular (Office of the Deputy Prime Minister Circular 5/2005) makes clear that S106 is linked to the impact of developments – not the benefits conferred by transport investment. I do propose to make an explicit reference to the need to consider viability in the draft London Plan alterations.

- *The Mayor should ensure that sufficient attention is paid to the specific impact of the proposals at a local level. Certain boroughs at the margin of the CAZ derive a significant proportion of their Section 706 receipts from the areas within the CAZ. Consequently requiring contributions for Crossrail for developments within the CAZ may have a significant impact on individual boroughs in relation to the amount of Section 706 they ultimately receive to spend on local improvements. It may be that the local impacts are sufficiently significant to affect the decision to confine the proposals to the CAZ.*

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The delivery of Crossrail is of vital importance to London's future and the funding package that will deliver Crossrail relies on S106 contributions. Without the S106 contributions Crossrail, in its current form, cannot be delivered. As I have already said, the issue of places on the fringe of central London is one I will be considering further, and I will look at the various options in the light of the responses to the public consultation.

- *The Assembly would not wish to see any reduction in the priority given to tackling climate change as an objective for planning obligations across the whole of London. The Assembly recommends that the Mayor should not amend the existing policy 6A.4 unless the current priorities for tackling climate change in Section 706 contributions can be preserved. The Mayor should consider that Crossrail only be a priority for planning obligations where there is a direct link to any particular development such that the additional transport needs of that development will be met in part by Crossrail.*

The current wording of Policy 6A.4 in the London Plan gives highest priority to affordable housing and public transport improvements. My proposed wording change effectively splits 'public transport improvements' into two types of improvement – Crossrail and non-Crossrail. This proposed change does not undermine my commitment to tackling climate change, something the delivery of Crossrail will help with. However, I have received a number of comments on the proposed wording of this policy and I hope that my further amendment to 6A.4 gives greater clarity. The legal advice I have received on the effect of these wording changes on the relative importance of climate change suggests that this modification does not undermine the priority for climate change.

- The Assembly believes that consideration should also be given to existing policies that can be used to direct new development in areas of good public transport access and prevent development outside of existing town centres.
- *Assumptions made elsewhere about the likelihood of applying the charge on development around stations in Outer London leading to the perverse effect of displacing development to areas away from the rail network do not appear to have been considered as a risk that may lead to development being displaced outside the CAZ, particularly at its boundaries.*

The adopted London Plan, and the review will continue to promote development in areas of good public transport accessibility. However, this may not prevent developers from trying to avoid paying the Crossrail charge in outer London by locating their developments beyond the radius around Crossrail stations mentioned in the draft SPC (this will be 960 metres in the public consultation version). In these cases, I will be relying on boroughs to use their development management powers to refuse such applications. The draw of the CAZ and its agglomeration benefits means that 'Central Activities Zone-type' offices are unlikely to locate beyond the CAZ. Again, the Plan policies on promoting developments in areas of good public transport accessibility should prevent this from happening.

- *The Assembly notes that the CAZ was developed for planning purposes other than levying contributions for Crossrail. The Assembly would suggest that the Mayor review proposals to confine the charge to the existing CAZ boundary, particularly for areas on the margins which do not have such good access to the rail network and those which will not see significant reductions in congestion following the construction of Crossrail.*

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The CAZ boundary is well understood and gives certainty. However, this point is well-made, and I intend to define a central London area in the public consultation draft of the SPC to be used as a charging area, which will be based on the CAZ. I have already mentioned that I will be examining the issues raised by some areas on the fringe of central London.

- *This is a practical approach that demonstrates the potential for flexibility in the planning system (allowing for cases where the charge may be waived or reduced). The Assembly has concerns however that this contrasts with the stated aim of providing certainty of expectations to developers that a policy applying to a specific land use in a geographically defined area at a standard charge provides. The Assembly would want to see the proposals and the SPC more explicit about what conditions would have to exist for the application of a lower charge or a complete waiver of the charge.*

My concern would be that if the alteration and the SPC tried to list all possible eventualities and exceptions it would become too long and too detailed. It is for developers to show that, in their specific case, the charge should be reduced/waived.

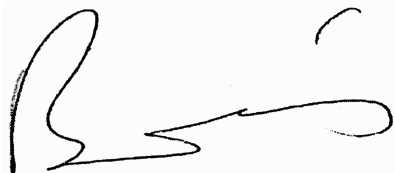
- *The SPC does not specify what the higher level of charge (In the Isle of Dogs) would be. The Assembly would wish to see details of the level of contributions that would apply in the northern part of the Isle of Dogs along with an explanation of the justification for a higher rate and how the proposed level of contributions has been calculated.*

The text of the draft SPC on which I sought the Assembly's views last December justified a higher rate contribution on the northern part of the Isle of Dogs, but did not state a figure. In light of the consultation responses, I am minded to include a benchmark figure in the public consultation version of the guidance, based on the level of contributions that have already been secured there.

- *The final implications of the introduction of CIL may require a review of the approach taken to the collection of developer contributions towards Crossrail and the Assembly would wish to see the Mayor preparing for this, should a review be necessary, in good time.*

Agreed. My officers are closely monitoring the situation and are having regular meetings with Government about the details of the new system and its implementation.

Yours ever,



Boris Johnson
Mayor of London