

HOUSING SPG

**CONSULTATION
SUMMARY**

Introduction

This report summarises the main changes to the Housing Supplementary Planning Guidance as a result of consultation responses received. The Draft Interim Housing SPG generated some 80 consultation responses. Officers have updated the SPG to take account of these responses, where appropriate, and to ensure the document is as up-to-date as possible. The SPG provides guidance to the 2015 London Plan and the 2016 MALPs.

The Housing and Planning Bill, currently making its way through the legislative process, has significant implications for how we plan for affordable housing in London. Therefore, other than a section dealing with viability, the majority of the Affordable Housing chapter consulted on remains as draft. It is likely that further guidance or advice on affordable housing will be required once more detail is known about the Government's approach and its implications for London.

PART 1 – HOUSING SUPPLY

How boroughs should achieve and exceed minimum housing targets

Further clarification that there are two strands to Policy 3.3 (housing supply) - policies which require boroughs to meet minimum targets (42,000 homes a year); and those which address the remaining balance of need (49,000 homes a year) by encouraging additional housing provision through higher density residential and mixed use development in appropriate locations, (eg. opportunity areas, town centres, surplus industrial sites and other large sites). [see paragraph 1.0.1]

Greater recognition that in meeting local and strategic housing need and exceeding minimum targets, boroughs will need to also consider other policy objectives, for example, those relating to employment and commercial floor space, industry and social infrastructure, together with the constraints affecting delivery. This might include particular planning and heritage designations, and unresolvable viability or infrastructure delivery challenges. [see paras 1.1.6 to 10].

This addresses representations from some boroughs that the draft SPG did not fully reflect the range of other non-housing related planning considerations which need to be considered, in line with the National Planning Policy Framework (NPPF). The SPG now explicitly acknowledges that these other strategic and national policy objectives will affect the extent to which boroughs are able to exceed minimum targets; and will be taken into account when assessing General Conformity with the London Plan.

To provide more certainty for Local Plan preparation, more specific guidance is provided on how and where boroughs should seek to re-evaluate the potential for extra housing capacity, beyond that which was identified in the SHLAA (42,000). [see paras 1.1.11-12]. This addresses comments from boroughs that the draft SPG was insufficiently clear on how this requirement would be assessed to ensure a consistent pan-London approach. The new text follows Policy 3.3 of the London Plan and highlights the need for boroughs to undertake a focused re-evaluation of existing and additional sites in the following locations:

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- areas with good accessibility (PTALs 4 and above, and PTAL 3 where there is scope for uplift in capacity)
 - town centres
 - opportunity areas and intensification areas
 - surplus industrial, commercial and public sector land
 - other large sites suitable for higher density development
 - existing residential areas planned to accommodate intensification through an agreed programme (eg estate renewal)

In addition, text changes confirm that boroughs may also wish to re-examine SHLAA assumptions on small sites (under 0.25 hectares) and explore policy approaches which could lead to additional delivery where this would be consistent with policies in the London Plan. [see para 1.1.29].

Applying the density matrix

A number of representations expressed concern that the approach in the draft SPG was overly cautious about higher density development and the scope for schemes to exceed the ranges in the density matrix, in particular, the statement that the ranges should only be exceeded in 'exceptional circumstances'. Representations suggested this does not reflect:

- the wording of Policy 3.4 and supporting text - which advises that the matrix should not be applied 'mechanistically';
- the reality that many approved schemes do exceed the matrix ranges and are considered acceptable; and
- the fact that appropriately designed higher density schemes will be necessary to ensure London meets its housing need.

Similarly, a number of respondents also felt that additional guidance is required on these 'exceptional circumstances' and the particular planning and design considerations which should be taken into account when assessing schemes which exceed the relevant density matrix range.

To address these various concerns, amendments have been made to the section on developments above the density ranges. A key change is to more explicitly acknowledge that in appropriate circumstances, it may be acceptable for schemes to exceed the matrix, but providing a range of important qualitative concerns are suitably addressed. These are summarised in a list of bullets at paragraph 1.3.51 and include:

- the need to achieve high quality design
 - levels of public transport access (PTAL)
 - other factors outlined in Policy 3.4 including infrastructure capacity and local character/context
 - a scheme's overall contribution to 'place making'
 - residential mix and type (eg unit sizes) taking into account location, play space provision, school capacity
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- the potential for large site to define their own characteristics, setting and density
- the need for appropriate management of refuse/recycling facilities and cycle parking
- whether sites are in the locations the London Plan identifies as being suitable for higher densities (eg OAs, IAs, TCs, surplus industrial, etc)

The revised section draws existing guidance which was spread around the draft SPG together in one place and aims to provide a clearer set of qualitative considerations for assessing schemes of this nature. However, it is clarified that this is not an exhaustive list of considerations and other local factors may need to also be examined.

Large sites and setting/character

Representations from some stakeholders raised concern about guidance in the draft SPG on density in relation to setting/character in relation to large sites, in particular, the advice that sites over two hectares have the potential to define their own setting and character. However, this is existing text that is already set out in the 2012 Housing SPG and was unchanged and carried forwards in the Draft Interim Housing SPG. Additional guidance has been added to confirm that this should be considered on a case by case basis and should be informed by guidance in the Character and Context SPG and, where appropriate, local characterisation studies. [see paragraph 1.3.32]

Cross-boundary issues and the duty to cooperate

A number of boroughs raised concerns about how this would work inside London, given the need for all boroughs to meet and exceed minimum targets and contribute towards closing the gap between minimum targets (42,000 pa) and London's overall need for 49,000 homes a year. New guidance is provided to confirm that this will be managed in a consistent manner through the General Conformity process, taking account of particular constraints and other policies. [see paragraph 1.1.22-23]

Minor changes have been made to guidance on how boroughs should engage with neighbouring authorities outside London. This addresses stakeholder concerns that the draft SPG did not reflect the full requirements of the duty to cooperate and provide sufficient clarity. Hence, it is confirmed that boroughs should engage with neighbouring authorities to identify and assess housing capacity and need and that this process is best served when boroughs have fully examined their potential to accommodate additional housing. [see paragraph 1.2.7-8]

PART 2: QUALITY

The quality section of the SPG has been updated to reflect the adoption of the national housing standards. In addition, responding to consultation responses and DCLG, the detailed access standards have been replaced by a single access standard which refers to Part M (which now provides the detailed guidance). The detailed space standards have also been removed and replaced by a standard requiring all new dwellings to meet the nationally described space standards. This approach provides less duplication and reduces potential for confusion. This means the number of standards in the SPG has been significantly reduced.

The other changes to the section seek to ensure clarity. There was a range of consultation responses on the standards, some felt specific standards needed to be amended or be worded more flexibly. However, paragraphs 2.1.17 to 2.1.19 detail how the standards should be applied and is clear that Policy 3.5 provides flexibility where development proposals meet specific, identified needs and demonstrate exemplary design. Therefore, further amendments to the standards were not seen as necessary.

The requirement to provide level access for all new dwellings (in order to meet M4 2) raised concerns from a number of respondents. This was discussed in detail at the MALP EIP. The final MALP is clear that for schemes of four storeys or less the impact on viability service charges can be taken into account and may mean only the lower mandatory access Building Regulation (M4 1) is applied. Further guidance is provided in the SPG to provide examples of where ensuring level access may pose particular difficulties (flats above shops, small infill sites etc.) [see paragraphs 2.3.8 to 2.3.11]. There are calls from some to provide more guidance around level access and street based design. However, level access and street based design are not mutually exclusive and the Plan/ SPG provides sufficient encouragement of good design that such an addition is felt unnecessary and potentially counterproductive.

Zero carbon

The SPG provides guidance on how to apply Policy 5.2 given the national removal of the zero carbon target and provides a London definition of zero carbon. This follows the existing approach with increased offsetting, subject to viability [see paragraphs 2.3.56-2.3.60].

PART 3: CHOICE

Numerous respondents commented on the size of the SPG. To address this concern the Choice section has been rationalised with many of the more discursive sections being removed.

Strategic housing market assessments (SHMA)

The section on SHMAs has been amended slightly to suggest a pragmatic approach should be taken to the geographical scale SHMAs are carried out at, while ensuring the complex linkages between areas within and outside of London are taken into account regardless of the geographical scale chosen. It also provides an update on the approach to take account of market signals which a number of respondents raised as an issue.

Build to rent [see section 3.3]

This section of the SPG provides guidance on how to take account of the distinct economics of covenanted PRS as the Plan requires LPAs to do. There were a range of responses to the detail of this section. Some respondents felt the guidance was too prescriptive and others felt more clarity was needed on certain areas. The SPG has a careful balancing exercise to perform here; it should provide an enabling policy framework in which the build to rent sector can grow and thrive, while also ensuring that affordable housing is not lost unnecessarily and that traditional build for sale developers

are not put at a disadvantage.

There was a range of views on the covenant period and although some have sought greater flexibility, it seems that the 15 years has become accepted as reasonable.

The draft SPG encouraged 'clawback' to fund affordable housing where private rented homes were subsequently sold out of the bulk PRS market. The aim of this approach was to recognise that 'distinct economics' only exist while the units are still retained as long term PRS. Clawback was supported by most boroughs and generally accepted by the private sector. However, some respondents suggested it would not always be appropriated and felt flexibility was required on a site by site basis. However, there was no elaboration of why clawback would not be appropriate. Those delivering 'build to rent' have made it clear that they are keen to have greater clarity from the Mayor to encourage a more consistent approach across Local Planning Authorities (LPAs) and the updated section of the SPG provides that clarity..

Responding to consultation responses the final SPG :

- Provides positive support to long term PRS and the use of covenants and clawback as a way to address the sector's distinct economics (as required by the London Plan), while also ensuring that affordable housing is not lost unnecessarily and that those building for sale units are not put at a disadvantage.
- Is clear that PRS business model is different to 'for sale' schemes.
- Suggests covenants should be for 15 years or more and that the length of covenants should increase as confidence in the product grows.
- States that the clawback period should be for no less than 15 years to justify the recognition of the distinct economics. Clawback is only applied if the units are sold onto the open market.
- Highlights that the covenant/Section 106 must be worded carefully to ensure that the units can retain a zero VAT rating. This section has been reviewed by HMRC to ensure it does not cause any problems in this regard.
- Highlights the suitability of discounted market rent for such schemes where traditional affordable products are unviable.
- Encourages flexibility on size mix for schemes near public transport nodes etc.

Affordable student accommodation [see section 3.9]

The section sets out how the requirement in the London Plan to include an element of affordable student rooms in purpose built student accommodation not linked to a university should be delivered. This section has been updated to;

- Reflect Government changes (removal of the means tested grant).
 - Reflect calls for greater clarity on how the affordable bedrooms should be allocated.
 - Provide greater support for generally affordable student accommodation.
 - Responds to concerns about impacts on affordability by encouraging Local Planning Authorities (LPAs) to;
 - allow other uses of student accommodation outside term time,
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- take account of the requirement for affordable bedrooms when setting their CIL rates for student accommodation.

Some respondents suggested that it was inappropriate to include an illustrative percentage of affordable accommodation. However, reference to the percentage of all students in England that receive the means-tested maintenance grant for living expenses simply illustrates sources of information a borough may wish to reference when called upon to justify the need for affordable student accommodation. Therefore it remains in the final SPG.

The Government have announced its intention to discontinue grants; however the figures related to students in receipt of the maintenance grant are currently the most relevant. The SPG has been amended to address the removal of the maintenance grant for calculating student income and also propose a mechanism for allocating the affordable student accommodation which will link to universities determining which student are most in need of the accommodation.

The high level of CIL levied against student development by some LPAs was raised in the responses. The cost of the CIL will be taken into account in the viability assessments when agreeing how much affordable student accommodation a scheme can provide.

It is noted that affordable student accommodation is not automatically exempt from CIL charges. However boroughs can apply a nil or reduced rate on their CIL charging schedules when they revise them. The SPG has been amended to highlight these options to reduce CIL charges for affordable student accommodation.

There were mixed views over the use of summer time income, some felt this did not reflect the reality of the amount students worked, while others felt the income earned in the summer is needed to pay for other living accommodation over this period. Therefore this income element has been removed from the calculation.

Other Choice section changes:

- **Family homes** have been edited as it repeated guidance set out in the SHMA section.
 - **Custom build** remains the same. Updated guidance may be required once the Housing and Planning Bill has been enacted.
 - **Gypsies and travellers** remains the same.
 - **Older persons section** has been updated to take account of more recent research, but also edited to remove some of the more discursive elements of the draft guidance. In addition, some updates have been made to these sections to reflect consultation responses, in particular around use classes for older persons accommodation. It has also been updated to provide further clarity around the application of housing standards to specialist accommodation in the C3 use class.
 - **Mixed and balanced communities** – has been removed and will remain draft.
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PART 4: AFFORDABLE HOUSING

Viability

The Housing and Planning Bill has significant implications for the approach to, and delivery of, affordable housing in London. The detailed implications of the Bill are not yet clear, but the guidance in the affordable housing chapter of the SPG could soon be considered out of date. However, in advance of the Housing and Planning Bill being enacted and associated regulations being laid, the approach to affordable housing remains that set out in the London Plan. Given that the Act/new regulations are expected to be in place by the autumn and the NPPF is being updated, it is arguable that providing comprehensive guidance here on affordable housing based on the current NPPF and current London Plan policy could in the future prove confusing. Changes have therefore not been made to the affordable housing section of the consultation draft SPG other than that part dealing with viability. .

The Plan's approach to viability is unlikely to be affected by national changes to affordable housing policy so the part of the SPG dealing with viability has been retained and refined in light of consultation and is included here as part of the published Guidance. It is intended to inform implementation of relevant London Plan policy including viability appraisals and affordable housing negotiations.

The general principle of the Mayor providing guidance on viability was supported. But a number of specific issues were raised in responses. Therefore, a number of changes have been made to this section.

The final SPG;

- Highlights that all plans adopted post NPPF should be considered viable and thus negotiations to reduce obligations based on site specific viability considerations should only be necessary where the site circumstances suggest exceptional or abnormal costs that will make policy compliance unviable.
 - Reaffirms the use of 'EUV plus' as the benchmark land value (BLV) and makes clear that where other approaches are used they must reflect policy requirements. This will help reduce the current circularity, which encourages developers to overpay for site and try to recover some or all of this overpayment via reductions in planning obligations. Reflecting comments received, this approach ensures that there is clear guidance on BLV and support for EUV plus, while also providing the flexibility to use other approaches where justified and ensuring that, if used, other approaches reflect policy requirements [Paragraphs 4.1.4 -4.1.6].
 - Is clear that financial appraisals should be included in the referable documentation to the Mayor and that the Mayor will seek the information if it is not made available [4.1.8]
 - Encourages the transparency of information to increase public trust in planning and asks developers to keep confidential information to a minimum [4.2]. A significant number of respondents highlighted this as an issue. The final SPG balances the calls for full transparency (from boroughs and community groups) on the one hand and the need for certain information to remain confidential on the other (raised by developers and agents).
 - Provides advice for the implementation of review mechanisms [section 4.3]. A mix of comments were received on this section; some supported the approach set out, some suggested further
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clarity was needed while some felt the guidance was aiming to introduce new policy. The section provides guidance on the implementation of Policy 3.12; builds on the guidance in the 2012 Housing SPG; and does not introduce new policy. However, the section has been amended to take account of comments received:

- ◇ The reference to a typical 'profit split of 50/50' has been removed as most respondents felt this should be based on site specifics. A reference to recent appeal cases on this issue is made to help demonstrate that different approaches can be acceptable depending on those scheme specifics.
- ◇ It has also been updated to make clear that a cap must be set as part of the review mechanism as an open-ended profit share is unlikely to meet the tests of a planning obligation.
- ◇ The section also clarifies that review mechanisms may be considered appropriate on schemes with long build out periods (not just phased schemes) and on schemes with shorter development terms. This builds on the guidance in the 2012 SPG which suggested that for schemes with a shorter development term LPAs should consider the use of triggers in section 106 clauses to review viability if a scheme is not substantially complete by a specific date.
- Responding to comments on whether a review should mean the level of affordable housing contribution should be able to go down as well as up, the SPG highlights the need for schemes to be acceptable in planning terms and that a section 106BA application can be used in circumstances where agreed levels of affordable housing have become unviable.
- Provides advice on 106BA applications and the changing of affordable housing tenures [section 4.4].
- Suggests that LPAs may want to explore fixed affordable housing targets for opportunity areas and housing zones. Responses to this suggestion were mixed and given that the guidance only highlights that it is an approach LPAs may wish to explore, it has not been amended.

PART 5 – STOCK & INVESTMENT

Specialist housing for older people

New guidance is added to confirm that existing provision should be retained where possible, except where there are acceptable plans for its replacement elsewhere.

Estate renewal

No changes bar recognition that the redesign of estates should maximise active frontages and minimise inactive frontages in order to increase natural surveillance and activity, linking to the Mayor's housing standard on active frontages.

PART 6 – SOCIAL INFRASTRUCTURE

No substantive changes are made to this chapter.

PART 7 – MIXED USE & LARGE DEVELOPMENTS

Strategic Outer London Development Centres

Text in the Draft SPG is replaced with what is currently in the current 2012 Housing SPG as this was seen to provide a greater focus on the employment and non-housing related functions of these areas.

Accommodating growth in smaller households

Some boroughs questioned the draft SPG's approach to encourage boroughs to apply unit mix policies flexibly in town centres and on PRS schemes and guidance that boroughs should consider 'net benefits' in terms of downsizing and freeing up large family homes. Minor changes have been made to this section to recognise that these 'net benefits' may not be guaranteed but could still be considered.

Densities in opportunity areas and town centres

Minor changes to wording have been made to ensure consistency with the approach taken in Section 1.3 and remove reference to 'exceptional circumstances' in relation to density.

Transport measures in opportunity areas

Following advice from TfL, additional guidance is provided to confirm that transport infrastructure should be considered at an early stage.

Housing Zones

A number of boroughs requested the Mayor confirm by what mechanism a fixed target would be applied in OAs and HZs. It is not considered appropriate to provide prescriptive guidance on this, in order to allow for a range of approaches based on particular local circumstances. Some approaches could be carried forward through a Local Plan, with others addressed through Opportunity Area Planning Frameworks (as has been done in the past).

Release of surplus industrial land

Additional text is provided to confirm that the review of Strategic Industrial Land and Locally Significant Industrial sites should be undertaken on a regular basis, through the preparation or review of Local Plans.

Recognition that mixed use development of surplus sites can provide scope for modernising and upgrade existing business floor space and provide opportunities for small and medium sized companies.

Respondents to the consultation

Age Uk
Andrew Golland
Assael Architecture
Be:here
Beaumont Properties Limited
Berkeley Group
British Land
British Property Federation
Canary Wharf Group
Cargiant
Cass Claredale Halls of Residence Association Ltd
CBRE Global Investors

City of London Corporation
Clean Air London
Croydon Ltd Partnership
Daniel Scharf MA MRTPI
Downing
DP9 Limited
Environment Agency
Fizzy Living
GIA Consultants
GLA Strategic Access Panel
Grainger plc
Greater London Authority Strategic Access Panel
Greystar LLP
HATC
Hayes Community Development Forum
Highways Agency
Historic England
Institution of Civil Engineers
Just Space
LaSalle Investment Management
LB Barking & Dagenham
LB Bexley
LB Bromley
LB Bromley
LB Croydon
LB Harrow
LB Islington
LB Lambeth
LB Merton
LB Richmond upon Thames
LB Tower Hamlets
LB Waltham Forest
Legal & General
Lesley Gibbs
Levitt Bernstein
Linden Homes South East
London Assembly Planning Committee
London Boroughs Development Viability Group
London Chamber of Commerce & Industry
London First
London Forum
London Higher
London Tenants Federation
London Waste and Recycling Board
McCarthy & Stone Retirement Lifestyles Ltd

HOUSING SPG CONSULTATION SUMMARY

Metropolitan Police Service Crime Prevention & TP -
Capability
National Union of Students
Natural England
Notting Hill Housing Trust
Paddy Jackman
Philip Ridley
Places for People
Povewell Estates Ltd
RB Greenwich
RB Kingston
Redrow Homes Ltd
Retirement Housing Group
Simcha Green
Transport for London
UNITE Group plc
University College London
Westminster City Council
