



Clear, Consistent and Transparent? The Mayor's Affordable Housing and Viability SPG

Following consultation in February 2017 the Mayor has published the Affordable Housing and Viability SPG. The final SPG includes a number of important modifications to the draft.

The Mayor re-affirms his commitments for half of all housing completions in London to be affordable, setting measures to address the legacy of undersupply and an annual delivery rate of 17,000 homes per year.



Threshold Approach

In the interests of increasing supply, speeding up delivery and standardising and simplifying affordable housing negotiations, the Mayor has introduced a twin track approach:

1 Fast Track Approach:

Where 35% is exceeded, or 50% on public sector land, without grant or public subsidy the applicant will not be required to submit viability information.

The fast track approach requires the GLA tenure mix (30% low cost rent, 30% intermediate and 40% to be determined by the Local Authority), and other planning requirements subject to the satisfaction of the LPA.

2 Viability Testing:

Where applications do not provide 35%, the Mayor will require viability information to be submitted and assessed by the GLA.

The following types of scheme will automatically go down the viability tested route:

- Applications that propose affordable housing off-site or through a cash in lieu contribution;
- Applications which involve demolition of existing affordable housing (in particular estate regeneration schemes)
- Applications where the applicant claims the Vacant Building Credit applies.

Commentary

Affordability remains a key priority for London and the SPG sends a clear signal that the Mayor is prioritising increased supply and quicker delivery of affordable housing.

The SPG includes important and welcomed guidance in terms of Build to Rent and important clarifications from draft to final versions of the SPG; namely recognition that satisfying all planning requirements and obligations in order to benefit from the fast track approach is unworkable in practice.

However, there remain areas of concern, including requirements for EUV+ benchmarked land values and the ongoing issue of this undervaluing land.

Also of concern is the position on review mechanisms and requirements for a late stage review at 75% of completions. This will add additional viability burden for complex strategic brownfield sites and further risk in bringing these sites forward.

Ultimately, the SPG remains guidance, but an important

precursor to the new London Plan (timetabled for November draft publication).

Delays in the planning process will inevitably arise where strategic applications do not meet the 35% target and are unsupported by robust viability. We will also have to see how the London boroughs respond, although we have already seen a number of Labour controlled boroughs bringing their affordable housing policies and guidance in line with the Mayor's approach.

Transparency

The Mayor will require full disclosure of viability information at Stage 1 or Stage 2 of the referral process. The SPG is clear that there is a presumption in favour of disclosure and non disclosure will only be justified in exceptional circumstances. The onus is on the applicant to demonstrate that commercial sensitivity outweighs the public benefit test (FOI Regulations). ■

Review mechanisms

The Mayor has clarified his position on clawback mechanisms. For schemes using the Fast Track Route, there is only an "early viability review" triggered if an agreed level of progress in delivering homes is not made within two years of the planning permission being granted (or a timeframe agreed by the LPA and set out in the S106). For schemes using the Viability Tested Route there will be both an early and a late viability review. The late review occurs at the point when 75% of the units are sold or let. ■

Viability testing for scheme amendments (S73 Applications)

Importantly, the Mayor has confirmed that viability testing may apply to Section 73 applications to amend planning permissions. This applies to both the fast track route where developments no longer meet the 35% requirements or the viability route to determine whether additional affordable housing can be provided. ■

Build to Rent

The SPG recognises the importance of Build to Rent to meet specific housing need and provides clarity on the Mayor's definition of Build to Rent schemes as comprising at least 50 units, covenanted for at least 15 years with certainty of tenancy and unified ownership, and on-site management. The SPG is clear that Build to Rent schemes should be subject to viability and the maximum reasonable level of affordable housing will be sought and discounted market rent or London Living Rent is the preferred affordable product. ■



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Nick Belsten

Director
020 3848 2541
nick.belsten@indigoplanning.com



Sam Pullar

Associate Director
020 3848 2549
sam.pullar@indigoplanning.com