

ORGANISATION	LONDON FIRST
ID	1588
MATTER	M24 AFFORDABLE HOUSING

**M24. Would policies H5 to H8 provide a justified and effective approach to delivering affordable housing to meet the good growth objectives set out in Policy GG4? Overall, would they provide an effective strategic framework for the preparation of local plans and neighbourhood plans in relation to affordable housing? In particular, in relation to each policy:**

#### **Policy H5 Delivering Affordable Housing**

**a) Would the definition of ‘genuinely affordable housing’ and the Mayor’s ‘preferred affordable housing tenures’, include the affordable homes needed?**

1. The definition used reflects the significant need for more affordable homes and the preference the Mayor states for these tenures provides certainty to those trying to develop. This certainty, however, needs to be matched by a pragmatism about the quantum of affordable homes the Mayor is seeking to deliver. The deeper the discount that the affordable housing product has to open market sale, the more expensive it is to provide. This will affect the viability of a development, meaning a smaller quantum of affordable homes can be provided but at a greater discount. Striking the right balance is key.
2. For example, the Mayor’s emphasis that through the Threshold Approach the boroughs’ 40 per cent choice of affordable tenure (of the 35 per cent of affordable housing) should focus on Social Rent and London Affordable Rent (paragraph 4.7.1) is overly prescriptive, and may, in some areas of London, push development to the margins of viability or beyond (see our response to question (b) for H7 below for further information). Boroughs should have the flexibility to determine the type of affordable housing and tenure mix that they require according to local circumstances and housing need in their area.

**b) Would the strategic target of 50% of all new homes to be genuinely affordable be justified in light of the identified need?**

1. The lack of affordable housebuilding is part of London's wider failure to build enough homes and should be seen in this context. It is clear that there is significant need for more affordable housing in London, but the London Plan must strike a balance between increasing the supply of affordable housing and not undermining the general viability of development to the point that less schemes come forward.
2. Private sector development must make a contribution to affordable housing delivery, but that contribution is a function of the economics of development, which is highly cyclical and dependent upon: the wider economy; borough and Mayoral CIL; other s106 requirements; and the cumulative impact of other policies in the Plan.
3. The strategic target of 50% of all homes to be genuinely affordable must therefore be implemented flexibly, particularly in relation to the application of the Threshold Approach (see our response below for question (a) pursuant to Policy H6). The quantum of affordable housing needed in London will only be met with significant public investment and potentially wider changes to land supply policies that encourages more land to come forward for development.

**c) In requiring major developments which trigger affordable housing requirements to provide affordable housing through the Threshold Approach, would the policy be effective in delivering the quantum of affordable housing required?**

1. The Threshold Approach to major developments provides clarity to developers and, in theory, a potentially quicker route through the planning system. However, it will not, by itself, deliver the quantum of affordable housing required. Planning policy is an important part of the framework that guides the delivery of affordable housing, and it clearly plays a vital role in determining the broader viability of development. However, without significantly more public money to support an increase in affordable housing delivery, it is highly unlikely that the move to the threshold approach will drastically increase the provision of affordable housing. Furthermore, it may well increase the number of affordable homes granted planning permission but, if schemes are pushed to the limits of viability to get through planning, this will not necessarily translate into starts and homes actually being delivered. In other words, 35% of nothing delivers zero homes, which is in nobody's best interests.
2. As currently constructed the Threshold Approach is too rigid. It is helpful to have a clear threshold policy to influence forward land values and to deliver certainty, but an overly prescriptive approach risks reducing development at

least until the land market clears, and this could take the lifetime of the Plan. In the meantime, some flexibility within the Threshold Approach will ensure that delivery is maintained and encouraged. We have suggested changes to the Threshold Approach in response to policy H6 Threshold Approach to applications, question (b) below.

**d) Would the approach to affordable housing providers, public sector land and industrial land be justified and effective?**

1. The draft Plan currently provides the following definition of 'public sector land' at paragraph 4.6.5:

*“Land that is owned or in use by a public sector organisation, or company or organisation in public ownership, or land that has been released from public ownership and on which housing development is proposed”.*

2. London First is concerned that the definition could be applied unjustifiably to privately owned land that has been transferred by public bodies where the motivation for the transfer was not one of avoidance of the draft policy. Furthermore, no timescale is placed on the policy. Land could have been transferred from public ownership prior to the drafting of the policy and still be caught. Land transferred before the policy is introduced cannot have been released from public ownership for 'avoidance' purposes, and should therefore be expressly excluded from the policy. It would be unfair to landowners if land transferred from public ownership before the introduction of the policy is caught.
3. On this basis, we consider that the definition of public land at paragraph 4.6.5 should be amended to:

*“Land that is owned or in use by a public sector organisation, or company or organisation in public ownership, or land that has been released from public ownership **after the introduction of this policy for the purposes of housing delivery** ~~and on which housing development is proposed~~”.*

4. In terms of setting a higher affordable housing requirement of 50% for public land, the organisations disposing of such land will need to reflect the quantum of affordable homes that are required in the price they are seeking for the land or in a development agreement. In other words, with an obligation to deliver a high percentage of affordable housing, a public sector landowner will be constrained in the amount of money that could be generated from the sale of the site. We support the portfolio approach advocated in H5A (4).
5. With regard to the 50% threshold for affordable housing providers that have agreements with the Mayor, the approach is justified providing they receive sufficient public funding to support their development programmes.

6. Bringing forward industrial land for housing can carry significant costs that will impact on viability: for example, site contamination remediation and the additional investment required to create a suitable place to live. Our full viability assessment of the viability appraisal of the draft Plan demonstrates that the expectation for 50% affordable housing provision on industrial land is generally not viable. There does not appear to be sufficient justification for this approach, and it will not prove effective in supporting an increase in housebuilding from this potential source of supply. Notwithstanding this, we welcome the new insertion of H5A (4A) to clarify that the 50% affordable housing expectation only applies where there is a net loss of industrial capacity.

**e) In requiring on site affordable housing generally, would the policy provide adequate flexibility to take account of local circumstances?**

1. London First supports the on site approach to affordable housing delivery and that such housing should only be provided off-site or as a cash in lieu payment in exceptional circumstances. However, the Plan should provide a clear framework setting out those circumstances. Accordingly, the following should be added to H5B:

B Affordable housing should be provided on site. Affordable housing must only be provided off-site or as a cash in lieu contribution in exceptional circumstances. **The following criteria should be used to assess the appropriateness of off-site contributions:**

1. high land value location;
2. existing site-specific physical constraints;
3. constraints arising from designated heritage assets on the main application site;
4. proposed built form (e.g. a tower or other single core building);
5. unaffordable service charges arising from the nature of the proposed development;
6. the identified local housing need can be better met off-site (e.g. family housing); and
7. relationship between the donor site and the main application site.

2. Further flexibility could also be introduced if H5 supported the use of land swaps and affordable housing credits. The current system is reactive, waiting for 'need' to be generated by the construction of private housing or other affordable housing use. An affordable housing credit system would enable sites that have been identified for affordable housing to be delivered as soon as possible, with the homes created subsequently offset against a scheme that generates an affordable housing requirement. Such a system would need to be carefully managed, but, successfully implemented, it could better take account of local circumstances than policy currently allows for.

**f) Does the approach taken in Policy H5 provide sufficient flexibility to take account of local circumstances?**

1. The policy does not currently provide sufficient flexibility and a clearer framework should be put in place to allow the boroughs discretion to take account of local circumstances. We have outlined above specific suggestions as to how this could be achieved in response to question (d).

**g) Overall, would the policy be effective in delivering the affordable homes needed?**

1. For the reasons set out above, particularly in relation to public funding for affordable housing, Policy H5 is unlikely to be effective in delivering the affordable homes that London needs, given the level of need and the nature of private development. However, H5 can make a greater contribution if London First's suggested amendments are adopted.
2. It should also be noted that the effectiveness of Policy H5 in terms of delivering affordable homes is closely connected to the deliverability of H6 and, indeed, many other parts of the draft Plan. Overall, the draft Plan's overly prescriptive nature and the cumulative financial burden placed on development by this approach pose a challenge to the Plan's deliverability and, specifically, the housebuilding target of 65,000 net new homes per annum, which, in turn, impacts on the number of affordable homes constructed.

## **Policy H6 Threshold Approach to Applications**

### **a) Would the Threshold Approach to viability, with a fast track route and viability tested route, as set out in policy H6, be justified and effective? Would the threshold level of affordable housing as set out in Policy H6B be justified and effective?**

1. The broad approach set out in H6 – i.e. introducing a threshold – can be justified and will, to some extent, provide much needed clarity regarding affordable housing expectations. However, Policy H6's failure to distinguish affordable requirements between different types of residential development – that is, applying a blanket 'for sale' approach to all tenures – is a mistake and will undermine the effectiveness of the policy. That is not to say that other tenures cannot, at some point, provide the 35% affordable housing requirements, but that setting this level as the default on build to rent and student accommodation is not justified by the evidence and is thus premature. We have set out more detailed comments on the application of the threshold to these tenures in response to Matters M29–M33.
2. If Policy H6 is to be effective in delivering more affordable housing, the boroughs need to be more strongly encouraged to adopt the same policy approach at a local level. The incentive for an applicant to reach the 35% threshold is that their application will then follow the Fast Track Route and obtain planning permission more quickly. This is now being factored into land values, and developers are trying to deliver 35% where practicable to do so. However, it is very rare for an applicant to benefit from the Fast Track Route because the boroughs still generally request viability information as per their Local Plan policies. Therefore, the Threshold Approach has not sped up or simplified the planning application process in the way that was intended, and developers are feeling less inclined to cooperate with the new system.
3. H6B sets a higher threshold level of 50% affordable housing on industrial land where there is any net loss of industrial capacity. This will likely discourage development from coming forward, and will thus be ineffective in increasing housing supply, because of the additional costs associated with these types of sites, which often include contamination remediation. Our full viability assessment of the viability appraisal of the draft Plan demonstrates that the expectation for 50% affordable housing on industrial land (where there is any net loss in industrial capacity) is not viable. There is, therefore, insufficient justification for this approach, and it will not prove effective in supporting an increase in housebuilding. H6B (3) should be deleted and the standard 35% threshold should apply.
4. H6B also sets a higher threshold level of 50% affordable housing for public sector land where there is no portfolio agreement with the Mayor. In our response to question (d) under H5 above, we have set out the reasons why we

consider the following amendment should be made to the definition of ‘public sector land’ at paragraph 4.6.5:

*“Land that is owned or in use by a public sector organisation, or company or organisation in public ownership, or land that has been released from public ownership **after the introduction of this policy for the purposes of housing delivery** ~~and on which housing development is proposed~~”.*

5. Finally, it is submitted that Policy H6 should include a provision that allows the boroughs flexibility to set a localised affordable housing threshold for the Fast Track Route in Opportunity Areas (OAs). This is because viability in these areas is already made a lot more complex by the higher site preparation costs and the significant investment needed in local infrastructure projects – i.e. the additional costs on development that had previously been holding back these areas from realising their potential prior to their designation as an OA. These costs need to be recognised in the Plan as developer contributions either through s106 obligations or localised CIL rates, and it should be recognised that they will have an impact on scheme viability and the ability to deliver new affordable homes.
6. The planning policy and viability climate for these areas needs to be pro-growth if they are to deliver the ambitious housing and employment targets envisaged. Delivery of the draft Plan is highly dependent on the OAs and the huge potential they have to deliver its housing and employment targets. For example, in the Vauxhall Nine Elms Battersea OA the affordable housing requirement was set at 15%, following a Development Infrastructure Funding Study in 2010 which recognised the significant cost of funding the Northern Line Extension.
7. Finally, we welcome the amendment to Policy H6C (2), regarding access for small housing developments to the Fast Track Route, but the supporting text should emphasise that borough requirements must not be set at the margins of viability.

**b) Would it provide a framework to increase delivery of affordable homes to meet the full range of identified need?**

1. Policy H6 as currently worded in the draft Plan sets a very rigid approach. If greater flexibility were to be introduced into the policy, it would provide a more effective framework to increase the delivery of affordable homes. However, only the injection of significant amounts of additional public money will lead to the delivery of the quantum of affordable housing that London needs. The 35% threshold will be more difficult to achieve in some boroughs than others and the policy should recognise this by allowing greater flexibility over tenure mix. H6C should be amended to support more schemes using the Fast Track Route. The following amendment should be made:

C 2) be **broadly** consistent with the relevant tenure split...[etc.]

2. We recommend that H6C (3) should be deleted altogether. It is unnecessary as all the other policy requirements in the Plan and relevant Local Plan will be assessed in any event to ensure any development proposal strikes an appropriate balance. This is another example of the Plan being overly long because it uses unnecessary repetition.

**c) Would the approach taken to scheme amendments be effective in increasing delivery of affordable homes?**

1. The additional clarification provided by the GLA's minor suggested changes (August 2018) to Parts G and H of Policy H6 is welcomed, but it should go further. Application of the policy needs to be proportionate to the changes proposed and the stage of the project.
2. On large regeneration schemes that are delivered over multiple phases, it is highly likely that important changes will need to be made to the original planning consent through Section 73 applications in response to design development and changing market conditions. However, there must be an acceptance that the developer(s) committed to start on site according to a number of financial assumptions; to re-open a scheme's viability each time Section 73 amendments are proposed, unless they are significant and directly related to the provision of affordable housing, is unreasonable and will hinder delivery.
3. Instead, credit should be given to how far a scheme has progressed on site. In order to manage a developer's long-term risk exposure and facilitate delivery, it is submitted that the wording of G and H should acknowledge that, in assessing S73 applications and requesting further viability evidence, consideration will be given to the stage of the project and how advanced the development is on site.

**d) Would the approach taken to determining benchmark land value be justified?**

1. The approach to determining benchmark land value should be provided in Supplementary Planning Guidance rather than in the Plan itself, and it is recommended that the wording of Paragraph 4.6.11 is simplified to merely expressing a preference for the EUV+ approach unless exceptional circumstances justify an alternative approach.



**e) Would the requirement to seek grant to increase the level of affordable housing to access the fast track route be effective in increasing speed of delivery?**

1. While the requirement to seek grant has the potential to increase affordable housing delivery, it also has the potential to cause significant delay to the planning process. If applicants are not easily allowed to meet the threshold (35%) and through a simple process highlight that they are not able to provide more affordable housing, even though grant may be available, then protracted negotiations are likely to occur, causing a delay to delivery. If grant was introduced earlier on in the planning process, there is the possibility that developers could be able to do more.
2. Furthermore, the process assumes that the level of grant available is enough to deliver the quantum of affordable housing required. Grant levels vary from £28,000 per home for developers, £70,000 per home for housing associations to £100,000 per home for a local authority. To build an affordable home without the need for some form of cross-subsidy would require a grant level of £300,000 per home (which covers land and build costs). The Mayor needs to acknowledge the limitations of grant and the fact that even at the levels set out by the GLA, they are not in and of themselves enough to deliver sufficient affordable homes.

**f) Would the review mechanism as set out in Policy H6E2 be justified and effective in increasing delivery?**

1. Policy H6E2 must be read in the context of the Mayor's Affordable Housing and Viability Supplementary Planning Guidance (AH&V SPG) 2017.
2. Early Stage Viability Reviews can provide reasonable certainty of delivery, within a specified timeframe, for larger, multi-phased schemes. Whilst two years may be appropriate in some cases, a degree of flexibility is required to reflect the circumstances of each application. Accordingly, the following amendment should be made to H6E2 (a):
  - (a) *an Early Stage Viability Review if an agreed level of progress on implementation is not made within ~~two years of the permission being granted~~ (or a period agreed with the borough)*
3. Single phase schemes on small sites (<25 units or equivalent) should be exempt from all types of review mechanism to support the aim of increasing housing delivery on small sites. The proportional cost and time impacts are acute and may render some schemes undeliverable.
4. Where an Early Stage Viability Review is undertaken and an uplift in affordable housing provision is sought, the applicant should have the option to either

provide it on site or make a cash in lieu payment. Sometimes providing it on site can only be achieved through detailed redesign, which is costly and causes delays.

5. Late Stage Viability Reviews should be deleted from H6E2 to maintain deliverability of schemes. Whilst late reviews can yield greater contributions towards planning gain on specific scheme types in particular value zones, this focuses on a very small number of high-value schemes in a rising market. When considering development across the whole of London, late reviews will stifle or slow development that does not deliver top-centile value development projects. When assessed as a whole, slowing or stopping lower-value development projects across the capital will have a greater impact on both the delivery of housing and affordable housing than the small evidenced benefits of their inclusion in high-value pockets of London. Late reviews also disproportionately affect SME developers and will dissuade smaller developers from building projects out.
6. Developments below a certain value threshold have widely over-provided affordable housing against the current viability assessment of the maximum reasonable contribution a scheme can make by including growth projections in the viability assessment submitted at the planning application stage. Where a scheme has already dragged potential future growth forward to underpin a contribution towards affordable housing secured in the planning permission, it should be acceptable that the scheme proceeds without a further late review. This is because the potential benefit from a late review has already been accounted for in the affordable housing package secured.

## **Policy H7 Affordable Housing Tenure**

### **a) Would Policy H7 be effective in delivering the tenure of affordable housing to meet the objectives of Policy GG4?**

1. GG4 focuses on delivering the homes that Londoners need, while H7 sets out the tenure requirements for both the GLA and the boroughs. If GG4 is to be delivered in full, and in particular Part C, H7 will need to be less prescriptive, offering applicants and boroughs some flexibility to support the viability of development that cannot otherwise come forward.
2. In particular, it is submitted that Policy H7 should include a provision that allows the boroughs flexibility to set localised affordable housing tenure mix targets in Opportunity Areas (OAs). As described in respect of question (a) above, this is because the viability conditions in these areas can be complex, especially due to high infrastructure and remediation works, and a tailored approach may be preferable to ensure the overall balance of Good Growth objectives is optimised.

### **b) In light of the identified need for low cost rental homes, would the split of affordable products in this policy be justified and effective? Would it provide sufficiently for boroughs to determine tenure locally to meet local needs and reflect local circumstances?**

1. The effectiveness of H7A is undermined by the prescriptiveness of paragraph 4.7.2, which states that there is a presumption that the composition of the 40% (of the 35% affordable housing) determined by the borough should focus on Social Rent and London Affordable Rent. This prescriptive approach does not allow applicants and boroughs any flexibility and fails to acknowledge that a slight change in tenure mix can be all it takes to tip a scheme into the red and thus render it unviable. It is contradictory that H7A (3) states that boroughs will determine the appropriate split for 40% (of the 35% of affordable housing) when this is effectively pre-determined by paragraph 4.7.2. Paragraph 4.7.2 should therefore be reviewed. It should also highlight the housing needs of London's essential workers, such as health workers. Whilst this is currently referenced at paragraph 4.6.5A in relation to public land, 4.7.2 should require boroughs to assess the needs of these essential workers in broader terms.
2. Notwithstanding the above, we welcome the new insertion in H7B arising from the GLA's minor suggested changes (August 2018) that allows greater flexibility on housing tenure where affordable housing provision exceeds the 35% threshold.

**c) Would the preferred affordable housing tenures be justified and effective in meeting identified need?**

1. See our response to question (b) above.

**d) Would the mechanism for review of the preferred tenures through supplementary planning guidance in 2021 be justified and effective?**

1. The GLA has committed to review its Threshold Approach in 2021. This should be undertaken as a partial review of the London Plan, rather than through supplementary planning guidance, in order to allow proper consultation and independent examination.

## **Policy H8 Monitoring Affordable Housing**

### **a) Would Policy H8 provide an effective framework for boroughs to monitor affordable housing?**

1. H8 does provide an effective framework for boroughs to monitor affordable housing. We particularly welcome the Mayor taking a more robust approach to monitoring the use of payments in lieu.