

BRIEFING



Replacement London Plan: The Panel Report

11 May 2011

The Panel's report from the examination of the Mayor's Replacement London Plan (RLP) was published for the public on 3 May 2011.

The Panel has concluded that the Plan is sound subject to some relatively minor changes although a substantial number of proposed changes had to be advanced by the Mayor in stages throughout the examination. The HBF is dissatisfied with this tactic, as much new policy was tabled throughout the examination, with little or no opportunity for this to be considered or tested by participants.

The following note provides a summary of the principle changes from the perspective of house builders. Not every issue where the HBF intervened is summarised. For example members may wish to read for themselves the sections dealing with heritage and tall buildings.

Use and abuse of Mayoral SPG

Following expressions of concern raised by the HBF and others (including some public bodies) regarding the tendency for the Mayor to issue lots of SPG to define policy, the Panel has recommended that these are kept to a minimum (see para ix of the introduction).

Vision and objectives

The Panel has proposed that the word 'sufficient' is included before 'high quality' homes to policy 1.1 in the vision and objectives section (this is a new focused change). This was in response to concerns that without this, the pursuit of high quality might assume greater importance than delivering a sufficient quantity of new homes.

The Panel disagreed with the contention of developers that the Early Suggested Changes introduced a spatial dimension to policy 1.1.. Instead it considers that the policy and others provide markers for more detailed policies elsewhere in the Plan.

The Panel has recommended including 'protected' before 'open spaces in the new redrafted policy 1.1 to ensure that the Plan is not misconstrued as not allowing any undeveloped land to be used for development.

Chapter 3: London's People

Policy 3.2: Addressing health inequalities

The Panel has reflected the HBF's argument that requiring major developments to carry out Health Impact Assessments was onerous because it came too late in the development plan process. Assessing health implications should be pursued through the LDF process. They have recommended deleting this requirement and for guidance on this question to be provided through the Mayor's Best Practice guidance on Health Issues in Planning.

Policy 3.3: Increasing housing supply

The Panel shared the concerns of the development sector, the TCPA and others that the housing requirement of 32,210 (it had been 33,380 per annum but was subsequently whittled down further) between 2011-2021 was probably inadequate, given evidence from the GLA's SHMA (identifying 34,900 pa), the household projections (2006 and 2008 based), the NHPAU's recommended ranges (33,100 to 44,700) and, perhaps most significantly, because of the impact that the intended revocation of the RS was having in the South East and Eastern Regions and the possibility that levels of out-migration may decline as a consequence of new house building falling in these areas. The published RSSs for these regions were also based on increasingly out-dated 2006-based projections.

The Panel has recommended that the word 'minimum' is added to a new paragraph 3.14. Significantly, it has also recommended that the following words are added to a new paragraph 3.14B:

"Factors including increases in projected household formation and lower levels of net migration to the surrounding regions may lead to a higher requirement over the plan period. It may be appropriate to regard a range of between 34,900-37,400 dwellings pa as the potential requirement to ensure sufficiency of provision for London's residents."

The Panel, however, has not as such recommended an increase to the housing requirement so quite how having 'regard' for a higher range will be advanced and tested through the Borough plans is uncertain. The Mayor is committed to undertaking a review of the housing requirement to inform the Early Alteration (first review of Mayor Johnson's Plan). The target remains at 32,200. This review is scheduled to be completed by 2016.

The Panel resisted pressure by some Boroughs to reduce their housing targets. These could be reviewed as part of the Early Alteration.

Policy 3.4: Optimising housing potential

The Panel endorses the wording of the policy to 'optimise' rather than 'maximise' density.

Policy 3.5: Quality and design of housing developments

Garden-land

Owing to the changes to PPS3 and because the GLA SHLAA has anticipated a reduction of development on garden land by 90% over the life of the Plan, the Panel has recommended that the paragraph 3.28 is changed to make clear that there is no SHLAA obstacle to the formulation of Borough policies that seek to protect gardens from housing development. The Panel, interestingly, then goes on to recommend the following words: *"this does not...obviate the need for a suitable evidence base at local level for area-wide policies seeking to control such development."*

This last sentence suggests in our mind the need for Borough-level SHLAAs to assess whether garden land is not required to meet housing targets and for these to be completed if such a policy is to be implemented at Borough level. This would go some way to allaying the HBF's concerns that the GLA SHLAA/HCS is not allowing for the scrutiny of selected development sites at a local level.

The Panel has also recommended that word 'presumption' is deleted from the policy and text, because the use of such a word would *'reverse the normal administration of the planning process'* where the plan-led system, at least for the moment, holds sway.

Dwelling space standards

The Mayor's intention to introduce minimum dwelling standards through the London Plan was possibly the most contentious issue of the examination and ultimately the development sector lost the argument. The Panel did attach considerable importance to the concerns expressed by developers that minimum dwelling standards would adversely effect affordability (the evidence presented by design bodies such as CABI advancing the contrary argument was considered inconclusive), and the Panel acknowledged that in a constrained market land values would not necessarily adjust to reflect the standards, or at least very quickly. It nevertheless opined that the Mayor was right to be concerned and that standards were necessary to maintain London's attractiveness as a place to "live and do business" (para

3.68). Evidence from the LDA that 75% of Boroughs already operated their own version of dwelling size standards proved decisive (although it was not established whether these had been advanced through DPDs).

The Panel concluded (para. 3.69) that while dwelling sizes were a subject of strategic significance that warranted a policy in the Plan, this did not extend to directing the Boroughs to adopt specific standards. Instead the Panel has recommended that Boroughs should incorporate minimum space standards that generally conform with the 'indicative' ones set out in the Plan. The Mayor will seek general compliance with the Plan's indicative standards when considering applications that come before him (Strategic planning applications – see definition below).

Policy 3.7: Large residential developments

The Panel has taken on board the concerns of the HBF that the production of planning frameworks duplicated existing planning arrangements (DPD Area Action Plans, SPDs etc) and would add delay. It has recommended that the reference to planning frameworks is removed and the words "*progressed through an appropriately plan-led process*" are substituted.

Policy 3.11: Definition of affordable housing

The definition of affordable housing is a complex question. Consequently, the Panel has recommended that the word 'must' is substituted with the word 'should' to ensure a less prescriptive definition of Affordable Housing that would not preclude a more case-by-case sensitive approach.

Policy 3.12: Affordable housing targets

The Mayor had proposed moving away from a percentage to a numerical target of 13,200 affordable homes per year (a target that equated to 40% of the total new housing target for London). The HBF had initially written in support of a numerical target because the viability of developments is jeopardised by high percentage targets. However, following further discussion with members it supported the re-introduction of a percentage target on the basis that a percentage provided clarity and consistency *and* because the potential affordable housing contribution could well become punishingly high later on in the planning trajectory if the numeric targets were not met in the earlier in the plan.

The HBF and developers had recommended a percentage target between 20-40% but in the light of evidence from the SHMA the Panel has recommended an 'aspirational' 50%

affordable housing target. The precise, recommended re-wording of Policy 3.12Aa is (the added words are in italics):

“The Mayor...should seek to maximise affordable housing provision *and should aspire towards securing 50% of all new housing as affordable housing across London as a whole* and seek an average of at least 13,200 more affordable homes per year over the term of this plan.”

Quite how this policy will play out across the Borough as they prepare their LDFs is unclear. How would a Borough demonstrate that it is able to reach an aspirational target. The potential flexibility, nevertheless, is to be welcomed.

The split between 60% social rent and 40% intermediate has been retained.

Chapter 5: Climate change policies

Policy 5.1: climate change mitigation

The Panel endorsed as realistic Policy 5.1 which proposes to secure a 60% reduction in carbon emissions by 2025 (compared to the national target of 80% by 2050). The Panel concurred that an accelerated timetable was more feasible in London given its public transport capacity and the concentration of activity. The Mayor has maintained that new housebuilding will make a 1% contribution to this target. 49% of savings will be attributable to the Government funded Low Carbon Transition Plan, a shift to low carbon manufacturing in London, the GLA retrofitting carbon reduction measures in its own buildings, and its own increased use of electric vehicles. The remaining 11% will come from an acceleration in the de-carbonising of the energy grid, changes to the Building Regulations (of which a 1% saving will be from new homes) and more electric cars.

Policy 5.2: minimising carbon emissions

The Panel endorsed the Mayor's proposal to adopt an accelerated programme towards achieving zero carbon homes, but only for developments of a strategic scale. While the Panel noted the arguments of the HBF about the possible consequences for volume output and affordability, although it considered that the Mayor's heat-mapping exercise to stimulate district heating projects will outweigh the economic obstacles (5.15). Nevertheless the Panel acknowledged the cost concerns raised by the HBF and its references to Government policy and has recommended that the Policy applies only to strategic scale developments – that is those of 150 homes or over or of certain volume depending of location (see definition below).

To all intents and purposes this is what is already advised by PPS1 and the *Climate Change Supplement to PPS1* and is also the approach that likely to be advocated by the emerging Local Standards Framework.

The Panel has, however, recommended that Boroughs are encouraged to “*strive to achieve the steeper trajectories that the targets represent*” though this also reflects PPS1.

Strategic scale development are those developments defined as being of Potential Strategic Importance (PSIs) as defined within the *Town and Country Planning (Mayor of London) Order 2008*. This Order defines large scale developments or PSIs, as:

Category 1A

1. Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats.

Category 1B

1. Development (other than development which only comprises the provision of houses, flats, or houses and flats) which comprises or includes the erection of a building or buildings—
(a) in the City of London and with a total floorspace of more than 100,000 square metres;
(b) in Central London (other than the City of London) and with a total floorspace of more than 20,000 square metres; or
(c) outside Central London and with a total floorspace of more than 15,000 square metres.

All publicly funded developments will still be required to meet the accelerated targets in the policy (see 5.17). The targets may also apply to developments falling within the ambit of the ‘wider GLA family including...the London Development Agency.’

Policy 5.3: Sustainable Design and Construction

The Panel concurred with the HBF’s concerns that policy detail was being delegated to SPG. It has recommended that Policy 5.3C is redrafted, omitting reference to the Mayor’s Sustainable Design and Construction SPG. Even so the policy is still quite prescriptive in setting out the issues that should be addressed by Design and Access Statements (items a to i).

Policy 5.5: Decentralised energy supply

The Panel concluded that the policy requiring 25% of heat and power in London to be generated from localised energy systems is sound, although the HBF had been anxious about the impact on the rate of house building if house builders were expected to fund the

majority of this new infrastructure. The Panel held that the policy was sound as Boroughs would need to have regard to feasibility (Policy 5.5Bd). Nevertheless, it recommended an amendment to Policy 5.6A to include the words 'where feasible'. See below.

Policy 5.6: Decentralised energy in development proposals

The Panel has recommended an amendment to Policy 5.6A to includes the words 'where feasible' to reflect the HBF's concern about the potential for unreasonable demands being made upon house builders.

Reflecting concerns of the HBF and others about the costliness of some decentralised energy proposals, and the impact this may have on new supply (reflecting Government guidance) the Panel has recommended that the wording of supporting paragraph 5.38 is amended to refer to the need for feasibility to include avoiding the suppression of new housing supply by insisting on uneconomic requirements and to avoid uneconomic energy costs over the lifetime of new homes.

Policy 5.7: Renewable energy

Table 5.1 stipulating the types of renewable energy equipment that are to be used within developments has been removed from the plan by the Mayor as a consequence of representations by developers. This is contrary to recent Government Policy. Despite representations by the HBF arguing that the policy was unnecessary (as national policy grants discretion to developers as to how they met the CO₂ reduction targets), the Panel concluded that a policy generally encouraging renewable energy on developments was acceptable.

Policy 5.8: Innovative energy technologies

The Panel has suggested amendments to make the policy less prescriptive by not requiring that certain technologies are to be used (thereby avoiding the risk of 'picking losers').

Policy 5.10: Urban greening

Responding to the specific concerns of the HBF the Panel agreed that the wording of the policy was imprecise and appeared to impose a requirement on all new major developments (10 or more homes) within the CAZ to contribute to meeting the 5% urban greening target. The Panel has recommended that Policy 5.10C is amended, replacing the words 'contributing to (the policy requirement) with 'demonstrating how green infrastructure has been incorporated''.

Policy 5.14: Water quality and sewerage infrastructure

The Panel dismissed the HBF's concerns that the policy imposes any greater responsibilities on developers to provide for new sewerage infrastructure. These requirements would be met through CIL or s106 payments.

Policy 5.15: Water use and supplies

The Panel has amended the policy, making it less prescriptive, removing the stipulation that a 105 litres per person per dwelling standard should apply, and introducing the less prescriptive wording that this should be the typical target range ('water consumption would typically equate to about 105 litres or less per head per day').

Chapter 7: London's living places and spaces

Policy 7.7: Location and design of tall and large buildings

The Panel has suggested that "a plan-led approach should be adopted to tall and large buildings, identifying appropriate, sensitive and inappropriate locations for them". However it is recognised that this does not preclude the use of criteria based policies by Boroughs at the local level especially where LDF work is insufficiently advanced and has not yet identified acceptable locations.

Policy 7.16: Green Belt

Policy 7.17: Metropolitan Open Land

The Panel did not agree that there were exceptional circumstances that warranted a strategic review of the Green Belt or Metropolitan Open Land through the London Plan. It did, however, acknowledge that a local review may be warranted by exceptional circumstances perceived by a borough. The wording of the policies, however, implicitly assumes that no such reviews will be necessary because an adequacy of the housing land supply has been established (as discussed in chapter 3 of the panel report).

Chapter 8: Implementation, Monitoring and Review

Policy 8.2: Planning obligations

The HBF had argued that the second sentence of Policy 8.2A was contrary to the thrust of the CIL by setting out a voluntary system for the pooling of contributions. The Panel disagreed, maintaining that the wording was acceptable as s106 pooling was still allowed under the CIL but only for up to five developments, so long as these items were not specified in the CIL. Even so (and this was our argument at the examination) if limited to only five developments the HBF cannot see how the Mayor would be able to devise an effective strategic s106 charging regime applying to all 33 London Boroughs which *suggested* to these Boroughs where and under what circumstances they could pool their residual options under s106.

Policy 8.3: Community Infrastructure Levy

The Mayor had proffered changes to the policy that would avoid the potential for double-charging. The Panel has endorsed the policy agreeing that clarifications to the policy could be addressed through the Mayor's CIL SPG.

Next steps

The next stage is for RLP to be submitted to the Secretary of State for scrutiny. Under the Mayor of London Order 2008 the Secretary of State may only direct changes if there is inconsistency with national policies or relevant legislation or if there is any detriment to the interests of an area outside of Greater London. We expect few, if any changes, and therefore we can expect for the Plan to be adopted very soon, possibly by late summer. In the meantime, as the emerging London Plan, the policies will carry considerable weight.

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