Southwark Law Centre – Planning Voice Project
Note on London Plan consultation draft (and supporting documents)

Overarching comments:

- Failure to scrutinise data under previous London Plan. No analysis of failure to meet targets relating to AH, size mix and net zero. IIA presumes densification is the goal without testing effectiveness to deliver in line with need despite SHLAA showing density negatively impacts viability (table 6-1). Not positively prepared.
- Inherently flawed starting point of being driven by viability. A strategic plan must start with need – which must include a consideration of affordability – with policies directed towards meeting that need, with viability considered after that (with a grant funding regime to make up difference). Viability cannot dictate what development is acceptable. Not positively prepared, justified or effective.
- Housing policies expressly fail to meet need. Even the strategic target of 50% falls well below the percentage of affordable housing identified in the SHMA (65% against the 55,800pa target). No evidenced route to achieving the strategic target, given reductions in policy targets leaving all of them below 50%. No evidence of testing of how this will impact delivery (both generally and in terms of AH). Not positively prepared, justified or effective.
- The approach fails to acknowledge the lack of demand for market homes, particularly in taller buildings. Given this, and given the majority need for affordable housing, private housing should be seen as a means to the end of delivering affordable housing, not the end in itself.
- *"The principal viability challenge remains the relationship between development values, construction costs, finance costs and sales absorption rates, particularly for taller development in lower value areas. As such, reducing individual policy requirements would have only a limited effect in many cases and would not fundamentally alter the current viability position across Value Bands E and F"* (SHLAA para 6.15). This is affirmed by data showing that schemes being delivered actually have a relatively high proportion of affordable housing (averaging around 35%). Yet approach continues to push for tall buildings and more market housing, and seeks to make savings through policy requirements. Not positively prepared, justified or effective.
- GLA own evidence in current London Plan (para 4.4.5) undermines proposed approach: "*In previous years where there has been a relaxation in affordable housing and other planning requirements this has typically led to higher land values, rather than an increase in housing delivery.*" No evidence has been offered to counter this view. Not positively prepared, justified or effective.
- Reduction in AH to aid viability (1) defeats the purpose of development in the first place, (2) risks exacerbating inequalities and have adverse socioeconomic effects in the most deprived areas (note growing poverty and income inequality in London while rest of UK remains stable), (3) not most efficient approach as AH is not identified as main viability issue, and (4) AH can support delivery e.g. through

funding/finance opportunities and guaranteed early sales (SHLAA para 6.13); conversely, increased private brings delivery issues (lack of demand, absorption). Not positively prepared, justified or effective.

- Environmental policies not sufficiently measurable or enforceable. Limitation on LPAs going beyond LP standard is deeply concerning. Not effective.
- Current GLA / central gov approach begins with a high need figure, then locks in high density, then seeks deregulation to make this deliverable. This approach overlooks the key issues to viability whilst also compromising on meeting greatest need and achieving sustainability. Not positively prepared, justified or effective.
- Viability is not the same as profit – higher density development is less viable whilst generating larger profit. Pursuing density despite it being less viable only maintains high developer profits without a corresponding delivery in AH and public benefit. Not justified or effective.
- Development under this draft will not be sustainable in the true sense, particularly relating to social equity and the environment, and is therefore not consistent with national policy. There is not a sound evidence base, leading to the approach not being justified or effective. Specific proposals often fail to provide a measurable or effective means of achieving their aims, and will occasionally have the reverse effect.
- **Suggestion: pursue lower-scale development at mid-rise density, with focus on AH and sustainability, supported with increased in grant funding.** Lower-scale development is more viable (see SHLAA table 6-1) and should be pursued. While we note GLA rejects this on the grounds of opportunity cost and making the best use of land (SHLAA para 10.12), it is the most effective way to unlock development, whilst still ensuring sufficient supply of AH. Lower-scale development also has environmental and social advantages.

Analysis of individual policies:

<u>Chapter 1 – Overview of the Plan & Good Growth Objectives</u>

- Good Growth – *"growth that drives economic productivity, is socially inclusive and environmentally sustainable"* – the draft Plan clearly focuses on the former at the cost of the other two. Social inclusivity is not meaningfully defined or pursued - the two Good Growth Objectives don't even have a direct focus on social inclusivity. Environmental sustainability is not pursued in any enforceable way. Not effective justified, or consistent with national policy.
- The 558,000 homes figure is said to *"based upon an assessment of what could be feasibly deliverable in the coming decade, taking into account viability and build-out rates"*, yet policies are being pursued which expressly impact viability in the pursuit of density and housing figures. This is circular and self-defeating. The prioritisation of density and quantum delivery over actual deliverability is a deeply flawed approach that will likely result in fewer homes, and certainly fewer affordable

homes that actually meet need – and at a huge environmental cost. Not positively prepared, effective or justified.

Chapter 2 – Making best use of land and achieving Good Growth

MUBL1 – Spatial Strategy

- *"Intensification of land use across London in a way that contributes to meeting London's different needs"* – need not adequately defined, and underlying approach expressly moves further away from AH need. Not positively prepared, justified or effective.
- *"Prioritise affordable housing provision and public transport improvements in developer contributions"* – unclear what this will mean in practice. Lack of clarity gives developers too much room for interpretation to undermine contributions. Not effective.

MBUL2 – Plan making

- Optimisation Framework (OF) is described as a *"recommended density range"* and *"indicative height range"*, but then policies relating to it use it as a *minimum*, which undermines the staged approach within the OF which looks at maximum capacity for each site in practice. It is more suitable to set maximum densities acting as envelope parameters. The desk-based assessments to reach OF densities will never be able to fully account for design limitations that render denser development unsuitable on any specific site – risk that developers use minimum to frame otherwise unacceptable development as acceptable. Not positively prepared, justified or effective.
- In any event the OF is based on an assumption in favour of densification without sufficient evidence base or analysis that this will help delivery or meet need. Therefore we refute the high-density conclusions of the OF. Not positively prepared.
- There is a lack of assessment of how increased density increases strain on social infrastructure. The process initially acknowledges these sensitivities, then allows (and even encourages) them to be ignored by encouraging additional density. Not positively prepared, justified or effective.

MBUL3 – Tall buildings

- Policy should clarify that every site and scheme must be subject to individual assessment, and policy does not establish principle of development above 30m/100m across entirety of defined clusters. Every scheme must be subject to individual assessment. As above, setting indicative minimum heights without maximum is inappropriate and undermines OF approach. Not justified or effective.
- Policy anticipates LPAs identifying areas more/less sensitive to tall buildings, but policy basically already does that by identifying clusters, setting heights within them, and setting criteria. Little scope for further input. Not effective.

- Policy must include a requirement to model alternatives, with an express requirement to test mid-rise options. Where similar density can be achieved with lower development, this must be preferred. Given GLA own data shows tall buildings can actually hinder viability, lower-density options may often be more viable and yield as much or more affordable housing, while having lower environmental harms (locally and in terms of energy/carbon efficiency). They may also be able to deliver increased public benefits from increased space and improved viability. Not positively prepared, justified or effective.
- Policy must also acknowledge the increased carbon impact of tall buildings, both in terms of construction and operation. Developers should be required to set out and justify the increased carbon impact against other reasonable design options. Not positively prepared, justified or effective.
- Current LP expressly requires tall buildings to take account of and avoid harm to significance of heritage assets and their settings, with any requiring "clear and convincing justification, demonstrating that alternatives have been explored and that there are clear public benefits that outweigh the harm". This wording should be retained and enhanced, to clarify that such public benefits must be *additional* to benefits expected under other policies. Not effective.
- Lack of acknowledgement of own evidence that tall buildings present especially strong viability challenges due to development values, construction costs, finance costs and sales absorption rates, particularly in low value areas. Identification of clusters fails to consider socioeconomic context, despite many major metropolitan / metropolitan clusters being in poorer areas e.g. Old Kent Road, Elephant and Castle, Lewisham Town Centre, and Millwall Stadium/ Surrey Canal Road. Not positively prepared, justified or effective.

MBUL7 – Heritage

- Policy lacks any direct protection of heritage assets from development (direct or indirect). This constitutes a significant watering down of heritage protection under previous LP. Not positively prepared, justified, effective or consistent with national policy.

<u>Chapter 3 – Delivering homes and neighbourhoods Londoners need</u>

Para 3.8 – *"the Mayor remains committed to a strategic target for London of 50 per cent of homes to be genuinely affordable over the longer-term plan period"* – this commitment is meaningless in practice, as there is no analysis of failure across previous LP period, or suggestion of how to improve delivery. Particularly meaningless when more specific policy targets are being reduced. Not positively prepared or effective.

HN1 – Increasing London's housing stock

- Targets are clearly unrealistic. Alongside an unchanged viability regime, they will result in empowering developers to justify planning harms and reductions in AH and other benefits in the name of meeting targets. Not effective.
- Targets fail to acknowledge inability of planning system to secure *delivery*. SHLAA itself acknowledges that existing permissions account for around half of target. Not positively prepared or effective.
- Focus on densification overlooks own evidence base that densification presents particularly strong viability challenges that will limit delivery. Not positively prepared, justified or effective.
- Also failure to acknowledge ecological impact of densification, in terms of increased construction and operational impacts. Not positively prepared, effective, justified and not consistent with national policy requirements around refurbishment.

HN2 – Protecting and reshaping housing

- A(2), which proposes replacement of lost social rent floorspace, will lead to net loss in units (as the supporting paragraphs acknowledge). There should be stronger protection insisting on the same number of units or at least habitable rooms. Not justified or effective.
- This also fails to acknowledge the resulting shift from council housing to other forms of social rent housing, and the subsequent loss in secure long-term tenancy. Not positively prepared or effective.
- Right to return needs more detailed provisions. Analysis of estate regeneration across previous LP period shows displacement and delay and a failure to return in practice. There is no assessment or acknowledgement of this and no attempt to improve in practice. Not positively prepared or effective.
- There must also be some form of protection or support for non-social rent tenants displaced as a result of development. Not positively prepared or effective.
- C seeks to regulate demolition and replacement of affordable housing, but needs to be stronger. It lacks detail to be meaningful and measurable in practice:
    - Need more detail as to what must be included in the C(1) "robust assessment", including what "alternative options" must be included. This must include a detailed breakdown of refurbishment.
    - Need more detailed as to what "social and environmental impacts" must be considered, and in what circumstances these impacts will outweigh benefits.
    - Requirement to "maximise the provision of additional affordable housing" needs to be clarified and made more enforceable. When can it be said that the provision of affordable housing is not being sufficiently maximised?

  Not positively prepared or effective.

HN3 – Delivering affordable housing

- A(1) – requirement for authorities to *"maximise the delivery of genuinely affordable housing to contribute to London's 50 per cent strategic affordable housing target"* – unmeasurable and meaningless in practice, particularly given the more specific

and lower targets elsewhere in policy. When could this be feasibly enforced? Same for A(2), B(1) and B(2). Not effective.

- A(2) – the targets 238,430 low-cost rent and 129,020 intermediate homes (367,450 total) will be missed a huge margin based on the new reduced percentages, even if those percentages were consistently hit. It won't even achieve 50%. This approach is fundamentally unsound because it is not effective and not positively prepared as it fails to meet an objectively assessed need.
- The reduction in targets is unacceptable and unjustified given the GLA's own evidence base, which identifies a growing proportionate need for AH, and a finding that AH costs are not the principal impact on viability. As set out in the current London Plan, reducing affordable housing targets *"has typically led to higher land values, rather than an increase in housing delivery*". Not positively prepared, justified or effective.
- The LPG reduction in AH targets has not led to an increase in applications, and hardly any developments are seeking the emergency route. The draft London Plan fails to assess or respond to this data. Not justified or effective.
- Viability varies greatly within boroughs and based on site-specific constraints. Viability can also change over time. There is no assessment of the potential that we are at the bottom of a cycle and viability may improve; reduced targets would lead to significant under-capturing. Not positively prepared, justified or effective.
- Proposed approach lowers requirements in suburban areas where there are lower proportions of affordable housing, which will only exacerbate existing inequalities. Not justified or effective.
- GLA evidence on viability testing in outer bands suggests that schemes with 35% affordable housing may even be more viable than lower-AH and even 100% market schemes once grant and proposed CIL relief are factored in. Reducing targets in this context is not justified or effective, and fails to meet objectively assessed need.
- The altered (reduced) AH requirements where development is 100% / 80% AH is completely self-defeating. Not positively prepared or justified.
- Reduced target where development is *"proposing significant transport infrastructure delivery"* is not sufficiently defined, giving developers too much flexibility to seek reductions. A clearly defined and high threshold must be set. Not positively prepared or effective.
- The reduction to a 40% baseline requirement for public land is unacceptable. The 50% target must be retained. Not justified or effective.
- It should not be possible for the Mayor to agree a 25% threshold on public sector land via a Public Sector Land Portfolio Agreement. The sale of public land for such limited public benefit is not justified or effective.
- There is no acknowledgement that smaller amounts of AH are less attractive to RPs. Reducing the targets will lead to more situations where no one wants to take on the AH, in most cases with a s106 provision allowing for eventual sale as market housing. Firstly this supports a requirement for AH delivery. Secondly, the policy

should seek to limit and more tightly regulate such s106 provisions. Not positively prepared or effective.

- Policy must acknowledge that a low level / lack of AH can be considered “too high a price to pay” and a ground for refusal, especially where there is a particularly high need identified locally. This is affirmed by the *Schneck* case of 2022. Not positively prepared or justified.
- Policy must acknowledge that larger developments with a particularly high proportion of private housing / lack of AH can actively result in negative socioeconomic impacts, particularly in lower-income areas and where development also delivers improvements in local amenities (see GLA Housing Note 10, which describes this as “gentrification pressures”). Not positively prepared or justified.
- Sub-policy I allows for development following the fast-track route to avoid submitting viability information where it meets the criteria under C and D. This incentivises existing schemes to submit s73 applications and reduce AH in line with altered AH requirements without scrutiny, even where such schemes are already deliverable. Not justified or effective.
- J: Allowing delivery off-site where it results in a higher level of AH risks incentivising delivery on less desirable off-site locations where it results in the smallest increase in AH (even 1 room). This also risks failing to assess and capture viability improvements from doing so. Assessment must factor in profit and not just cost. Not justified or effective.
- Sub-policy N requirement to demonstrate that the scheme is providing the maximum possible level of affordable housing is not measurable and so not effective in practice.
- Sub-policy O is positive, but policy must go further and acknowledge that developers are often able to deliver higher levels of AH than accounted for under viability. Not effective.
- Sub-policy P is supported, but must be more prescriptive in setting out what is meant by careful scrutiny and robust justification of proposals reducing levels of AH. The policy should also be extended to applications for new permissions where a similar scheme is already consented on the site. Not effective.
- Shared ownership has become increasing problematic in light of stagnant property values and crisis in additional costs (mainly service charges). This form of AH should not be supported. Not positively prepared or effective.
- Para 3.49 – requirement that annual housing costs (including mortgage, rent and service charge) are no greater than 40% of net household income is positive, but more is required to ensure this is enforceable in practice. How is this expected to be monitored? Is there any analysis on costs under AH homes delivered under previous LP period? Not effective.

HN4 – Gypsy and Traveller Accommodation

- The move to more specific borough targets is very supported. However, there is no detail as to how these targets are expected to be achieved, and what the repercussions would be for any authority that fails to meet them. Not positively prepared or effective.

HN5 – Managing specialist accommodation

- PBSA target needs to be disaggregated from general housing target. It does not contribute towards conventional housing need. Not positively prepared or justified.
- There needs to be stronger acknowledgement of the over-delivery of PBSA and co-living in recent years relative to conventional housing. The supporting document "Student Accommodation Need: analysis and review of evidence" suggests that 6% of housing in most boroughs should be delivered as PBSA, and only 3% on some boroughs (note this is before adjustment is made using the ratio of 2.5 bedspaces:1 housing unit) (para 2.66). Proportion of recent delivery and consents has been well above this. Not positively prepared.
- The requirement to identify concentrations and proliferations of PBSA and co-living and the impact on the ability to ensured mixed, inclusive neighbourhoods (as per A(2)) is welcome. However, more detail is required to set out how this should be assessed, and the circumstances where such concentration / proliferation / impact might occur. Not effective.
- Southwark policy seeks delivery of conventional AH (particularly social rent) alongside PBSA development. This has been very effective in ensuring onsite social rent delivery. A similar requirement should be introduced into this policy. Not positively prepared or effective.

HN7 – Housing size mix

- The policy sets no minimum standards – it must do so. There must be a strengthening of requirements to deliver affordable family sized units, particularly in light of under-delivery under the previous LP. Not positively prepared, justified or effective.
- We refute the claims that 88% of private market need is for 1- and 2-bedroom homes. This has not been properly evidenced and contradicts LPA need figures. Not positively prepared or justified.
- While in some respects "London is a single housing market area" (as per para 3.95), different boroughs have different size mix needs, and in many cases the need contradicts the GLA purported London-wide data. This should be acknowledged and accounted for. Not positively prepared.
- Furthermore, the concept of a single housing market ignores the fact that the location of housing massively affects its impact. The GLA's own evidence (Housing Note 10) shows that delivering market housing in lower income areas can increase local houses prices. The reference to single housing market area needs to include this important qualification. Not positively prepared or effective.

- There must be a more detailed definition of what is meant by *"mixed, inclusive neighbourhood"*. In practice, without a clear criteria, developers find ways to describe any scheme as contributing to a mixed and inclusive neighbourhood, rendering the phrase and policy meaningless. Not effective.

Chapter 4 – Growing London's economy in a way that benefits all

GLE1 – Sufficient and appropriate employment space

- The principle behind policy F (reprovision of potentially displaced small and independent business) is supported. However, wording is currently unclear and prone to manipulation. Policy must ensure that the *existing businesses* are protected, and not just the floorspace. Further detail is required to set out what might constitutes "feasible and appropriate". There should be an express requirement that the new costs to the businesses cannot be much higher than the existing costs, and must remain viable to the specific businesses. There must also be consultation to ensure new space meets businesses' needs. There must also be a requirement for fit-out costs to be covered by the developer. We would be happy to discuss further bringing in examples from Southwark, particularly the extensive and continual displacement of Latin and minority ethnic businesses in Elephant & Castle. Not positively prepared or effective.
- The policy must define "small business" and "independent business". There must also be an acknowledgement that these definitions can cover many different things across a broad socioeconomic spectrum. There should be an express preference for small / independent businesses that meet the specific needs of and are affordable to the local community (in particular in line with protected characteristics). Often developers will bring in unaffordable boutique independent businesses that are targeted at affluent new residents and contribute to gentrification. Not positively prepared or effective.

GLE5 – Culture and creative industries

- Protection for these spaces is supported, but they must be more clearly defined. Not effective.
- The policy should be clearer that the specific existing cultural / creative providers should be protected, and not just the use class / floorspace. This is particularly so where the existing providers respond to local culture / local need. Not effective.

GLE7 – Affordable workspace

- Policy is supported.
- More detail should be provided on the practical delivery of the affordable workspace, including minimum percentage of floorspace, minimum pricing expectations, basic terms including developer covering fit-out and limitation on

additional costs, and expectation of space to be managed by affordable workspace provider. Not yet effective.

- More guidance should be provided regarding what circumstances would render it "not practical or feasible to deliver on-site". Not yet effective.

Chapter 5 – Creating a greener, healthier and resilient city

GHR1 – Energy efficiency

- Strongly resist prevention of authorities setting their own energy-efficient or emissions reductions standards. The LP should set a minimum and allow authorities to go further, in line with local appetite / evidence. As above (as per GLA own evidence), policy costs are not identified as a key limitation on viability. This restriction is particularly unacceptable when the LP requirements are so vague and unenforceable in practice. Not positively prepared, justified, effective or in line with national policy.
- The concept of having a clear target is welcome, but proposals are flawed. There is no clear enforcement mechanism when targets are not met. There is incentive or pressure to meet the aspirational target, meaning it is meaningless; in reality only the baseline target will be considered. The baseline targets are below industry targets (from Passivhaus, LETI and UKNZCBS) – only the aspirational targets seem to be aligned with these. This is unacceptable, and the baseline target must align with these standards. The policy target should not pre-emptively bake in practical issues around viability etc – that is a consideration for the planning balance after a policy breach has been established. Not justified or effective.
- To inform the reality of energy efficiency, there must be a more detailed analysis of energy efficiency of development under LP period against targets. Not positively prepared or effective.
- There must also be a requirement for developers to provide evidence of energy efficient of other design options, including mid-rise approaches (e.g. mansion block) where proposals include tall buildings. This must cover both construction and operational impacts. Not positively prepared or effective.

GHR3 – Whole life-cycle carbon

- Requirement to assess potential for retaining existing structures is too vague and unmeasurable to be enforceable in practice. Policy must set out an expectation that retrofit / refurbishment is used wherever possible, unless the developer can demonstrate why it is not possible in this case. This must include assessments of different design typologies, rather than purely assessing the possibility within the specific design parameters the developer has already chosen. Not effective.
- Requirement to demonstrate upfront embodied carbon has been considered and reduced where possible through good design and material efficiency is again too vague and unmeasurable. There must be more detailed requirements around what

evidence is required. This must include the consideration of different design typologies, rather than purely assessing design/material options in relation to the specific design the developer has already chosen. Not effective.

- Requirement to calculate and reduce upfront embodied carbon emissions is again too vague and unmeasurable. Clearer requirements must be set out. Not effective.