



A British Property Federation response to:

Draft replacement of the London Plan

Introduction

1. The British Property Federation (BPF) is the voice of property in the UK, representing companies owning, managing and investing in property. This includes a broad range of businesses – commercial property owners, financial institutions and pension funds, corporate landlords, local private landlords – as well as all those professions that support the industry.

General comments and key issues

2. We welcome the opportunity to respond to this consultation. The London Plan has a crucial role to play in London's long-term future development but also in setting the policy context for the short to medium term, which must be focussed on helping London lead the UK out of the recession and into positive economic growth.
3. The property industry will play a central role in helping to kick start London's economy through the provision of high quality space for businesses and residential accommodation to house an expanding population. Some of London's largest strategic developments are being undertaken by BPF members. These developments are not only transforming the built environment but they are also changing places and creating communities. It is therefore essential that the strategic policies contained within the new plan help facilitate rather than constrain quality development.
4. We have only responded to parts of the draft plan which we consider to be of interest to our membership, with our comments focusing on matters of strategic importance to the property industry. We have seen London First's detailed response to this consultation and fully endorse it.

Key comments

- We support the promotion of the role of the private rented sector to help provide Londoners with a genuine choice of homes they can afford.
- We support the use of land swaps, housing credits and off-site contributions, which are essential components to making mixed use policies operate successfully.
- We are concerned about the introduction of minimum space standards for new residential developments.
- We are concerned that an array of differing approaches by the Boroughs to tackling climate change will hamper the property industry's ability to trial and innovate in the delivery of zero carbon developments and retrofitting existing buildings.

- We wish the Mayor to make a clear commitment that both planning obligations and a potential community infrastructure levy (CIL) will not be used by the Mayor or Boroughs to seek a contribution from developers for the same item / category of infrastructure, this will ensure that there is no 'double charging'.
- We do not support the use of planning obligations to require developers of large retail developments to make provision for affordable small shop units.

If you wish to discuss any of the issues raised in our response, please contact:

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Consultation response

Policy 3.5: Quality and design of housing developments

5. The property industry is committed to delivering high quality developments. However, high quality development does not necessarily have to be in keeping with the style of existing local architecture. In many instances the density of a development may have to be increased to ensure the viability of a project which will have design implications for the development and the surrounding area. The draft plan should recognise that a change to the style of local architecture is not a bad thing *per se*, and can often enhance an area.

Policy 3.8: Housing choice

Minimum space standards for new dwellings

6. Policy 3.8 on housing choice (discussed below) states that ‘Londoners should have a genuine choice of homes they can afford and which meet their requirements for different sizes and types of dwellings...’ However, the Mayor’s desire to include minimum space standards for new developments (paragraph 3.30) will act directly against this desired policy goal.
7. Firstly, the introduction to the consultation on the London Design Guide stressed that 60% of new households forming in the capital are single households, about 1200 a month. It would therefore seem counter intuitive to pursue a policy that will make studio flats and other smaller units a thing of the past.
8. Secondly, minimum space standards will have an impact on the viability of development schemes. Finding suitable land for residential development in London comes at a premium, and therefore, developers have to be innovative in their use of the space that is available to ensure the viability of their developments. A mix of studio, one and two bedroom flats in new developments was a model that worked well for developers, and one that provided for a variety of housing needs. We fear that the inclusion of minimum space standards together with existing requirements for the provision of affordable housing and environmental requirements will prevent developers from achieving a sufficient density of units to make many developments viable.
9. Thirdly, increasing the size of new developments will increase their cost thereby reducing the affordability of properties for buyers. With mortgage finance difficult to come by and expensive for first time buyers, any move to make properties larger, and therefore more expensive, will prevent more people from being able to access home ownership.
10. In responding to the London Housing Design Guide consultation earlier this year, we expressed concern that the cost evaluation information underpinning this policy had not been incorporated into the consultation process. We believe that before the requirements for minimum space standard become policy, this cost evaluation information should be published to ensure transparency and to give the industry reassurance that the evidence base upon which the policy is based is rigorous.

Institutional investment in the private rented sector

11. We welcome the intention of policy 3.8 to provide Londoners with a genuine choice of homes they can afford. We are pleased to see the private rented sector (PRS) recognised as a mechanism to deliver this choice, and we fully support any joint work that the Mayor and Homes and Communities Agency can undertake to encourage greater institutional investment in the PRS. We look forward to further announcements on this subject in 2010.
12. Institutional investors will need assistance to get their schemes off the ground, and we believe that the Mayor needs to provide leadership to encourage London Boroughs to be sympathetic to the provision of large scale rented accommodation in their calculations about what other obligations they can extract from a site. The Mayor's intention to 'investigate' changes to the use classes order as stated in the draft Plan is a potential way of planning in large scale PRS provision, but that needs to be looked at carefully, because of other effects it could have and the stated review is a sensible approach. We fear that such a policy may prove too constraining to owners and occupiers and require regulatory change, which would take considerable time. Frankly, London needs the rented housing now and a policy of working with Boroughs to support large scale rental may achieve more in the timescales required.

Student accommodation

13. We are pleased to see that the substantial contribution that London's universities make to the economy is recognised in the draft plan. This sector contributes directly (e.g. employment) and indirectly (e.g. provision of skills) to the economy and requires clear policy guidance to encourage Boroughs to recognise and positively plan for this sector. We welcome the commitment in the draft plan to ensure that the competitiveness of the higher education sector is not undermined through the inadequate provision of new student accommodation.
14. We welcome the establishment of a student accommodation forum (paragraph 3.45) and we would be happy to attend the forum and facilitate the attendance of our members with an interest in this area of development as well.
15. Clarification is required with regard to the meaning of following part of paragraph 3.45 (p.75):

'Unless student accommodation is secured through a planning agreement for occupation by members of specified educational institutions for the predominant part of the year, it will normally be subject to the requirements of affordable housing'.
16. We understand this to mean that if student accommodation is developed for the general student population without a 'planning agreement' to a specified educational institution then the development will have to comply with the Mayor's affordable housing policies. If our interpretation of this policy is correct, it will have a negative impact on the total provision of student accommodation, which is still very scarce in the capital. The provision of purpose built student accommodation frees up significant space in the private rented sector for the rest of the population of London, key workers for example. This model of development would be compromised if it had to adhere to the Mayor's affordable housing policies.

Policy 3.13: Negotiating affordable housing on individual private residential and mixed use schemes

17. We have no objection to the establishment of affordable housing targets on a Borough by Borough basis as is set out in the draft plan. We would, however, ask that the Boroughs formalise their affordable housing policies expeditiously in order to provide certainty for developers.
18. We strongly welcome policy 3.13 A (c) which asks Boroughs to have regard to “the need to encourage rather than restrain development” when negotiating affordable housing requirements. This will be essential to the delivery of development in London, especially since the onset of the recession, which has decreased the viability of most development but particularly those that have a high level of affordable housing attached to them.
19. We support the ability for a developer to provide affordable housing off-site or through in cash in lieu contributions, in exceptional circumstances (paragraph 3.67). We recommend, however, that an additional circumstance is added to the list of exceptional circumstances when the off-site delivery of affordable housing will be permitted. This should be when a development (including the affordable homes requirement) is transparently proved to be unviable with the affordable housing on-site but the developer and the Borough would like to see the development proceed.

Policy 3.17: Protection and enhancement of social infrastructure

20. The provision of social infrastructure, particularly in relation to major developments, is a complicated process. It requires an understanding of how services are provided and by who, a knowledge of the likely needs of the new community and the impact on the existing community, and a great deal of collaborative working to ensure that the right blend of services are available to local communities in the right locations and at the right time.
21. The BPF in conjunction with the HCA Advisory Team for Large Applications will be publishing a short guide to the process outlined above in 2010, which may be of interest to the Mayor and London Boroughs.

Policy 4.3: Mixed use development and offices

22. Mixed use policy has been driven on the basis of a thriving economy with viable uses facilitating the provision of less viable uses or those sought for policy reasons. Incorporating a mix of uses, including housing, in development is highly complex to design, build and finance. Reduced development viability as a result of the recession has severely curtailed the ability to provide mixed use development and it seems unlikely that the position will change in the short to medium term.
23. There are sensible policy reasons for not encouraging mixed use policy in some areas of London. In particular, areas which are primarily comprised of high density commercial development will often experience significant benefits from agglomeration. These benefits (discussed in response to policy 7.7 below) will be diminished if non-commercial uses such as housing are sought as part of the development.

24. We therefore welcome policy 4.3 B(b) which encourages the use of land swaps, housing credits and off-site contributions. Such arrangements will be essential if mixed use policies are to operate successfully.

Policy 4.9: Small shops

25. BPF members want to create thriving retail areas. It is in their interests to deliver places that are attractive to shoppers and which offer a variety choice. We sympathise with the Mayor's aim of supporting 'a diverse retail sector and small and medium sized enterprises', but cannot support the mechanism by which it will be implemented because of the unintended consequences it will lead to.
26. We do not understand why a London-wide policy is needed on this issue. London boroughs already have powers to deliver affordable business space through planning obligations, and occasionally do, but these obligations have to be weighed up against other competing priorities that a local authority wants to obtain from planning obligations. Often other priorities such as affordable housing provision or contributions towards infrastructure are preferred over affordable business space.
27. Our original objections to this policy remain. The policy only affects those businesses looking to expand or enter the market for the first time. It doesn't otherwise seek to assist the majority of small businesses on the majority of high streets. One business's subsidised rent is another's unfair competition. The policy could drive incumbent small businesses out of an area, as they struggle to compete with the new businesses which are enjoying preferential terms in major new retail schemes. Such a policy could also breach EU legislation on state aid through favouring occupiers of new stock over those in existing premises. And even if rents are made more affordable, the total costs of occupancy may be significantly higher in centres offering subsidised rent than outside it which will make such space unaffordable for smaller independent retailers. For example, more intensive management costs in a centre will be reflected in the service charge, and it is also likely that a subsidised unit will be assessed for business rate purposes based on its rateable value rather than rent passing – both of these factors would be expensive for the business occupier receiving a subsidised rent.
28. Whilst we maintain our opposition to the policy should the Mayor proceed with it we have the following observations. We agree that the application of this policy should depend on local circumstances, and the viability of the development, before such a planning obligation is sought (paragraph 4.50). We also agree that the policy should be weighed against other strategic priorities in planning obligations before it is put into effect, and we would hope that where developers are unable to provide for affordable space in their centres, the supplementary planning guidance allows authorities not to implement the requirement.

Policy 5.1: Climate change mitigation

29. We are concerned with the feasibility of Policy 5.1 which sets a target of a 60% improvement in London's carbon dioxide emissions below 1990 levels by 2025. It is vital that development contributes to the reduction of emissions, but we question the ambition of a 60% reduction by 2025. The Climate Change Act mandates an overall reduction of 34% by 2020 on 1990 levels and a reduction of 80% by 2050. The majority of emissions in relation to the built environment come from the existing stock. Improving the environmental

performance of non-domestic buildings within London has been the focus of the Mayor's Better Buildings Partnership and Green 500, a private sector/London Development Agency initiative. Though progress has been made, considerable barriers remain to the effective improvement of existing buildings, such as the lack of agreed metrics for measuring sustainability impacts and a lack of an established relationship between sustainability and value. There are several wider industry initiatives seeking to make progress on these particular issues, including the Green Property Alliance's common metrics workstream, which builds on the Benchmarking Paper produced by the Better Buildings Partnership last year.

Policy 5.2: Minimising carbon dioxide emissions

30. We are concerned by proposals in Policy 5.2 for an energy assessment for major developments covering all energy uses in the building.
31. We welcome the overall convergence shown in the London Plan with central Government's approach toward zero carbon new development. However, we would welcome clarification of Policy 5.2, where it is suggested that new developments from 2010 – 2013 will be required to deliver a 44% improvement in energy performance over 2006, calculated via the flat 25% improvement rate for residential and the 25% aggregate improvement rate for non-domestic buildings. It is the view of our members that a 25% improvement rate is sufficiently challenging and should not be gold-plated. Requiring higher levels of energy efficiency from 2010 also countermands the Government's hierarchical approach to zero carbon new non-domestic buildings which may bring some much needed flexibility to approaching this ambitious target. Central Government has set out the anticipated trajectory for Part L to allow those developers who wish to aim for higher performance levels ahead of regulatory requirements to do so.
32. We would welcome clarification with regard to proposals in Policy 5.2 for an energy assessment for major developments covering all energy uses in the building. The majority of non-domestic buildings are rented, and traditionally most non-domestic buildings are built speculatively by developers and it is often very difficult for them to know precisely the sort of tenant who may inhabit the space. Whereas office use can tend to be more homogeneous, retail clients can vary considerably (e.g. a food outlet may need chillers and catering equipment whereas a clothing retailer may have a need for higher luminosity lighting for aesthetic purposes). This means that it is often difficult to predict the performance of energy uses governed by Part L, and still more difficult to assess the predicted energy use of uses outside of its scope. We would therefore welcome clarification of the methodology to be used to conduct such an assessment and the assumptions framework which would be used by developers to assess buildings where the nature of the future tenancy was not known.
33. To tackle whole building energy use, the BPF has long been supportive of display energy certification, based on actual energy use, for buildings in occupation. We believe that display certificates can encourage engagement between landlords and tenants in rented premises and close the gap between design energy performance and operational energy performance. The advantage of Display Energy Certificates is that they are designed to be applied to existing non-domestic buildings, which

Policy 5.4: Retrofitting

34. We intend to respond in detail to the Mayor's forthcoming draft Climate Change Mitigation and Energy Strategy.

Policies 5.5 and 5.6: Decentralised Energy Networks and Decentralised Energy in Development Proposals

35. In relation to 5.5, we agree that local authorities must more consistently deliver on their obligations under PPS1 and receive appropriate support from central government. The Climate Change PPS expects local planners, in considering targets for using local energy for new development areas or sites, to look for opportunities to use "existing decentralised and renewable or low carbon energy supply systems and to foster the development of new opportunities to supply proposed and existing development."
36. We welcome the development of the London Heat Map to facilitate this process within London.

Policy 5.7: Renewable Energy

37. In relation to B within 5.7, on-site renewable energy should be employed where it can be demonstrated that it will deliver the highest carbon savings compared with the potential contribution of energy supplies which are decentralised, off-site or near-site. Often in urban areas, the scope for on-site energy provision can be limited, and it may be more appropriate, and more cost-effective for near or off-site provision to be employed.
38. In recent years there has been a proliferation of different approaches observed by local authorities towards sustainable buildings, whether it is different permutations of on-site renewable contributions or requiring certain levels of BREEAM rating as planning requirements. Many of these requirements have been adopted following the pioneering condition developed by Merton Council. Some authorities have sought to go further than the originators or impose subtly different requirements. Often local authorities lack the skills and resources to modulate such requirements to the circumstances of particular projects in their area.
39. We are keen to avoid the development of a patchwork of differing policies at Borough level which developers and property owners will have to adopt, and in particular where monies and resources levelled at achieving on-site renewables targets could have been better used in bolstering local decentralised energy provision on a district scale. Given the scale of the challenge of delivering zero carbon new non-domestic buildings and homes and the challenge of using existing buildings more sustainably through retrofitting, an array of differing approaches will hamper the industry's ability to trial and innovate.

Policy 5.13: Sustainable Drainage

40. The Floods and Water Management Bill is currently being debated in Parliament and it is likely that it will require all new developments of more than one property to install sustainable drainage systems (SUDS). The standards by which these SUDS are to be constructed will be decided in a document called National Standards, which is currently being developed by Defra and their expert consultant CIRIA. The National Standards will also decide on the appropriate run-off rates for SUDS. To ensure joined up policy making,

the draft Plan should require developers to comply with the Floods and Water Management Bill and the run-off requirements as stated in the National Standards.

41. Like the City Property Association we share the view that any major flood event in London would prove disastrous for the continued position of London as the world's leading financial city. We would therefore like to see Policy 5.12 in the draft Plan expressed in stronger terms. We consider that the Mayor should be taking the lead role in addressing this issue, rather than merely working with the Environment Agency.

Policy 6.5: Funding Crossrail and other strategically important transport infrastructure

42. The BPF supports the introduction of Crossrail, recognising its strategic importance to facilitating development and economic growth in London and the surrounding regions.
43. We accept that the development industry should make a fair and reasonable contribution to the funding of Crossrail. Such a contribution must be allocated according to the impact of the land use classes that are being asked to pay, and must also then be assessed for viability. The full level of planning obligations that a development may also be asked to pay is crucial to an assessment of viability.
44. We fully support the position adopted by London First with regard to this issue at the Examination in Public.

Policy 7.7: Location and design of tall and large buildings

45. High density development and tall buildings can bring significant economic advantages to an area. Research undertaken for the BPF by economics and planning consultancy Colin Buchanan¹, shows that there are significant economic benefits from increasing density of commercial development in the right locations. High density employment clusters that are easily accessible by public transport create greater opportunities for business specialisation, knowledge spillovers, increased efficiency, access to larger labour markets and economies of scale.
46. In turn, this makes people more productive than if the same jobs are spread further apart. And the scale of this productivity gain can be significant. In the case of London, a case study constructed by Colin Buchanan as part of their research suggests that relocating 80,000 jobs to accessible high density locations would increase output by £206 million annually.
47. Policy 7.7 should reflect the benefits that are referred to in the two previous paragraphs. The policy should also remove 7.7 C (h) 'make a significant contribution towards regeneration'. It is not clear why tall buildings, compared to any other type of development, should have to specifically contribute towards local regeneration, although this may be a desirable knock-on effect.

¹ The economic impact of high density development and tall buildings in central business districts, A report for the British Property Federation by Colin Buchanan and Partners (September 2008)

Policy 7.8: Heritage assets and archaeology and Policy 7.9 Heritage-led Regeneration

48. Policy 7.8 fails to acknowledge the fundamental role that private investment plays in maintaining much of London's heritage assets. It is only through promoting such investment that London's heritage assets will continue to be enjoyed by all. The policy therefore needs to place greater emphasis on the benefits of finding viable uses for historic assets in order to ensure their conservation. The policy should promote a pragmatic approach to change, especially if such change will deliver economic well-being in terms of growth and employment generation. This would complement draft Planning Policy Statement 15 on the historic environment which introduces a significance based approach to assessing historic assets.
49. With regard to policy 7.9, not all regeneration schemes will be able to "make use of heritage assets". This policy should be clarified to apply only where regeneration schemes involve heritage assets.

Policy 7.11 London View Management Framework and Policy 7.12 Implementing the London View Management Framework

50. The BPF fully supports the representations that have already been made to the Mayor on this issue by London First and the Major Developers Group.

Policy 8.2: Planning Obligations and Policy 8.3: Community Infrastructure Levy

51. As the consultation draft replacement acknowledges, both of these policy areas are in a state of transition as the Government seeks to reform the mechanism by which the development industry contributes towards the provision of infrastructure to mitigate the impacts of development.
52. There needs to be a clear statement in both of these policies that planning obligations and a potential community infrastructure levy (CIL) cannot be used to seek a contribution from developers for the same item / category of infrastructure. For example, if CIL is introduced the Mayor, it would seem, will use it to obtain a contribution from developers to help fund Crossrail. However, Boroughs and the Mayor (when planning applications come under his jurisdiction) should not then seek to obtain a contribution from developers towards Crossrail through a planning obligation. This will constitute 'double-charging' which will make developments economically unviable.