35% Campaign Group response to FALP consultation **8 April 2014**

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POLICY 3.12 - NEGOTIATING AFFORDABLE HOUSING ON INDIVIDUAL PRIVATE RESIDENTIAL AND MIXED USE SCHEMES

Among the proposed further alterations to the London Plan, we have concerns about the proposed addition to para 3.71 *("Developers should provide development appraisals to demonstrate that each scheme maximises affordable housing output")*. Our concern is that development appraisals are currently being used to minimise affordable housing provision, rather than maximise it and that the scrutiny mechanisms are not effectively preventing the misuse of such appraisals.

Recent developments at the Elephant & Castle have shown that the submission of development appraisals has become standard practice in reducing developers' affordable housing obligations. The table below gives evidence of this and shows how viability appraisals have additionally been used to justify deviations from policy requirements on both tenure mix (less social rented) and reductions in in-lieu payments for the provision of off-site affordable housing.

Had the following developments complied with minimum policy requirements (min 35% affordable of which 50% must be social rented) then they would have provided around 750 new social rented homes at the Elephant - instead they are providing just 79. The viability appraisals submitted with these developments further served to relieve developers of their off-site affordable housing payment obligations, to an amount totalling £265.8m should in-lieu payments have been made.

Development	Total habitable rooms (HR)	Total units	Social rented	Outstanding Intermediate (HR)	Outstanding social rented (HR)	in-lieu payment due	in-lieu payment made	in-lieu payment shortfall
One the Elephant	948	284	0	166	166	£33.2m	£3.5m	£29.7m
Heygate Outline	9052	2300	71	0	1298	£129.8m	£0	£129.8m
Heygate Phase 1	1064	235	8	0	154	£15.4m	£0	£15.4m
Tribeca Square	1507	534	0	264	264	£52.7m	£0	£52.7m
Eileen House	874	335	0	0	153	£15.3m	£15.3m	£0
360 Tower	1227	470	0	0	215	£21.5m	£0	£21.5m
Strata Tower	954	408	0	0	167	£16.7m	£0	£16.7m
Total:	**15626**	**4282**	**79**	**430**	**2417**	**£284.6m**	**£18.8m**	**£265.8m**

Clearly the developers' appraisals submitted with the planning applications are subjective.
We believe there is a general tendency to understate sales revenue and overstate build costs.
Another issue highlighted at the Elephant is whether or not developer-specific circumstances should be taken into account: i.e. developers have tried to argue that a scheme is not viable at the price they paid to acquire the site. This was the case with the Tribeca Square and Heygate developments, which benchmarked residual land values against the purchase price paid for the land.
This goes against RICS guidance and precedents in planning appeals have found that if a

developer has overpaid for a site, or if site values have fallen between the date of the viability appraisal and site acquisition, then this should not be a consideration in the viability test. Whilst the appropriate land value benchmark is contested, the price paid by the developer is not considered to be an appropriate basis for setting a benchmark against which to test viability.

We suggest that in order to truly maximise affordable housing provision, development viability appraisals should not be based upon the actual developer's subjective estimates, nor expectations regarding costs and revenues, nor the actual developer's circumstances regarding land cost, cost of capital, financial structure, operating costs etc.

We suggest an amendment to policy requiring viability appraisals to be based upon 'typical' or 'consensus' estimates and expectations regarding the main inputs to the appraisal.

In view of the fact that all of the information (construction costs, fees, profit requirements etc) required to produce an "objective" development appraisal is available to market professionals, the appraisals themselves should be made available to the public.

This will increase accountability and transparency, and provide an effective scrutiny mechanism to ensure that such appraisals are used to maximise and not minimise affordable housing provision.

Further, **we propose a policy requirement of an effective review mechanism condition of viability appraisals in all cases where development does not commence within 12 months of planning permission being granted.** There has been a failure to include an effective review mechanism in all of the developments listed in the above table. The result is that in two of these developments (Heygate & Tribeca Sq) there will be a gap of around 10 years between the submission of the viability assessment and completion of the development. In the meantime rising sales values will be converted directly into increased developer profit without any increase in the affordable housing provision or in-lieu payment.

POLICY 3.8 HOUSING CHOICE a1) the planning system provides positive and practical support to sustain the contribution of the Private Rented Sector (PRS) in addressing housing needs and increasing housing delivery.

We are concerned that this tenure is being expanded through investment by financial institutions and supported by public funds with little public debate. Large scale build-to-rent PRS schemes may be attractive to developers and investment companies, but we do not believe it will provide housing for those most in need; this requires social rented housing. In addition we note press reports that 'PRS tenancies are being terminated at an alarming rate' http://www.insidehousing.co.uk/tenancies/prs-shorthold-tenancies-being-terminated-at-alarming-rate/7003156.article

Therefore we propose that **any available public funds and London's housing policy should both be directed towards promoting social rented housing** (NB for the sake of clarity, by social rented housing we mean housing provided at council housing rent levels determined by the National Rent Regime - and not the 'affordable rent' product at up to 80% market rent).

We are further concerned that in the longer term the introduction of build-to-rent PRS, alongside social rent, 'affordable rent', intermediate and free-market housing, will serve to squeeze out social rented housing from new developments, social rented housing being the least attractive tenure to developers, because of its cost, low sales revenue and lack of public funds supporting it. In addition the impact on Londoners' aspirations towards home ownership needs consideration, should the supply of leaseholder properties also be reduced by PRS.

We note that one of the first large scale, build-to-rent PRS developments in London will be at Newington Butts the (the 360 tower) at the Elephant & Castle, and that this will have no social rented housing; we understand that developers of three other major development sites in the E&C Opportunity area are considering PRS as the predominant tenure. If this is so it will have a significant impact on the social make-up of the area, about which there has been little public debate.

We trust that our comments will be given due consideration.