

Directorate of Development and Renewal
Strategy and Innovation
London Borough of Tower Hamlets
41-47 Bow Road
London
E3 2BS

5th July 2004

Dear Sir/Madam,

Tower Hamlets UDP Review – First Deposit Draft

Thank you for giving the House Builders Federation (HBF) the opportunity to comment on the First Deposit Draft of the Tower Hamlets UDP. The HBF have considered the proposed document and have made the following observations:

Policy HSG 4 – Affordable Housing Target

Thresholds:

HBF draws issue with the affordable housing threshold of 10 units. Government policy on the provision of affordable housing through the planning system is set out in Circular 6/98. This Circular makes it clear that affordable housing should only be sought (not required, or expected) through local plans by negotiation on suitable sites and where there is evidence of local need. It defines what constitutes suitable sites and specifies that definitions of affordable housing must be tenure neutral and must encompass both low cost market and subsidised housing. The Circular sets site size thresholds, which are a proxy for site suitability and economics of provision. The general threshold for Tower Hamlets, as an inner city London Borough, as denoted in Endnote 7, is 15 dwellings or sites of 0.5 hectare or more in area.

Footnote 9 to the Circular explains what might constitute exceptional circumstances. These include more than just housing need but also the type, size, supply and suitability of existing market and affordable housing and the relationship between the Council's housing strategy and programmes and the objectives of the policies and proposals in the local plan. These matters are also referred to at paragraph 6 of the Circular.

The Council's approach to the provision of affordable housing in this Draft Local Plan focuses primarily on needs and pays insufficient regard to these other important elements of Circular 6/98. This is unacceptable.

This is supported by the Consultation Paper on proposed changes to PPG 3, which does not lower the thresholds below 15 dwellings or 0.5ha as stated in Para 10 of Annex A. Para 53 of PPG 1 states that Government consultation is a material consideration.

As a consequence, Policy HSG 4 should be rewritten and the minimum threshold changed to 15 dwellings or 0.5 hectare or more, in accordance with Circular 6/98. References to an affordable housing threshold of 10 dwellings should be deleted.

Affordable Housing Target:

Whilst the HBF support the adoption of a minimum affordable housing target of 35% to help ensure continued delivery of affordable housing for the Borough, as a sensible approach, we are perplexed at the imposition of a 50% affordable housing target on off-site provision; there is no reasoned justification in the text to support this. The majority of sites in Tower Hamlets, are going to be compact, constrained Brownfield sites, which may not be suitable for affordable housing for a variety of reasons, it is perfectly feasible that off-site provision will be the best method to deliver certain types of affordable housing e.g. family housing. It is therefore unclear as to why there should be an increased percentage sought, in such cases. The minimum affordable housing target should be brought into line, with that of on-site provision, from 50% to 35%.

Policy HSG 5 – Affordable Housing Ratio and Mix

Policy HSG 5 proposes a Social Rented to Intermediate ratio split of 80:20. This is contrary to Circular 6/98 Para 4, which states that policies should not be tenure specific or expressed in favour of any particular form of tenure. Additionally these ratio quantities fail to promote the Government ideal of mixed and balanced communities.

If the Council wish to achieve its aims, set out in Policy HSG 1, of maximising housing provision, then they need to exercise flexibility. Provision of Social Rented incurs higher costs on developers, this coupled with the Council's operation of a grant-free policy, will affect the viability of developments in the Borough. If the Council is inflexible, then delivery will inevitably be hampered and need will not be met, to the detriment of all parties involved.

With regards to Point 3 of the Policy, that deals with integration and the appearance and differentiation between affordable and market housing on-site. Ironically this difference in appearance often occurs as a result of following rigorous Housing Corporation standards.

The insistence of dispersal and integration of affordable housing throughout a development is far too prescriptive and has no regard for reality. Due to site constraints, this may be physically unviable for developers or have adverse financial implications, which may endanger the development proposal.

Additionally, the Council must be aware that RSLs often favour affordable homes to be provided in one location due to the practical and management difficulties of dealing with dwellings scattered throughout developments. It is essential that sufficient flexibility be provided within the Policy to assist such realities and that site-specific considerations are taken into account.

As a consequence of the points made above, the Council must be more flexible in its approach, and this should be reflected in the policy as follows: **(Alterations in Bold)**

“3. Affordable Housing **must should** be integrated with the rest of the development and **must should** have the same external appearance as the rest of the housing, **wherever practicable.**”

Policy HSG 6 – Commercial Contributions to Affordable Housing

HBF are broadly supportive of Policy HSG 6. However the Council should delete ‘to accommodate new workers to the area’, so the Policy reads as follows: **(Alterations in Bold)**

“ In large offices and hotel developments (including those with serviced apartments), including mixed use proposals which include these uses, the Council will look to negotiate an element of affordable housing ~~to accommodate new workers to the area~~, either as part of the mix of uses, off-site, in accordance with HSG 4 or as a cash-in-lieu contribution, dependent upon the scale, location and type of development proposal.”

This change will support the Council’s commitment to cutting local unemployment. New job creation, will increase prosperity and reveal concealed households, particularly young adults, still living at home. Any commercial contributions to affordable housing should focus on need within the Borough, not those attracted to the area.

Policy HSG 7 – Retention of Affordable Housing

The HBF objects to the requirement for dwellings to remain affordable in perpetuity. This amounts to a blanket requirement and is counter to the requirements of Circular 1/97. This takes no account of changing circumstances in the future. Greater flexibility is required.

Policy HSG 10 & Planning Standard 3 – Lifetime Homes and Wheelchair/Mobility Housing

Policy HSG 10 and Planning Standard 3 state that all new housing should be built to ‘Lifetime Homes’ standards and ten percent of new housing should be designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users.

With regards to lifetime homes and wheelchair housing, this involves the internal layout of the building falls under Building Regulations and does not fall within the remit of Town and Country Planning legislation.

Draft Planning Policy Statement 1 (PPS 1) supports this view. The final sentence of Para 1.29 states:

“ Planning policies should not replicate, cut across, or detrimentally affect matters within the scope of other legislative requirements, such as those set out in Building regulations which concern the internal layout of a building.”

As a consequence, the Council should withdraw this policy.

Policy SF 1 – Social Facilities

Any social facilities negotiated through planning agreements should relate to the development itself, in line with Circular 01/97 and the necessity test, detailed in B2. This should be explicitly mentioned in the supporting text.

Policy TRN 11 – Bicycle Facilities

The Council should not require ‘bicycle-friendly’ developments, but seek them where appropriate. Not all residential developments will require, or be able to accommodate, bicycle facilities e.g. retirement housing. The wording of the policy should be altered to reflect this.

Policy UD 2 Architectural Quality & Policy UD 3 Ease of Movement and Access through Inclusive Design

Both Policies UD 2 and UD 3 contain stipulations, which involve the internal layout of buildings. Concern of the internal layout of the building is addressed through Building Regulations and does not fall within the remit of Town and Country Planning legislation.

Draft Planning Policy Statement 1 (PPS 1) supports this view. The final sentence of Para 1.29 states:

“ Planning policies should not replicate, cut across, or detrimentally affect matters within the scope of other legislative requirements, such as those set out in Building regulations which concern the internal layout of a building.”

The policies should be altered accordingly.

Policy UD 9 – Public Art

It is widely recognised that developers are expected to contribute towards all manner of essential physical and social infrastructure necessary, in land use planning terms, to serve their developments. As such it is clear that the

provision of, or contribution towards public art cannot be considered a proper function of planning control, as was recognised by the leading counsel when addressing the Arts Council. The Arts Council Steering Group report recognised this. The Steering Group's own recommended form of policy wording was for authorities, in appropriate cases to seek to encourage the provision of works of art as part of schemes for development. The report recognised that the under planning legislation it was not possible for the planning system to make the provision of public art a mandatory requirement.

Therefore, policies must make it clear that the Council will seek to negotiate with developers for the provision of, or contributions towards public art, where appropriate, rather than requiring it in all circumstances. It is quite clear that the Council's 'expectation' that accessible public works of art will be provided in all large developments as listed in Point 1 of the policy, is inflexible. The Policy should be reworded to reflect this i.e. that public art cannot be 'expected' but should be negotiated, on suitable developments.

Policy ENV 8 – Energy Efficiency

Policy ENV 8 states that the Council will expect major developments with a floorspace greater than 1000 sqm or residential developments of 10 or more units to incorporate renewable energy production equipment to provide at least 10% of the predicted energy requirements.

The London Plan (2004) states in Policy 4A.9 that “ ***The Mayor and boroughs should require major developments to show the development would generate a proportion of the site's electricity or heat needs from renewables, wherever feasible.***”

The London Plan does not set a proportion of energy to be produced from renewable sources; it is unclear where this 10% requirement has been derived from. Policy ENV 8 of the UDP does not take any level of feasibility into account i.e. not all sites will be able to satisfy the requirement.

It is unclear how the predicted energy requirements will be calculated, nor how they would be monitored to ensure the target was being met.

Furthermore, PPG12, paragraph 3.5 clearly states that development plans should not contain policies, which duplicate the provisions of other legislative regimes. The matter of detailed requirements for energy conservation is more properly a topic for consideration under the building regulations. PPG12 singles out Building regulations as one such regime. Building Regulations are constantly under review and builders are required to comply with whatever regulations are currently in force at the time they submit planning applications. It would be confusing and is unnecessary to have different sets of requirements in the development plan to those required under Building Regulations, notably Part L.

For all of these reasons the 10% target in Policy ENV 8 should be deleted and replaced with the text which refers to the encouragement of energy efficiency

measures as a general policy aspiration, and, if necessary, be accompanied by a cross reference to Building Regulations as the way in which this will be implemented and monitored.

Policy ENV 11 – Waste Disposal and Recycling Facilities

Any recycling facilities negotiated through planning agreements should relate to the development itself, in line with Circular 01/97 and the necessity test, detailed in B2. This should be explicitly mentioned in the supporting text. Facilities offered in the vicinity, also need to be taken into account.

Policy ENV 12 – Recycling of Construction Waste

Not all sites, particularly Brownfield development, will be able to re-use waste. A degree of flexibility is required and the first sentence of the text should be reworded to read: **(Alterations in bold)**

“The Council will ~~require~~ **seek** that construction waste is sorted on-site for re-use and recycling, **where appropriate**, provided adverse impacts from noise, dust and transport are minimised.”

Policy ENV 19 – Protection of the Water Environment

The HBF and its member companies are keen supporters of the concept of SUDS and seek to implement them wherever this is practicable. However the implementation of SUDS and their adoption are processes that involve separate bodies and consequently this is where the problem arises.

Most Planning Authorities require the integration of SUDS into developments, however it is the adoption, which is controlled under Building Regulations (and/or other relevant Construction/Public Health legislation).

If the Planning Authority imposes conditions, which require developers to provide SUDS, and Local Building Control, Highway Authority and or the Water Company are reluctant to adopt SUDS. It is clear that this will leave developers in a situation where although Planning requirements have been satisfied, the SUDS will not be adopted by water companies and local authorities.

As such the HBF consider Authorities planning system should promote better communication channels, and early communication and liaison between all parties to aid the incorporation of SUDS. The Council needs to examine this, and ensure that this mechanism is there at this early stage in the UDP process, to ensure the success of the policy.

Policy IM 4 – Supplementary Planning Guidance

With regards to the final sentence of the supporting text, SPG cannot become SPD. The forthcoming PPS 12 will address this. SPDs will need to be drawn

up as set out in of the Local Development Scheme. This sentence should be changed, to reflect this.

Thank you again for giving the HBF opportunity to comment on your UDP. I look forward to your acknowledgement of these comments.

Yours sincerely,

Jonathan Sheldon
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