35% CAMPAIGN SE
LONDON BOROUGH OF SOUTHWARK

c/o ** Market Place
Bermondsey SE16 3UQ
13 December 2016

Sadiq Khan
City Hall
The Queen's Walk
London SE1 2AA

RE: Consultation on Draft Affordable Housing/Viability SPG 2016 & Good Practice Guidelines on estate regeneration

Dear Mayor,

We are a campaign group set up in response to Southwark Council's repeated failure to ensure that developments provide the miniumum 35% affordable housing quota required by its planning policy.

Within the course of our campaigning activities, we have gained a thorough understanding of viability and have given evidence at examinations in public, public inquiries and Tribunal hearings into viability testing and the disclosure of viability information.

Whilst we welcome the Mayor's attempts to provide more detailed guidance on viability and affordable housing provision, we have some serious reservations about the draft SPG. These are laid out as follows:

The Mayor and Referrable Applications

> "the Mayor **will consider** directing that he is to be the Local Planning Authority for the purposes of determining an application (often referred to as a 'call in') or directing refusal when: • he is not satisfied with the viability information submitted by the applicant, the assumptions that underpin the information, or the level of scrutiny given by the LPA…" (para 1.16)

We are concerned about the level of discretion enabled by the wording of this paragraph. As we have seen with many major developments in Southwark, local authorities don't have the capacity, resources or expertise to sufficiently scrutinise viability and scrutiny can be compromised by political influence and objectives.

We believe that ALL major planning applications which don't meet the 35% minimum affordable housing requirement should be called in for scrutiny by the Mayor and that this should be enshrined in the SPG.

Transparency of Information

> "The Mayor wants the GLA to lead the way in openness and transparency. In particular he considers that information relevant to planning determinations should be publicly available alongside the other application documents in order to foster a greater understanding of and trust in the planning system." (para. 1.17)

We believe that this wording should be amended to ensure that ALL viability information submitted is made publicly available **at the same time**, i.e. contemporaneously with the publication of other application documents. This will avoid the problem we have experienced here in Southwark, where viability assessments are only made public a week before the planning committee hearing. This is clearly insufficient time for members of the public to digest complex viability information properly.

Furthermore, paragraphs 1.21 and 1.22 of the SPG effectively provide a welcome get-out clause for developers, enabling them to keep information confidential in 'exceptional circumstances'. We have seen in Southwark how 'exceptional circumstances' can quickly become the norm and integrated into routine practice.

We suggest that paragraphs 1.21 and 1.22 be removed in their entirety to avoid providing a loophole which will undoubtedly be exploited.

CIL prioritised over affordable housing

Pargraphs 2.12 and 2.13 provide another convenient get-out clause for developers, allowing them to argue that the CIL contributions for a given site render affordable housing requirements unviable. The wording of the paragraphs will effectively enable contributions to the Mayor's transport projects to trump affordable housing requirements.

Tenure mix

Paragraph 2.28 says that *"the Mayor is keen to maintain flexibility"* in the tenure split requirements of the affordable housing quota. It goes on to require that 30% of the quota must be provided as 'low cost rent' **which can either be social rent or affordable rent**; a futher 30% must be provided as intermediate housing; and the remainder can be decided on a borough level.

We are very disappointed that the Mayor is continuing to conflate the tenure **social rent** with **affordable rent**. As our recent report shows, this has led to cases where **affordable rent** at up to 78% market rent is being delivered in place of **social rent** - representing rents at more than three times social rent levels.

Given that a large number of the capital's residents cannot afford anything but social rent, we fail to understand why the Mayor's new affordable SPG makes no requirement for social rented housing whatsoever.

Equally alarming is that the Mayor has allocated £3.15bn in order to build 90,000 new affordable homes in the capital, but the guidance for the funding programme doesn't make any mention of funding for building new social rented homes.

We are also concerned that the Mayor has exempted 'build-to-rent' developments from affordable housing requirements. (Jerry to expand on this)

Affordable housing in perpetuity

As we have shown in our recent report and Ombudsman investigation, Southwark has had no procedures for monitoring whether developments are providing the level of affordable housing required by planning consents.

Paragraphs 2.44 and 2.45 relating to securing affordable housing in perpetuity are meaningless unless accompanied by robust monitoring and enforcement procedures. These should be enshrined in planning policy and open to public scrutiny in order to ensure confidence in the planning process.

Off-site provision and cash in lieu payments

Paragraphs 2.48-2.53 enable developers to make an in-lieu payment or propose offsite provision instead of providing affordable housing on site.

This goes against the whole concept of affordable housing policy in that its objective is to create mixed communities. This practice does nothing but lead to the further segregation of London's communities and should be stopped.

Loss of existing affordable housing (including estate renewal)

This is a welcome section, but there remain ambiguities in the following wording:

> "The Mayor expects existing affordable housing to be replaced on a like-for-like basis, meaning there should be no net loss of existing affordable housing tenures (including social rented accommodation)." (para 2.54)

To avoid confusion and the possibility that this policy requirement could be left open to interpretation (i.e. reprovision as affordable rent), we suggest that this should read *"there should be no net loss of social rented housing."*

Developer Profit

> "Target profit levels should be appropriate to current market conditions and will reflect the level of risk being taken. They would currently be expected to be lower than levels that were typical following the financial downturn of 2008/9." (para 3.33)

We believe that a cap should be put on developer profit. In its review of the Heygate estate redevelopment, the District Valuer asserted that most schemes average out below 15% profit. We believe that this should be set as the upper limit of permissible developer's profit.

Benchmark Land Value

Sections 3.36 to 3.49 set out the methodology for determining the benchmark land value used in viability testing. Whilst we support the assertion that Existing/Current Use Value should be used as the benchmark, we are concerned that there is not sufficient direction on how current use value should be calculated.

We suggest that the capitalised rateable value of the current planning use of a given site should be used as the way to determine its current use value. The rateable value is a figure set and held by the local authority, which has been subject to scrutiny and is therefore reliable.

Draft Good Practice Guide to Estate Regeneration

In terms of the Mayor's Draft Good Practice Guide to Estate Regeneration, we have a brief comment to make on what we see are three major shortcomings:

1. The Mayor's guidelines state that *"demolition should only be followed where it does not result in a loss of social housing, or where all other options have been exhausted"*. However, according to section 68 and section 69 of the Housing & Regeneration Act 2008, the term 'social housing' includes both tenures **social rent** and **affordable rent**. In order to avoid ambiguity and being left open to interpretation, the wording should be changed from 'social housing' to 'social rented housing'.

2. The Mayor's guidelines do not set out a requirement for the ballot of an estate's residents before demolition is pursued. In contrast, it actively encourages councils to avoid using ballots as a form of consulation. This is extremely disappointing. We see this as a major shortcoming and feel that a ballot should be the bare minimum consultation requirement of any estate demolition programme.

3. The Mayor's guidelines propose a 'fair deal' for leaseholders but fail to set any minimum requirement for the basis of what represents a 'fair deal'. We feel that the minimum requirement of any such fair deal should be the

requirement for leaseholders to be given the opportunity of a like-for-like lease swap, either for a new property on the redeveloped estate, or for a similar council-owned property in the area. This will avoid the displacement of leaseholders that we have seen from schemes like the Heygate regeneration and avoid costly and lengthy Compulsory Purchase Proceedings, as we have seen on the Aylesbury estate.

END