

New planning Act, new mayor...

Hon. Sec. Drummond Robson minuted the June Forum at Monday 13th June at City Hall. Our Host was Colin Wilson. Full minutes at planninginlondon.com > LP&DF

Brian Waters introduced our speakers: **Riëtte Oosthuizen**, Planning Partner, HTA Design LLP and **Vicky Fowler**, Partner at Berwin Leighton Paisner LLP who kindly came instead of her colleague Christian Drage who had prepared a presentation which she used. Riëtte and Vicky jointly generated the discussion on the New Housing and Planning Act 2016.

Lisa Fermaner spoke about New Neighbourhood Planning and Neighbourhood and Planning Bill.

John Lett set out some of the key planning parameters for any development of policy under the new Mayor, Sadiq Khan.

Sara Dilmamode of Citiesmode talked about the "We Plan London" information service and the thinking behind it.

DISCUSSION TOPICS

Discussion of Planning Reforms under the New Act. Jointly by Riëtte Oosthuizen Director HTA and Vicky Fowler.

The following notes try to combine their two presentations which inevitably overlapped but from different perspectives, and the minutes too have some repetition. Duncan Bowie also added some additional material based on his tracking of the Bill.

The Act received royal assent 12th May 2016 Since the Localism Act 2011 ('devolving planning to LPA's and communities'):

- Growth and Infrastructure Act 2013
 - Infrastructure Act 2015
 - Housing and Planning Act 2016
 - Neighbourhood Planning and Infrastructure Bill
- Consultation on Technical Changes, Starter Homes Consultation, Consultation on Upward Extensions in London, Expressions of Interest in Estate Regeneration etc.

New Homes in England.

Despite the focus in the Localism Act on more power to local authorities and communities, we have seen an awful lot of intervention in the planning system by Central government and they are not finished yet.

Most parts of the Act are coming into force on dates yet to be specified in regulations

Act introduced to:

'kick start a national crusade to get 1 million homes built by 2020'

'to give housebuilders and decision-makers the tools and confidence to provide more homes and further streamline the planning system to accelerate their delivery'.

Objectives and the intended effects behind the Act

- Getting the nation building homes faster
- make it easier for housebuilders to identify land which at a local level is agreed to be suitable for housing.
- making it easier and faster for planning permission for housing to be granted;
- making SoS interventions in the Local Plan process smarter so there are more local plans in place to inform decisions.
- Aims to Help more people buy their own home

Starter Homes

First introduced 2014 – home ownership for 1st time buyers – exception policy

LPA legal to promote Starter Homes – plan and decision making Starter Homes 1st before other forms of affordable housing. It is all in regulations yet to be published and due by 12th July; even the Chapter can be amended...

Industrial and commercial sites – if classified as 100 per cent starter homes, they do not need planning permission, plus no S106 or CIL (although government still to issue regs on the latter).

Policies will need to identify a stipulated per cent of starter homes

What is a Starter Home?

- New dwelling/part of building not previously occupied for use as single dwelling
- Includes conversions and office to residential*
- First time buyers 23-40; regulations could amend and also restrict to nationality
- Discount of 'at least' 20 per cent of MV but no guideline price
- Funded by immunity from S106 and CIL
- New build homes available to 'qualifying first-time buyers' at a minimum discount of 20 per

cent and always less than £250k outside Greater London and £450k in Greater London

- Regs can amend price caps.
- 5-8 year restriction on re-sales and lettings yet to be confirmed in regs.

Statutory duty on LPAs to promote Starter Homes: New category of affordable housing for purposes of NPPF.

Starter Homes Requirement

Draft regulations propose 20 per cent Starter Homes on most residential developments where minimum of 10 units or more than 0.5ha Subject to off-site commuted sums where LPA approves

These requirements must be met or application is automatically refused.

General viability exemption: Specialist housing exemption, potentially affordable housing led estate regeneration, purpose built student housing, custom build and Rural Exemption Sites

Regulations to specify:

- the Starter Homes requirement
- To be secured through s106 agreements
- No specific allowance for local variations in viability but general viability exemption in tightly defined circumstances.

Starter Homes Implications: Emphasis on home ownership but what about majority dependency on private rent?

Genuinely wider definition of affordable housing? Many schemes in London struggle to get to 20 per cent affordable housing (+ effect of dwindling supplies of social rent/affordable rent in favour of shared ownership if developer can afford)

Affordability of the London price cap – need substantial income to access home of £450K

Overall dwindling affordable housing supply as after 5-8 years returns to market housing (together with LPA duty to sell high value housing stock and RP's Right to Buy)

Largely self-enforcing regime: Sales and letting restrictions: Draft regulations propose sales within specified period of 5 (or 8 years) other than a qualifying first-time buyer subject to a tapered discount

Starter Homes – Secretary of State interven-



Image: HTA Design

tion: Intervention by SoS if LPAs fail to carry out functions in relation to Starter Homes

SoS may make compliance direction where incompatible policies in local development documents directing LPAs not to take into account incompatible policies when taking certain planning decisions

Are Starter homes a boost or blow to housing delivery? Viability - affordable housing policy and statutory Starter Home requirements to be met – may prevent councils from delivering other forms of affordable housing and home ownership products

Reduction in the supply of other forms of affordable housing? Affects cash flow; Distortion of market.

Regulations yet to be laid means Manifesto commitment to build 200,000 Starter Homes over course of this Parliament by 2020 likely to missed

Custom Build

- LPA keep register of interest in self build and custom build homes
- Sites 1 to 4 units
- LPA duty to ensure sufficient serviced permitted plots available to meet demand
- Impact on LPA small sites programmes?
- Does it make delivery easier for those interested in custom/self build?

Permission in Principle (PiP) – what is it?

Section 150 of the Act

- The grant of PiP either (1) on land allocated for development in 'qualifying documents' (eg brownfield register, development plan or neighbourhood plan) or (2) on application.

It's not a planning permission – PiP & technical details consent = planning permission

- PiP initially limited to housing or housing led developments
- PiP: How it will work? (1)

Three routes by which PiP may be granted for housing:

- For brownfield sites registered by LPAs as suitable for housing
- Nationwide Development Order for sites allocated for housing in Neighbourhood and Local Plans
- Consent grant following an application for PiP granted at time 'qualifying document' is adopted or made by LPA and requirements for type and scope of development (to be set out in secondary legislation) satisfied.

PiPs granted through plans and registers proposed to last for a maximum of 5 years, but may be some local variation. PiPs granted on application to expire either after 3 years or 1 year

Pip: How it will work (2)

'In principle' matters – core elements underpinning suitability of site for residential development to include:

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Minutes of the meeting on Monday 13th June at City Hall. Our Host was Colin Wilson

Brian Waters (Chairman)
 Andrew Rogers: Association of Consultant Architects
 Colin Rumsey: (Formerly LB Enfield)
 Duncan Bowie: University of Westminster
 Jessica Fern: UCL
 John Lett: GLA
 Judith Ryser: Isocarp/Ugb/Cityscope Europe
 Lisa Fermaner: City of Westminster LB
 Michael Bach: London Forum
 Michael Edwards: UCL
 Michael Coupe: London Society

Nicky Gavron: London Assembly Member (Part)
 Peter Eversden: London Forum
 Riëtte Oosthuizen: HTA Design LLP
 Ron Heath: Living Architects
 Sara Dilmamode: Citiesmode
 Tim Wachter
 Vicky Fowler: BLP Law
 Tom Ball: London Forum
 Drummond Robson: Honorary Secretary and Robson Planning
 Apologies were received from Alastair Gaskin (Hon Treasurer), Bob Dolata, Chris Alda, David Bradley, Jonathan Manns, and Tom Ball

- Location – redline plan identifying location and site parameters
- Uses – housing led uses, may include retail, community and commercial uses forming part of a housing led development
- Amount of residential development – PiP to specify minimum and maximum level of acceptable residential development

Local and national planning policy must be considered in the grant of PiP and technical details consent. EIA and Appropriate Assessments to be carried out at PiP stage if required. PiP: Allocated Sites in Local or Neighbourhood Plans

Power for SoS to make Development Order granting PiP to land allocated for development in a 'qualifying document', which includes Local or Neighbourhood Plans

Development Order to set out what type and scope of development will be granted PiP

Since PiP will identify both the location, use and amount of residential development as well as parameters of the technical details, consent could result in quite detailed plan policies

PiP: Technical Details Consent (1): Full planning permission granted through technical details consent – PiP to describe parameters for technical details

Technical details may include design, access, layout, provision of infrastructure, open space, affordable housing, site specific matters. Technical details consent may be granted subject to conditions and planning obligations (no conditions attached to PiP). Principle of development cannot be reconsidered at the technical details stage

PiP: Technical Details Consent (2)

Approved or refused only on grounds of previously

unconsidered technical matters – right of appeal Consultation on technical details not proposed (optional). Public consultation only at PiP stage

Documents: design statement (layout, access & architectural detail) & an impact statement (assessments eg contaminated land, flood risk; & mitigation eg remediation & drainage schemes)

PiP: boost or blow to housing delivery? (1)

• Greater certainty at an early stage about whether land is suitable for development

• Should enable developers to secure funding earlier in the planning process

• Avoids heavy investment in the finer detail of a scheme before site suitability determined

• Multiple assessments of site suitability during planning process avoided

• Leading to faster start to development once technical details approved

• Timing to determination: PiP (minor) 5 wks, technical details (minor) 5 wks, technical details (major) 10 wks

PiP: boost or blow to housing delivery? (2)

• Existing site allocations in adopted development plan documents cannot grant permission in principle, so authorities will need to prepare new planning documents if new sites are to benefit from the proposal.

• There is a need to deal with EIA at the PiP stage. If there are no conditions or section 106 it is difficult to secure the mitigation that make schemes acceptable in environmental terms, at least on applications.

• PiPs still locally driven and it is often the detail on major schemes that removes opposition or concern

PiP: boost or blow to housing delivery? (3)

• In practice brownfield registers do not currently

exist so full benefit of measures will take time

• Potential increase in legal challenges – will be important to ensure the impacts are adequately assessed and addressed

• Measures will only apply to site allocations in future plans, not retrospectively

• LPAs not bound by principles of the PiP when determining technical details consent where PiP has existed for a long period and there has been a material change in circumstances (subject to future consultation).

PiP: boost or blow to housing development? (4)

Whether major developments can apply for PiP. Any benefit over outline permission?

PiP/technical details application cost unknown but "consistent with similar types of applications in the planning system"

Unclear how conditions and infrastructure will be negotiated and provided

PiP: mid July; register of particular kinds of land already in force

Other changes proposed in the Housing and Planning Act

• Minor amendments to Neighbourhood Planning Process

• SoS step in powers when LPA's are not preparing local plans fast enough/ Mayor of London powers (already in force) – widened scope of referral and call in powers in relation to local plan progress

• LPA to apply to Gvt (SoS) for a 'planning freedoms scheme' – disapply planning provisions to facilitate increase in amount of housing, subject to local consultation

• Financial benefits in committee reports – whether or not material to the application + has it

taken into account the Neighbourhood Plan if applicable?

• NSIP and housing (limited to 500 homes initially) e.g. related to HS2 or Crossrail 2.

• Processing of planning applications by alternative providers – not determination (so validation rather than processing)

• PiP (Permission in Principle)

• Wonderful news for those wishing to increase land value, but is it delivery focussed?

Brownfield Registers (1)

Power for regulations to require LPAs to hold and maintain up-to-date registers of brownfield sites suitable for housing

Land must satisfy prescribed criteria before entry onto brownfield register (eg available in near future for housing, capable of supporting 5+ dwellings & capable of development).

Brownfield Registers (2)

Register in two parts:

First part: brownfield land that meets prescribed criteria; Second part: list of land from first part suitable for PiP and which has been consulted on.

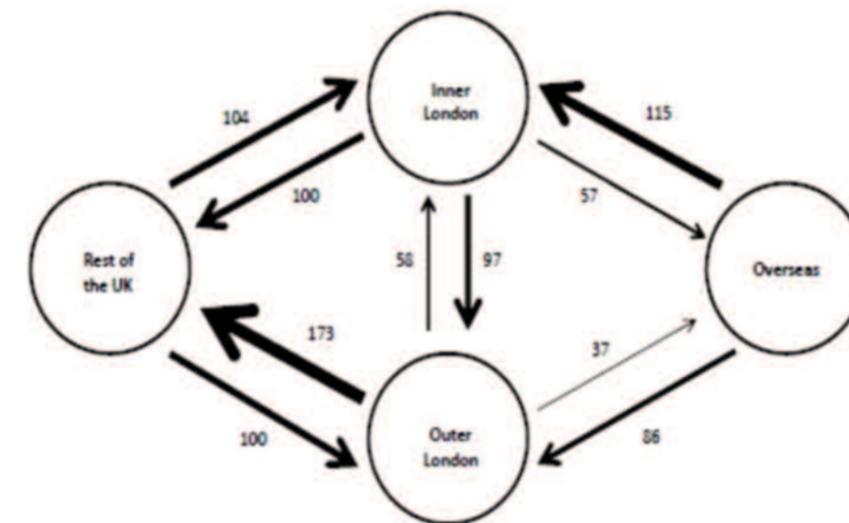
LPAs to have regard to development plan, national policies and SoS's advice and guidance before land can be entered on register

LPAs may be given discretion to exclude land from register that otherwise satisfies criteria

LPAs expected to include all sites considered suitable irrespective of their planning status.

EIA and SEA considerations: Brownfield Registers (3); Register entries to include: Site ref / name / address; Estimate of number of homes the site would support (preferably a range); Planning

COMPONENTS OF DEMOGRAPHIC CHANGE: MIGRATION FLOWS 2014



status; Ownership; "any other information considered useful" eg site constraints and site history.

Centralisation of Intervention

SoS's power to intervene in neighbourhood planning; Step-in powers for SoS in making of development plan documents (used in May 2016 for first time on Birmingham Development Plan because of revision to Green Belt boundary)

Planning applications can made directly to SoS if LPA designated for poor performance; Centralisation of intervention: boost or blow to housing delivery? Step-in powers for SoS in making of development plan documents used in May 2016 for first time on Birmingham Development Plan because of revision to Green Belt boundary to allow 6,000 new homes

Local Plan approved by Inspector following inquiry; SoS Direction prevents adoption until resolution; Inclusion of 'related housing development' in Development Consent Orders (DCOs); Power for SoS to grant development consent for housing linked to NSIP application.

DCLG Guidance to set out details

Draft Guidance issued: related housing should be within a mile of the NSIP or have a functional or geographical connection to NSIP; maximum amount of housing is 500 houses.

Inclusion of 'related housing development' in DCOs: boost or blow to housing development?; Housing limits set out in guidance rather than statute so can be easily changed; Proposed limits on housing set too low to be significant ; Requirement for link to NSIP may be difficult to satisfy in practice

Section 106 dispute resolution

Framework powers for s106 dispute resolution mechanism. Applicant or LPA may trigger mechanism. SoS to appoint person independent person to determine dispute who will make a binding recommendation on appropriate form of planning obligations to impose. LPA then unable to refuse application due to inadequacy of obligations. S106 dispute resolution: boost or blow to housing development? No right of appeal; Detail deferred to secondary legislation; Could encourage parties to reach agreement independently

DISCUSSION

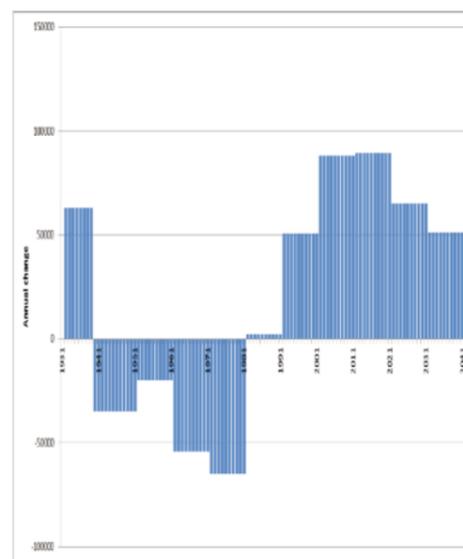
No-one around the table could see this piece of legislation as likely to result in more housing in London, with the prospect of a widening shortfall of housing supply and the prospects of greater housing shortage. There was general incredulity verging on disbelief that this legislation would be other than add to the confusing overload of regulation burdening the statute book, and increase the likelihood that building will take place more slowly than ever, and certainly not encourage London's growth, albeit that it could possibly facilitate urban extensions outside London. There was little hope that the forthcoming regulations would generate any simple clarity either.

As usual there is far too much emphasis on process at the expense of understanding how to achieve worthwhile outcomes.

It seemed worth asking why this legislation had been enacted at all, taking extensive Parliamentary time only to make development planning more opaque. Clearly it is not likely to result in more home ownership. Is it that planning and its realisation have become too complex for >>>

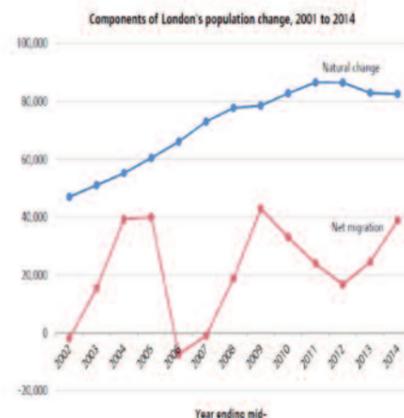
DEMAND SIDE DRIVERS OF CHANGE: HEADLINES

- Area: 1,572 sq km
- Pop: 8.7 mll (2015)
- Pop increase: 76k pa 2036; c72k to 2041?
- Hhlds: 3.4 mll (2014)
- Hhlds: 40k pa (2036); c46k to 2041?
- Housing need: +49k pa (2036); 56k+ to 2041?
- Housing capacity: designed to meet need (+50k pa achieved)
- Emp: 5.6 mll (2015)
- Emp increase: 32k (2036); 46k (2041)

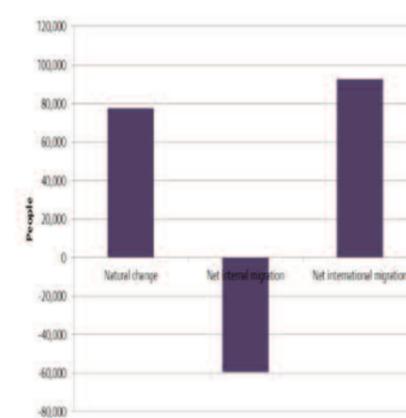


COMPONENTS OF DEMOGRAPHIC CHANGE

Net natural change and net migration



Net natural change and domestic/international migration average 2006 -14



the law makers ? or the unrealistic belief that planning is simple enough and should be undertaken by lay neighbourhoods without the need for professionals? More cynically is it even a raid on local authority funds?

Planning permission can be refused if not meeting 20 per cent target starter homes. This will disregard any assessment of evidence of need.

Starter homes first, other forms of affordable housing will be considered next. What will happen to other forms of affordable housing. Can starter homes be considered affordable housing?

Includes conversions and office to residential schemes – many are substandard and can now be sold as starter homes as well

First time buyers between 25-40 (regulations can change this age bracket and restrict to nationalities). Caps at 450,000 in London, 250,000 elsewhere. Will this apply across London no matter if a penthouse flat vs a studio flat? And will 250k apply across the whole of the UK?

Median salary in London is £30K whereas the average house price is £530K or more than 17.5 times annual salary. Clearly starter homes will create many cash flow issues.

In case of joint ownership, is it okay if just one of the parties is under 40? Parents buying for their offspring? What if people accept a 'gift' towards deposit? Is this okay? Subsidy for UK nationals only? How is this workable? What about one half of the couple?

On sale, after 5-8 years, can revert to market housing. In long-term, loss of supply of housing that is affordable.

Ability to sell at market value has not been explained yet. Government to say no automatic release to the market. LAs to be responsible for lifting restrictions.

In neighbourhood context, neighbourhood is losing out (and subsidizing) because developments not paying S106/CIL for infrastructure/extra services.

All sites over 0.5Ha. Qu for clarification: could LPA ask for less than 10 homes to be eligible – decided locally? Will estate regeneration schemes be exempt from starter homes requirement? This would interfere with LA housebuilding programmes.

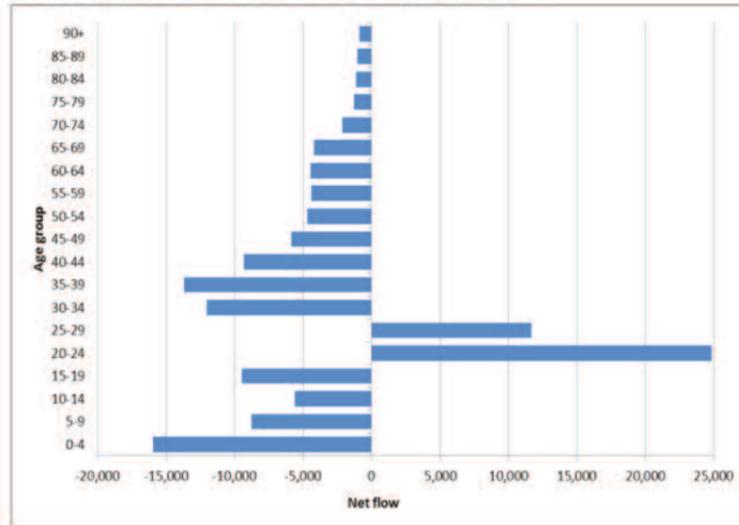
In terms of build to rent in the private renting sector there is likely to be commuted sum requirement.

Implications?

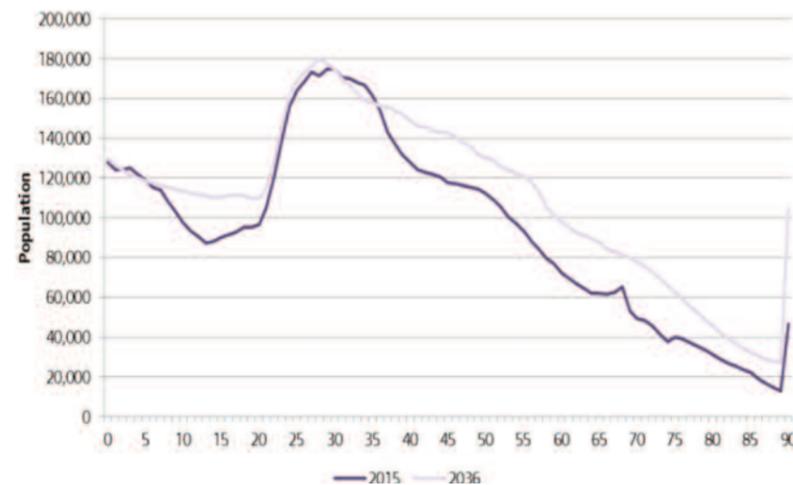
Cultural shift towards home ownership rather than rent. Question of affordability. Many people can't access home ownership and are dependent on private rent. Will exclude a lot of people.

Many schemes in London struggle to get to the 20 per cent affordable housing requirement. If

COMPONENTS OF DEMOGRAPHIC CHANGE: NET DOMESTIC FLOWS BY AGE 2014



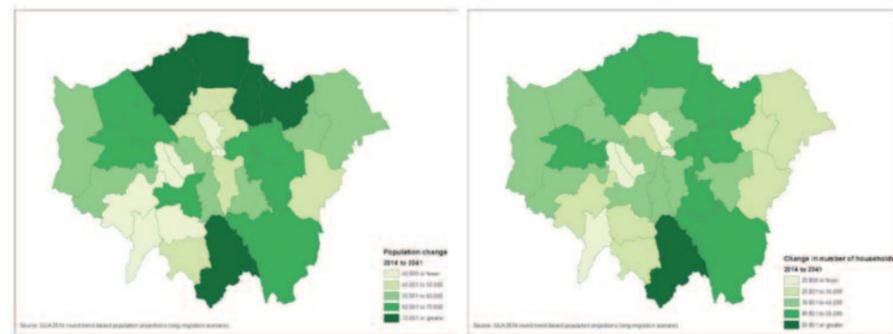
PROJECTED AGE STRUCTURE 2015 AND 2036



Distribution of demographic change 2014-41

Trend based pop 2014-41

Trend based h.hlds 2014-41

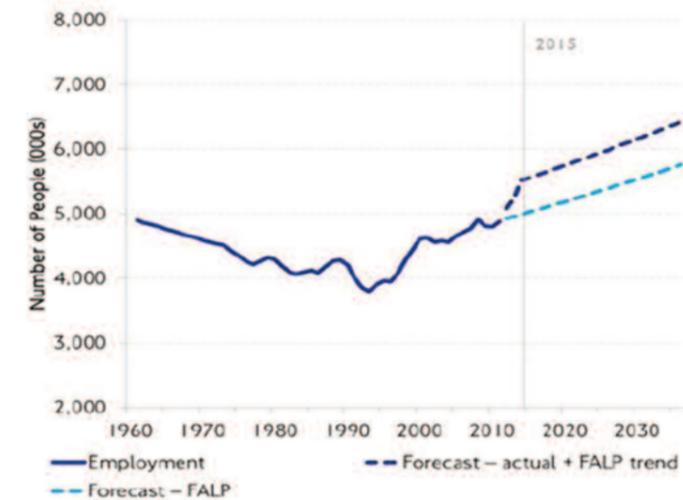


MAYOR OF LONDON

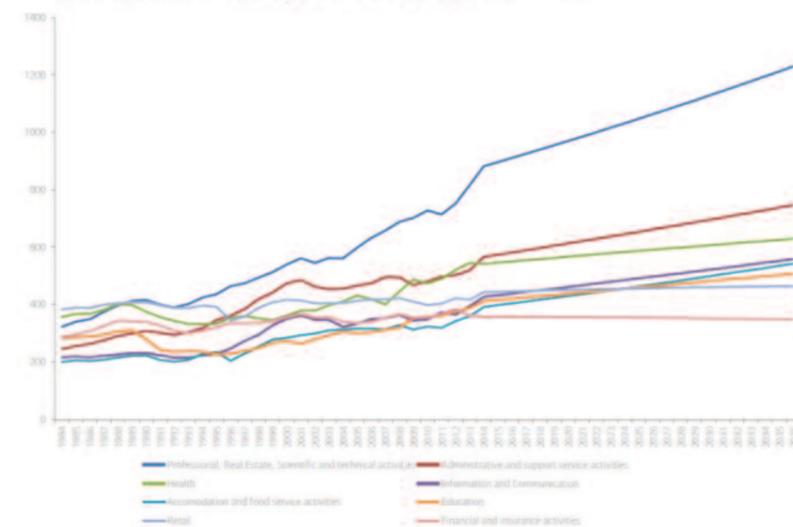
EMPLOYMENT: SECTORAL CHANGE 1996 - 2014



PROJECTED EMPLOYMENT: INTERIM PROJECTIONS 2014 - 2041



PROJECTED SECTORAL EMPLOYMENT: INTERIM PROJECTIONS 2014 - 41



there will be an emphasis on starter homes, we will see dwindling of affordable housing supplies.

How will regime be enforced? Central Government? Unlikely. Idea is that LPAs should monitor and report on how many starter homes will be delivered. Government to step in if LPA is not fulfilling its duties. Where local plans are not consistent/compliant, there may be interference from SoS.

Housebuilders don't like this – what it is doing to their schemes and cash flow. What happens when it is public land? Exemption for LA estate regeneration, but not otherwise. Provisions for starter homes – but has not come into force yet. Concern about distortion of the market, slowing down housebuilding.

Now in a position where we have lost all public subsidy, starter homes requirement and other planning changes in the Act which will reduce ability to secure S106 and CIL. What are chances of Khan achieving much in the way of affordable housing?

PIPs: 2 types

Allocation PIPs – for land allocated in qualifying documents, including brownfield land register, DPDs, NPDs. Could take 18 months to 2 years to prepare and approve qualifying documents.

Application PIPs – application to LPA. Lasts 3 years. What is the advantage? Most schemes get stuck at the design/technical stage. This won't help. Goes beyond an allocation in a local plan – can specify a few more things. Cannot have S106 conditions attached to it. How does it differ from an outline planning application?

Can't allocate a PiP unless an EIA has been done already. So why not just prepare a planning application with the full suite of documents required.

PIPs settle the number of units and 'use' only. Without design detail, this is likely to be underambitious in terms of delivery of numbers. Local communities likely to reject unless the design solves issues of concern.

Consensus: not likely to be used much in London. Perhaps in an urban extension context. LPAs not likely to have the resources for doing PIPs on infill sites. Expectation is that infill sites would get permission for housing anyway. Huge area for JD and challenge from communities that impact has been assessed

This should not affect estate renewal. Shouldn't be putting sites on the brownfield register if they are 'zoned' for employment in the local plan. Definition of a high-value property not yet decided. Will government determine this locally? By postal code or local authority? Will it reflect property type? The London Plan should balance spare B1, B2 and B8 activity more flexibly.

>>> JOHN LETT: TOWARDS A NEW LONDON PLAN

Briefing on pressures for growth. Do not yet know what Khan's response will be. No deputy mayor for Planning as yet. James Murray is deputy mayor for housing, currently covering planning. Speedy review of 2011 plan underway. Due diligence work on NPPF requirements underway.

Housing:

Population projections coming out with similar figs to further alterations. Approx. 76k p/a increase to 2036. C72k to 2041. Recent growth not just a 'Blip' – seems more long term. Hhlds: 40k pa (2036) c46k to 2041?

Translate to housing targets? Rule of thumb to handle backlog, add another 10,000. i.e. 56k pa target housebuilding.

Local plan expert group – using different methodology. Could give us a bigger number of 75-80k target. We think our approach is more robust. Strong reservations about CLG approach.

Trend based population growth in outer London.

Employment

4 to 5 independent bodies that have profound employment projections. 700k jobs since last recession. 100k a year approx. (now abating). We take a long-term view of employment growth. Long time series backwards.

Main growth is in 'professional, scientific and technical'. Meeting wider SE at end of the week to talk about implications of housing need being accommodated outside London borders

People who move out tend to be families. Older people moving to the south coast – numbers are not that great. Big question – will ageing population stay in London?

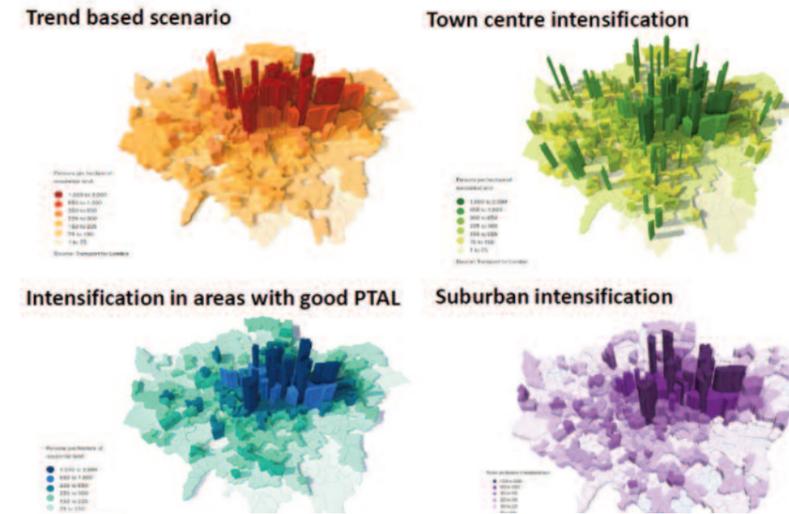
Possible supply side options:

1. trend based scenario – agglomeration
2. town centre intensification. Major viability issues in knocking down and building at higher densities. Mayor is keen to retain 'character' of existing town centres. English Heritage has done some work – 60-70% town centres have some conservation protection.
3. intensification around PTAL (does not take into account Crossrail 2)
4. suburban intensification – this option could deliver significant growth

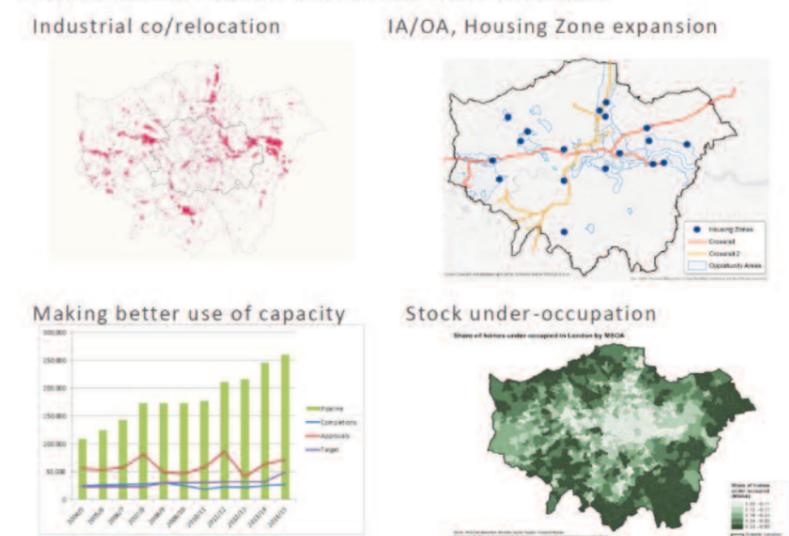
Other supply side options:

Industrial co/relocation: Should we continue existing loss? We have 7,000 Ha left, should be losing no more than 40 Ha a year, mostly in the East. We've been losing 2-3 times that amount though. Issue then is - are those benchmarks wrong? Could they be more generous? Does a big postin-

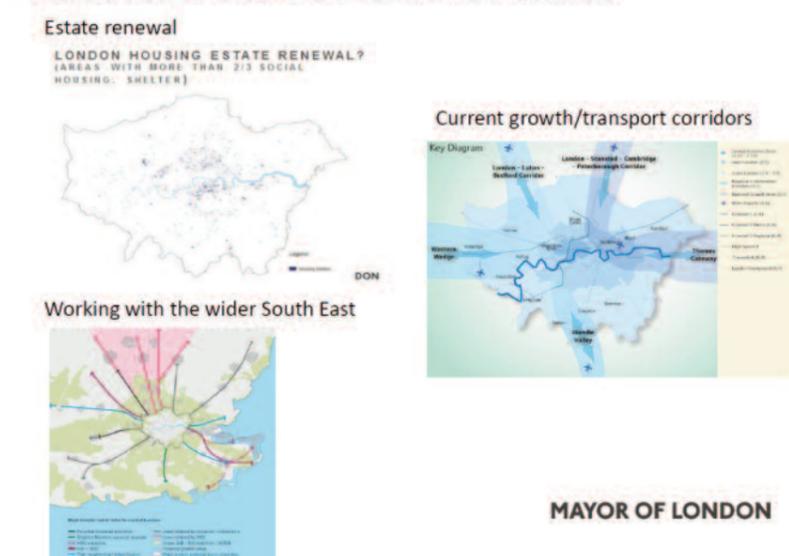
POSSIBLE SUPPLY SIDE OPTIONS:



POSSIBLE SUPPLY SIDE OPTIONS

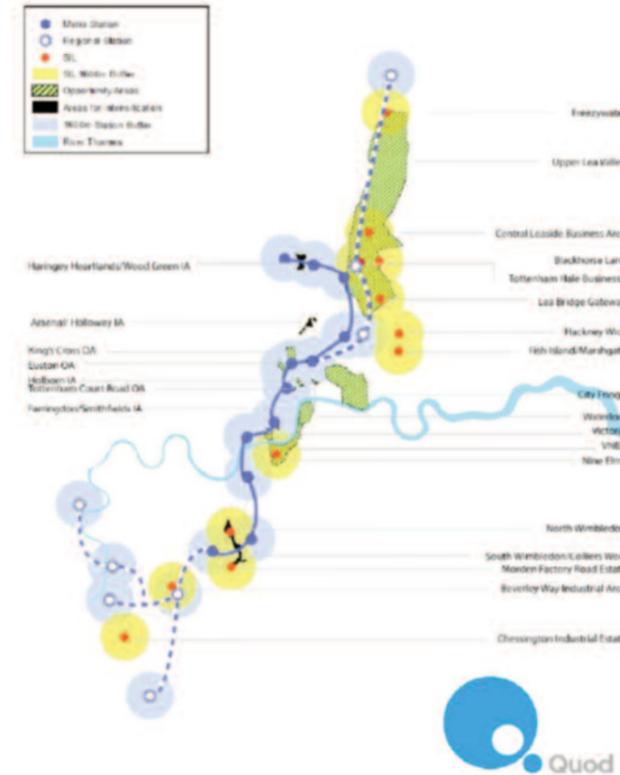


POSSIBLE SUPPLY SIDE OPTIONS



COMPOSITE SUPPLY SIDE OPTIONS

Specific infrastructure scenarios: Xrail 2 - within and beyond London



Specific infrastructure scenarios: Bakerloo Line Extension - within London



dustrial city like London need industrial land? It is affordable business space really, not smokestacks. Could we relocate outside London? Discussing with wider SE. Will express views to new Mayor in July.

IA/OA, housing zone expansion: Why are planning approvals in pipeline not being translated into completions. Not just planning's fault. GLA officers think more complicated.

Estate renewal. Government very keen – Lord Adonis promoting. Takes a long-time to realize.

Working with the wider SE. Growth/transport corridors. Urban extensions, town centre expansion focused on deprived towns, new towns/garden villages. Fare structures/travel costs need to be considered to incentivize commuting.

Composite supply side options. Crossrail 2, bakerloo line extension. Scope for further intensification/renewal.

No ref to green belt – mayor has made his position clear on this. Some tough choices will need to be made.

Next steps

Informal consultation- autumn 2016

Consultation on full draft – Autumn 2017
EIP – summer 2018, Adoption: Autumn 2019

Questions

Match between where capacity is and where population trend growth is (outer London).

Strategic land availability study required - devil in the detail

Is this mayor asking: what kind of London do Londoners want to see?

Drummond Robson: When is assessment of options and environmental impact going to take place?

John: CASA model and TfL's Lonluty(?) model should do this.

Nicky G: growth of employment hubs outside London, as well as housing? Reverse commuting.

John: One of TfL students has done a good piece of work on this: 274k a year going out, 789k a year coming in. Current status unknown.

"WE PLAN LONDON"

See <http://weplanlondon.com/> and Sara's article in this issue of PiL.

Sara Dilmamode explained that this was a

New planning, information and training site. Born out of frustrations, such as repeat tasks. Explaining acronyms. Opacity a problem in planning.

Getting [new things] done. Eg CIL. How do you fill out CIL forms?

What does it include? 'Planimations' – e.g. <http://weplanlondon.com/explain/planimation-planning-applications/>
<http://weplanlondon.com/explain/planimation-the-development-plan/>

Collate useful resources. E.g. QUOD's CIL map; Useful Talks; Planning TV – bitesize planning discussions/panels.

- What next?
- Planning perspectives- public/private sectors
- Short bite-size courses on 'how do you do X planning thing'. Use the YouTube model. ■

NEXT MEETING

... at UCL on 14th September, our host is Michael Edwards.
Room LG01, Central House, 14 Upper Woburn Place WC1H 0NN