

‘Emergency Measures’ to Incentivise Housing Development in London



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The Government and the Mayor of London have now announced the awaited ‘Emergency Measures’ package to help boost housing and affordable housing development in the capital, following recent record-low levels of housebuilding. The Package for London (subject to consultation) seeks to ease some of the planning barriers facing the sector, including amending affordable housing/viability requirements, CIL relief, and introducing greater design flexibility. We set out in this note further detail on the package proposals and our commentary ahead of formal consultation.

As the Mayor identifies in the press release accompanying the Package for London, there is a “perfect storm facing housebuilding in London” and, given the reliance which the Government is placing on London delivering to meet its overall 1.5 million homes target, the hope is that these measures will stimulate development in London and get the capital back on track.

Whilst many of the issues facing the sector lie outside of planning, it is no secret that the headline affordable housing threshold requirements have simply become too challenging for schemes to conceivably deliver, often ending in stalled schemes or decision via appeal. Newmark and Town Legal advised on the recent successful Stag Brewery appeal, where the provision of affordable housing was the key consideration by the Inspector.

Broadly speaking, the ‘Emergency Measures’ package is split into five ‘core components’:

- (1.) Introduction of new ‘time-limited’ planning route and associated affordable housing threshold reduction to 20%, with 60% of this as social rent; Schemes which meet the eligibility criteria will not be required to provide an upfront viability assessment.
- (2.) Temporary 50% Borough CIL relief;
- (3.) Design flexibility to encourage greater density/optimisation;
- (4.) Increased Mayoral planning powers; and
- (5.) Funding via the ‘City Hall Developer Investment Fund’.

The Package is clear that these measures do not apply to student housing or co-living schemes, only residential (including Build to Rent). We assume, though not explicit, that the revised threshold will not apply to Estate Regeneration schemes or off site solutions, but will await the final consultation documents for confirmation.



Affordable Housing Reductions via ‘time-limited route’

Summary

Eligibility:

- (1.) New ‘time-limited’ planning route for schemes providing at least 20% affordable housing (on private land & industrial land where industrial capacity is re-provided) with minimum 60% social rent (40% intermediate tenures) will be subject to no upfront viability testing
- (2.) Sites on public land and industrial land where the capacity is not replaced the threshold will be 35%
- (3.) Time-limited route is available until 31 March 2028 or the publication of the new London Plan, whichever is earlier (date of planning decisions)
- (4.) Build to Rent schemes can provide intermediate rent (30% at or below London Living Rent levels/ 70% at a range of genuinely affordable rents)

Grant

- (1.) Schemes following the time-limited route will be eligible for 10% grant without the need for an FVA, with benchmark grant rates. Bids for grant for low cost rented homes must be made by RPs or local authorities
- (2.) GLA does not expect to renegotiate grant allocations for projects already approved/ recently started

Review

- (1.) Where time-limited eligibility met and first floor built by 31 March 2030, scheme subject to no reviews; for larger phased schemes further reviews not required for phases where the first floor of buildings providing at least 200 units have been built by this date (consideration given to “unreasonable” delays caused by the Building Safety Regulator)
- (2.) Schemes which do not achieve this progress will be subject to a review, arguably slightly different to a conventional late stage review.

Existing Schemes

- (1.) Any amendments to affordable housing requirements should be negotiated by deed of variation (not via S73) where grant funding has been fully explored. Expecting PPG to clarify that S73s should not be used as an alternative means of reconsidering fundamental questions of scheme viability or obligations

Commentary

The hope of reducing the threshold in a time-limited manner is that this will (a) boost appetite for development and help get starts on site; and (b) speed up the planning process by potentially avoiding challenging viability discussions, thereby enabling/encouraging more and quicker approvals.

20% threshold: The big question is whether the 20% goes far enough, and certainly recent appeals (Stag Brewery (7.5%), Cuba Street (16.6%)) suggests perhaps not, but it is a welcome start. This is especially true when factoring in the 10% grant funding, although importantly the low-cost rent elements would have to be applied for by a RP/a LA. Given the challenges facing RPs and the knock-on effects that this has on the delivery of all housing tenures, we hope that some of the Government’s recent support has an impact but this may need further consideration. What also has to be factored in to the eligibility criteria is the requirement for 60% social rent, which may be challenging for schemes to deliver (both in terms of viability and deliverability), especially those schemes which are approved/on-site. It will be interesting to see how schemes’ ‘public benefits’ packages come together with potentially reduced levels of affordable housing and the subsequent effect this may have on the planning balance assessment.

Reviews: What is potentially significant about the time-limited route will be the lack of viability reviews, subject of course, to strict time limited requirements. For schemes which can achieve the March 2030 date it may be an attractive proposition for funders and thus may incentivise investment (albeit it is still a constraint). Interestingly, even for those schemes which miss the deadline, there is no reference to early stage reviews (which exist as standard in the Fast Track route) but this may be amended when the final consultation documents are published. Paragraph 30 states that multi-phased schemes will be subject to review prior to commencement of each phase which does not meet the March 2030 deadline.

Amending existing permissions: The number of existing stalled permissions are surely ‘low hanging fruit’ for the Mayor to deliver more housing. However, whilst the package identifies that there may be potential for existing schemes to revisit their agreed contributions under the new time-limited route the requirement to demonstrate that all avenues to grant funding have been explored and are not possible could be a lengthy/difficult bar to pass. Coupled with potentially removing the S73 route from the process (which, procedurally, allows for planning appeals and Mayoral intervention), could make amending existing schemes harder than originally hoped for. There is also the question of process where amendments to affordable housing requirements come alongside associated scheme design amendments.



Temporary Relief from CIL

Summary

- (1.) 50% CIL relief on qualifying schemes which deliver 20% affordable in line with the new 'time-limited planning route'; potentially higher levels of relief for scheme providing higher levels of affordable housing
- (2.) Applies to residential uses only (excluding student and co-living)
- (3.) Potentially contingent on schemes demonstrating that they would stall without CIL relief
- (4.) Only relates to borough CIL; no relief for MCIL
- (5.) Only applicable to schemes that commence after the relief comes in (and before 31 December 2028) and only applicable to brownfield land (not grey/green belt)
- (6.) Consultation will seek views where 'borough discretion' may be required
- (7.) To come forward via amended legislation

Commentary

Whilst the CIL relief is welcome, the package document suggests that such relief may be contingent on schemes demonstrating that they would remain stalled or fail to come forward without it. If this is the intent of the relief, then such a measure is welcome but really only neutralises one element of the viability issue, rather than providing an incentive for investment. If demonstration is required, or the relief is subject to borough discretion, this is likely to require a viability assessment, which itself will take time.

Notwithstanding the demonstration point, the other time factor on this relief will be on how quickly revised Regulations can be brought into force, particularly because this will only apply to those schemes that have not yet commenced. Whether it could apply to later stages of large phased schemes (which have not yet 'commenced' in CIL terms) is questionable – as is ever the case with CIL the details of the Regulations will be key.

It also remains to be seen how boroughs will respond to reductions in their CIL receipts, particularly those with recently adopted (and viability tested) CIL Charging Schedules.



Removal of Design Elements that Constrain Density

Summary

- (1.) Greater flexibility in the delivery of single and dual aspect units to optimise sites and layouts in the application of London Plan Policy D6
- (2.) Removal of the maximum 8 units per core guidance; instead boroughs should be supportive of designs to allow for additional dwellings
- (3.) Reducing cycle parking requirements for residential developments, and flexibility in how such requirements are to be provided (including for example off-site as opposed to extra basement levels)
- (4.) Commitment from Mayor to streamline in next London Plan

Commentary

Optimising schemes, and fine-tuning policies to encourage this, is sensible and the rigidity with which the GLA's guidance on single aspect units was applied has needlessly under-utilised schemes across London for years. Notwithstanding the removal of the section in the London Housing Standards, London Plan Policy D6 remains fairly prescriptive and hoops will still need to be cleared to justify single aspect units. Likewise, the number of units/core debate will need to be had with the boroughs which hopefully will heed encouragement to be flexible but it is clear that any deviation will continue to require robust justification.

Reducing requirements for cycle storage is very welcome, both from a cost and a carbon perspective, and it will be interesting to see the level of reduction/how this is calculated and applied in different areas. Hopefully this paves the way for a more proportionate approach to cycle parking requirements in the next London Plan more generally, on which Newmark have been actively involved in discussions (as part of our instruction with the City Property Association).



Mayoral Planning Powers

Summary

- (1.) A new requirement on boroughs to refer schemes of 50 units+ where the borough is minded to refuse (currently 150 units+)
- (2.) Ability to call-in development of a building of 1,000sqm on Green Belt or MOL (currently the Mayor can only direct refusal, he cannot approve)
- (3.) Streamline call-in procedure to allow for use of written representations as opposed to Hearings in certain cases
- (4.) Implementing existing provisions for the Mayor to make Mayoral Development Orders

Commentary

Lowering the threshold is a sensible idea, particularly where there may be tensions on reduced affordable housing levels with some of the boroughs. However, such a power appears to be limited to schemes where the borough is minded to refuse (rather than a wider call-in power) so the effectiveness of such a power may be limited where LPAs are slow to come to a decision, or even resolving a S106.

Interestingly, there is suggestion that the Mayor intends to use his Mayoral Development Order powers and that the process for amending the Orders will be streamlined so that local authorities will not need to provide consent in the future (subject to legislative amendments).



City Hall Developer Investment Fund

Summary

- (1.) Initial allocation of £322 million grant funding from 2026-27 to enable the Mayor to take a "more direct and interventionist role" to unlock housing
- (2.) Mayor and Govt to work together to develop proposals for potential New Towns locations in London (in Enfield and Greenwich)
- (3.) Collaboration on how investment through the National Housing Bank will be delivered in London, including through a "substantial" allocation of low-cost loans for social and affordable housing providers

Commentary

Any fiscal measures should be embraced and are positive, but in reality the £322m will not go far. It will be interesting to see what additional funding might come through the National Housing Bank and how this could support RPs (and the timescales for this given their essential role in unlocking delivery).

What is missing from any funding details is reference to transport infrastructure – the Mayor has very recently advocated for funding and his Growth Plan and Towards a New London Plan document were clear that housing delivery in the capital was predicated on appropriate transport infrastructure.

Forms, Process and Timings

All the measures outlined in the Package for London will be subject to two separate consultations (one run by the Government and one by the Mayor) for six weeks, starting “from November”. In terms of how the measures would be implemented in practice, this would be via:

- (1.) New secondary legislation for CIL reform;
- (2.) New Mayoral London Planning Guidance for design flexibility and introduction of time-limited route/affordable housing amendments;
- (3.) New secondary legislation for Mayoral planning power amendments as well as amendments to primary legislation for streamlining call-in procedures; and
- (4.) New PPG to clarify use of S73s.

The Package concludes by saying that the Government and the Mayor “hope and expect to see both developers and boroughs embrace this package, and get on with approving and building the homes that so many Londoners need”. With this sentiment, hopefully the process to bring forward the revised procedures will be prompt. However, even with the greatest will, bringing forward legislation in particular takes time and we would expect the earliest the package will be in force would be by end March.

Now that the measures have been announced, the pressure is on the Mayor and MHCLG to implement the new processes so as to not create delay via uncertainty. In the interim period (and even post implementation), the Mayor and authorities will need to carefully consider how the package of measures is weighed up in planning balances given the legislative status of the London Plan and the borough’s Local Plans, which may have conflicting targets/details.

Potential Scheme Implications

We set out below an indicative summary guide for how some of the Emergency Measures package could potentially affect schemes depending on their stage in the planning process:

Package for London measure	Approved Schemes	Progressing Schemes (Not Yet Approved)	Future Schemes (Not Yet Submitted)
Affordable housing requirements	Grant funding to be fully explored to meet existing (35%) thresholds before re-negotiation via DoV (not S73)	Unclear how new time-limited route will apply and eligibility for agreement; we expect it will depend on stage of determination and reception from borough	Eligible for new ‘time-limited’ route (20% affordable housing (60/40 social rent and intermediate))* so long as planning permission granted by March 2028**
Reviews (where eligibility criteria is met)	Where schemes can follow time-limited route (see above) one may assume the same approach to reviews as a ‘Future Scheme’ scenario but this is not clear	Where schemes can follow time-limited route (see above) one may assume the same approach to reviews as a ‘Future Scheme’ scenario but this is not clear	Where first floor built by 31 March 2030, no reviews; after this date subject to late-stage review (unless multi-phase in which case the first floor of the relevant phase providing at least 200 units has to be built by 31 March 2030). Para 30 states that multi-phased schemes will be subject to review prior to commencement of each phase which does not meet the March 2030 deadline.
Grant Funding	GLA not expecting to renegotiate grant applications for those that have already been approved/started on site; may be opportunities for those seeking to agree time-limited route	Where schemes can follow time-limited route (see above) one may assume that they would be eligible for grant funding in line with that route but this is not clear	Eligible for 10% grant funding (of the 20% provision*) (bids for low cost rent must be by RPs or local authorities)
CIL relief (Borough CIL)	Not applicable for ‘commenced’ schemes – presumably this relates to CIL ‘commencement’ so may apply to stalled schemes. Relief available to schemes that commence before 31 December 2028***. To consider potential requirement to demonstrate requirement for CIL relief to be applied.		

* On private land and industrial land where industrial capacity re-provided; *** or until publication of the London Plan, whichever is earlier ;
 *** and after the relief comes into force

Concluding Thoughts

The Package for London is a strong acknowledgement by both the Government and the Mayor of the significant issues facing the development industry, and a credit to the role that London plays in tackling the housing crisis.

In planning terms, the measures could help move the dial on some schemes, particularly those at earlier stages in the process which may be able to take advantage of the time-limited route more easily (albeit such schemes will need to progress rapidly in order to avoid late stage reviews, which may be dependent on the willingness of boroughs). For approved/stalled schemes, whilst the measures potentially may assist, it is not clear what 'hoops' will need to be passed for such schemes to be eligible, and certainly the CIL relief seems to be framed as a relief which requires some sort of evidence base. The potential restriction to the S73 route is of concern and one that we hope is re-considered if the goal is to kick start stalled schemes. Notwithstanding that amendments to affordable housing requirements often come alongside design changes, forcing amendments via a DoV route removes the Mayor's power as well as the appeal route, all of which becomes challenging given potential local politics and the short time-windows.

The removal of late stage review provisions is time dependent, and so S106 agreements must address these, and will need to be agreed with boroughs within the time-limited application window. It is likely to be beneficial to agree certain review parameters, in particular benchmark land value, at the S106 stage.

Of course, such planning measures also need to come alongside wider Government initiatives to boost demand if they are to be effective at all. We look forward to the formal consultation documents and hope that the industry can work closely with MHCLG/the Mayor to develop proposals which increase housebuilding (for all tenures) in the capital.