



demolitionwatch@gmail.com
@demolitionsldn

Demolition Watch – London

Response to the Mayor’s Draft Good Practice Guide to Estate Regeneration

Introduction

While Estate regeneration has been framed as a progressive move to benefit residents, the reality is that it has lost London 8000 social rented homes since 2005, this despite the total number of new units doubling.ⁱ The outcome is that 30,000 social rented households have been affected by various regeneration schemes, resulting in residents often being forced from their homes into inadequate temporary accommodation.ⁱⁱ Leaseholders have had their homes appropriated at rock-bottom prices and private tenants disregarded and evicted at short-notice. Whole local communities have been broken-up and displaced, often moved outside of their home boroughs or even further.ⁱⁱⁱ None of this pain has helped solve London’s affordable housing crisis. Instead it has made it worse as London Development Database figures show that on regenerated estates the numbers of social rented homes fell by over a quarter in the decade to 2014.^{iv}

The new Mayor of London, Sadiq Khan, has drafted a ‘Good Practice Guide to Estate Regeneration’.^v This is a welcome move, yet while his intentions set out in his Manifesto on estate regeneration are good the Draft is disappointing. As it stands the Draft Guide will allow local authorities, housing associations and their private developer partners to continue demolishing estates, destroying communities and reducing social rented housing. By only offering recommendations without a rigorous set of commitments and conditions, the Guide will not improve the chances of schemes offering the real benefits of good quality, ‘genuinely affordable’ new homes for London.

The Guide needs many changes if it is to make much difference where needed and we have listed some below. Above all else the Guide must prioritise the delivery of social rented housing, as the only kind of housing that is ‘genuinely affordable’ for those in most housing need. All estate regenerations must increase the amount of social rented housing.

Comments on the Mayor's Guide

The guide is broken up into three main parts.

- 1 What the purpose or aims of any regeneration should look like.
- 2 Recommendations on how consultation with residents could operate.
- 3 The ultimate 'deal' that residents are offered. In the following section is a review of the limitations of the Guide's recommendations.

Purpose of regeneration

The Guidance is right that when it comes to regeneration, the motives behind local authority projects will be on a 'case-by-case basis'. However it is disheartening that there is no clear stipulation that estate regeneration should **only** go ahead if existing residents support it. The aim that *'...residents of an estate must be given sufficient opportunity to engage with and shape any proposals that will affect their homes, and they should be proactively supported to do so'* fails to directly address the central role of residents in the decision making process.

Resident Democracy

The draft is much weaker on resident consultation than the Mayor's Manifesto, which said that the Mayor would; *'Require that estate regeneration only takes place where there is **resident support**, based on full and transparent consultation, and that demolition is only permitted where it does not result in a loss of social housing, or where all other options have been exhausted, with full rights to return for displaced tenants and a fair deal for leaseholders.'*^{vi}

The guide however omits 'resident support' even as just a good practice point, never mind not having it as a requirement. The guide talks about 'consultation' but not direct residents 'say'. There is nothing to address the possibility of residents not supporting a regeneration scheme in the form offered by a local authority.

The 'caution' towards ballots or votes in paragraph 35 is indicative. It states: *'...surveys and meetings should be repeated as proposals develop so that a 'real time' assessment of the acceptability of what is being proposed is enabled. This highlights a potential reason for **caution** around using ballots or votes, since they can risk turning a complex set of issues that affects different people in different ways over many years into a simple 'yes/no' decision at a single point in time.'* This is misleading; it assumes that a vote has to be *'...at a single point in time'*. If surveys and meetings can be repeated *'...as proposals develop'* so can ballots or votes.

Ballots to every household will result in much higher levels of direct participation in comparison to meetings. It is hard to avoid the impression that the real problem for the guidance with ballots is that it might give residents a real and effective say as to whether a council's favoured option goes ahead. It is especially important that where tenants could lose lifetime security in the wake of estate regeneration, as a result of demolition or otherwise, they are allowed to vote on whether any such scheme should go ahead.

The recent (December 2016) DCLG Guidance on Estate Regeneration National Strategy recognises that. It is hard to understand why the Mayor's Draft Guidance is so much weaker on resident democracy than the DCLG Guidance, especially given the wording of the Mayor's Manifesto.

The Mayor could show that he was serious that about resident support after full and transparent consultation by making proof of it a pre-condition for GLA funding and stating he is minded to consider that it be incorporated in the London Plan for the purposes of planning applications.

Terms and conditions' of estate regeneration

While the clear guidance that *'where demolition and rebuilding is chosen as part of estate regeneration, this should only happen where it does not result in a loss of social housing'* is welcome, in reality this safeguard is very limited, because this principle will only apply to *'estate regeneration projects that seek new funding from the GLA'*. It is not clear whether this 'new funding' includes funding of any housing association development in the scheme.

The no loss principle also only applies where *'all other options have been exhausted'*. It is not clear what 'exhausted' means in this context which is worrying. While this was the word used in the Mayor's manifesto, any guidance should specify further so as not to create loopholes for councils to push through proposals. It could for instance have said something like *'no other viable option'* and the type of conditions under which this might be the case.

This principle disappears completely *'...where GLA funding is not involved'*. More worrying is the statement in paragraph 10 that *'...the loss of affordable housing should be resisted unless ...replaced with better quality homes at existing or higher densities.'* **That is a green light for replacing social housing.** While there is acknowledgement that this approach is indeed the current policy i.e. that created under Mayor Johnson, it only refers to a *'review of the policy'*, but does not give any information about the direction of policy change or if indeed there will be any change, still less a commitment on the changes to be sought.

The election of a Labour mayor should mean the *'no loss of social housing'* principle is applied to cases where the GLA's involvement is limited to planning i.e. without any GLA funding, and this is something we should campaign for.

Another crucial issue is the **Right of Return** to those residents moved during a regeneration scheme. The 'right of return' paragraph (50) comes across as well meaning but is limited, and seems, misinformed about the Housing & Planning Act 2016 security of tenure implications.

Paragraph 50 stipulates the *'Mayor believes that existing social tenants should be offered a right to return to the regenerated estate'* and that this offer should be *'a full right of return to a property of a suitable size, at the same or similar rent, the same level of security of tenure'*. However it then says that *'This right is subject to...the landlord's eligibility requirements'*. These 'requirements' it goes on to say in a note to paragraph 50 could include a history of rent arrears or anti-social behaviour.

A 'right of return' should be just that - a right - not a favour given for 'good behaviour'. There is not even a need to pass a threshold of seriousness required, such as an outright possession order granted. Any violation of tenancy should be dealt with separately so as not to prejudice the process.

The approach to the implications of the Housing and Planning Act 2016 for security of tenure of the returning tenants is also inconsistent with tenants having a 'right'. It would be a 'right' if the entitlement to lifetime security of tenure were under subsection 2 of Section 81(B) in Schedule 7 of the Act. It is mandatory on Councils to grant lifetime security of tenure provided the tenant '...not made an application to move'.^{vii}

The note to paragraph 50 however refers to as yet unseen regulations. It states '*The Government is phasing out lifetime tenancies except in particular circumstances, and has indicated but not confirmed that tenants moving due to estate regeneration will be protected. Regulations setting this out are expected in the winter 2016/17*'. But the wording of Subsection 1 of the attachment refers to 'Cases where [lifetime] secure tenancies may be granted'. In other words any such regulations where they discuss the position of secure tenants affected by estate regeneration, would only give a council the option of granting lifetime security of tenure. If the 'right of return' is dependent on a council opting to do something, that is not a 'right'.

The GLA cannot override the law. However the Guidance could say Councils should, where possible, ensure that tenants retain their 'right' to lifetime security of tenure. That would mean ensuring tenants did not have to fill in an 'application to move'. The guidance could also urge councils to exercise any discretion they have so as to give tenants affected by estate regeneration lifetime security of tenure.

There are of course many positives from the guidance. Paragraph 20 argues for consultation that is transparent (on all the issues and options), responsive (to views expressed) and meaningful (explanations given as to why some residents views were not taken into account). Paragraph 29 includes temporary residents on the estate in discussions. And paragraph 54 notes it as good practice to consult the secure tenants on the estate about using it for short-term tenancies during interim periods.

Proposals on resident leaseholders (paragraphs 56 to 60) do not fully recognise that they are being priced out of their community and forced to move when many would have preferred to stay. The market valuations need to reflect the position before works or the expectation of works have depressed the market price. Secondly resident leaseholders should have the right to specify the basis on which they return and in particular whether it is shared equity with zero rent on the 'unsold' part or shared ownership.

Crucially this must be more than the pious hope of 'The Mayor considers it good practice'. The Mayor could show that he was serious about protection for leaseholders by stating that the terms in paragraph 58 as strengthened are a pre-condition for GLA funding and that he is minded to consider that it be incorporated in the London Plan for the purposes of planning applications.

Some notable gaps include:

- the impact of the works associated with differing project options on those living there during the works.
- The extent of information made available to residents limited by unjustifiably extensive confidentiality requirements based on unsubstantiated 'commercial sensitivity'.

Conclusions

Given the points raised, it is suggested that the following amendments be made to the existing guidance. As the guidance is self-defining as a 'draft', and one that will be finalised this year, co-ordinating a response to these proposals is crucial and if done properly can have a policy impact. The proposed inclusions are:

- 1 Do not demolish good homes - let all residents have a balloted vote to approve or reject any (demolition) plan.
- 2 No (net) loss of social housing units (including council and housing association for rent or lease) should be accepted.
- 3 Rents need to stay at council 'social' rent levels - up to 80 percent market rents and shared ownership are not a substitute.
- 4 All **residents** whatever tenure should have a say at every stage of any redevelopment.
- 5 Right of return must be contractually enforceable.
- 6 Advisors should be independent of landlord - GLA should pay and residents should have the right to de/select them.
- 7 Leaseholders must have a right of return or receive full market value of their property.
- 8 All technical and financial information about our estates to be made public.

We welcome robust guidance from the Mayor of London for existing as well as new redevelopment sites - let's make sure it delivers on the Mayor's manifesto promise: 'I will require that estate regeneration only takes place where there is resident support, based on full and transparent consultation, and that demolition is only permitted where it does not result in a loss of social housing, or where all other options have been exhausted, with full rights of return for displaced tenants and a fair deal for leaseholders'.

ⁱ 'Knock it Down or Do it Up? – the challenge of estate regeneration'. *The London Assembly*

ⁱⁱ <http://haringeyhousingaction.org.uk>

ⁱⁱⁱ 'The Heygate Diaspora' <http://35percent.org/2013-06-08-the-heygate-diaspora/>

^{iv} Chart 2 on page 14 of 'Knock it down or do it up?' <https://www.london.gov.uk/about-us/london-assembly/london-assembly-publications/knock-it-down-or-do-it>

^v <https://www.london.gov.uk/what-we-do/housing-and-land/improving-quality/good-practice-guide-estate-regeneration>

^{vii} See Schedule 7 of the Housing and Planning Act 2016