

THE LONDON FORUM of Amenity and Civic Societies

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The GLA Review
Department for Communities and Local Government (DCLG)
Zone A5, 1st Floor Eland House
Bressenden Place
London SW1E 5DU

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By email to gla.review@communities.gsi.gov.uk

The Greater London Authority: The Government's Final Proposals for Additional Powers and Responsibilities for the Mayor and Assembly.

A consultation paper on changes to the Mayor of London's order 2000

Dear Sirs,

I write on behalf of the London Forum of Amenity & Civic Societies to respond to your consultation.

London Forum is a charity operating as a federation of over 130 residents, tenants, conservation, civic and community organisations and other affiliated bodies in the Greater London Region, with an aggregate membership of over 110,000. It also serves as the Civic Trust's regional federation for London and aims to represent the concerns of its member groups at London-wide level. By expressing the views of those Londoners who are actively and intimately concerned with all aspects of London's government and its living and working environment, it seeks to have those concerns taken into consideration in the formulation of Government and regional policy.

London Forum has participated in the Examinations in Public of the London Plan and the Early Alterations to it. Trustees and members of London Forum have given evidence at several public appeal inquiries and assisted in the compilation of the Sub-Regional Development Frameworks for London and Local Development Frameworks. We believe that our experience equips us to comment on the DCLG proposals which would have a significant effect on the way significant development proposals in the capital are processed.

Our general views are given below, with a proposal for the safeguards we would expect if the increased powers for planning are granted to the GLA Mayor, to ensure an open, accountable and transparent process. Responses to the consultation paper's questions follow.

We have severe reservations about giving the Mayor of London an additional power to call in major planning applications with the express intention of allowing them. Our objections to the proposal are that:

- **this would prejudice the appropriateness of the proposal**, as the Mayor would be intervening in favour of granting the application - this would compromise his quasi-judicial role;
- **there is no precedent in the UK planning system for a strategic local planning authority or the Secretary of State to intervene other than to direct refusal or to test in public the apparent conflicts with national policy respectively;**
- **such a power would encourage impropriety** - such as the system in Australia where a state minister of planning will call in cases in order to allow them following direct lobbying by the developer. The UK planning system contains codes of conduct for propriety for Planning Ministers and for local planning authorities which seek to protect them from the dangers of compromising their quasi-judicial decision-making responsibilities. The Mayor and his advisors currently meet developers in private and he often endorses and promotes their proposals by writing letters of support and appearing at public inquiries in an advocacy role and acting in a manner where he disregards his own London Plan policies, rather than indicate where a proposal is not in accord with the plan;
- **there are no open, transparent or accessible planning decision-making processes at the Greater London Authority** - there is no planning committee, the public cannot witness the decision making, let alone address the decision maker and there is no debate or effective scrutiny of decisions.

Need for Safeguards to secure propriety, openness, transparency and access to the decision-making process

If the Secretary of State were still to be minded to proceed with these proposals to give the Mayor additional planning powers, significant changes will be needed to the way the Mayor, the Greater London Authority and the Greater London Assembly handles decision making for strategic planning applications.

The London Forum of Amenity & Civic Societies proposes the following changes in order to bring these decision-making processes into line with current practice for other local planning authorities with regard to openness, transparency and accessibility of the process.

To achieve this the Mayor must produce a **Statement of Community Involvement**, which should be subject to examination, for consultation and handling of strategic planning decisions, including:

- **advertising** - any application that the Mayor wishes to call in for his decision must be advertised in a London daily paper (eg Evening Standard) and in the main weekly local newspaper, giving the full reasons for call in, the latest date by which representations must be received and the earliest date at which the decision will be made;
- **notification** - all people who have made representations should be notified of the Mayor's decision to call in the application;
- **information and tracking** - the call-in letter and the Stage 1 Report should be available on a specific part of the GLA website, which will provide progress tracking of the case, all representations and other documentation in the same way as on the Planning Inspectorate's website;
- **report with proposed decision** - this must be transparent and must:
 - o review whether the application is in accord with all relevant development plan policies - London Plan and Borough UDP/LDF;
 - o record and respond to all main points made in representations received;
 - o spell out clearly which other material considerations have been taken into account and the weight given to them where these are used to outweigh any conflicts with the development plan.
- **meet access to information requirements** - the report needs to be on the GLA website at least 5 full working days before the proposed decision, and the Greater London Assembly and all those who have made representations need to be notified;
- **scrutiny** - as a Key Decision, the Greater London Assembly should be able to scrutinise the decision within a clear time frame
- **the decision process** - the decision should be made in public and those wishing to make representations should, with the Mayor's agreement, be allowed to address the decision maker at that time - a set of guidelines setting out the ground rules needs to be produced as part of the Statement of Community Involvement.
- **the decision** - the decision letter must give full reasons for the decision, whether it is for refusal or allowing the case so that the reasons for overriding any development plan policies or the weight given to other material considerations taken into account are explicit.

Need for new Code of Conduct for the Mayor's new role

In addition, a new Code of Conduct needs to be developed to handle the additional challenges posed by this new intervention system to ensure public confidence in the impartiality and propriety of a system where decision-making is taken out of the hands of the local planning authority. The Code needs to draw on both Ministerial propriety guidelines and the Local Government Association's Code of Conduct and needs to be agreed after consultation, especially with London Boroughs. The Code of Conduct needs to be clear that the Mayor, his advisors and planning officers must not express an opinion on the proposal either in public or in private to the applicant.

Only with an agreed Statement of Community Involvement and a Code of Conduct for the handling strategic planning applications will the London Boroughs and the public generally have confidence in this "novel" process.

Need for a New Planning Committee

The Secretary of State should consider whether a Planning Committee should be set up to deal with major planning applications.

Secretary of State's Call-in Powers

The Secretary of State may still need to use her reserve powers to call in major planning applications, particularly where there is conflict between the Mayor and the Boroughs.

Costs and benefits

The paper excludes in Section 4, as sectors and groups affected, any reference to community groups and established businesses. New powers of the Mayor to direct approval of developments cut across the established democratic process if it is done against the wishes of those sectors and against local policies.

Paragraph 4.4 seems to allow the Mayor to consider only how a borough would view the application of strategic, London Plan policies. However, that Plan provides, within many of its policies, for local authorities to prepare local policies that determine the way in which London Plan criteria are applied to specific sites.

Response by London Forum to the consultation questions

Question 1 Do you agree with the Government's proposals on thresholds for referral of planning applications to the mayor?

Answer: We support the Mayor having more involvement with waste facilities. We would like to see a greater strategic and sustainable approach to waste management in London.

London Forum does not see any requirement to change the current thresholds. In our experience these have worked satisfactorily. However, there may be a need to revise Category 1C to include consideration of the height of the application site's 'ground level' above Ordnance Datum in relation to that of the surrounding land. A 29 metre building on high ground that does not have to be referred could appear, if approved, as a tower block dominating its area and local views and causing harm.

We are particularly concerned, however, about the prospect of a Mayoral power to grant permission for any building on MOL. While the enforcement of MOL policies is a Mayoral function, we are not convinced that he is a better guardian of such land than the boroughs. In particular, he will always be under pressure to find land for the purposes of his other strategic functions and so under pressure to allow building on open land. The vulnerability of open land to pressures from other policy areas has been amply demonstrated by what has happened to school playing fields and by the loss of 1,500 allotments in London. In our view therefore, the changed threshold for MOL combined with the new 'call-in' power is unacceptable.

Question 2 Do you consider the policy test provides a clear basis for the Mayor to decide whether he should take over a planning application?

Answer: NO

The Mayor has supported planning applications for housing densities much higher than those appropriate for sites, as specified in the London Plan. On that basis he has issued Stage 1 reports that give approval to developments that do not appear to meet London Plan policies and has given evidence into planning appeal inquiries in opposition to Councils' refusals. Some inquiry decisions to reject appeals have demonstrated that the Mayor's support was not upheld after consideration of applicable policies by Inspectors and the First Secretary of State. Developments rejected after inquiries that had the Mayor's support could be approved by him on re-submission without change if the Mayor has powers to direct approval.

If the Mayor is to have the proposed 'call-in' power, he should exercise it only in strictly and objectively defined circumstances. We are concerned that the policy test as proposed in the consultation paper would enable the Mayor to 'call in' applications on subjective grounds, in particular that he simply disagrees with borough's general policy or approach. While we do not disagree with the reasons for the Government's rejection of quantitative criteria, we believe that the present draft should be tightened up to require the Mayor to demonstrate that 'call-in' is necessary for the delivery of strategic services and or the proper discharge of the Mayor's own functions rather than because he disagrees with the borough.

In particular we suggest amending the first criterion to read:

significantly impact on the implementation of specific London Plan policies affecting the Mayor's statutory responsibilities or the delivery of strategic services across London.

We suggest amending the first consideration relating to the borough's policies to read:

the borough's analysis of the Development Plan policies relevant to the application, how it intends to apply relevant London Plan policies, and the likely effect of the boroughs' approach on the delivery of strategic services across London.

Finally, the second consideration, relating to the borough's record in dealing with previous applications should be deleted. Past cases will mostly be irrelevant and the borough's approach to the case under consideration will be taken into account under the first consideration.

Question 3 Do you agree with the new procedures for handling planning applications in London?

Answer: If the Mayor is to be given a 'call-in' power, the proposed procedures seem broadly reasonable. The proposal in paragraph 17 of the consultation paper that the borough should carry out consultations on 'called-in' applications is reasonable for the initial stages of consultation (which are likely to be carried out before the Mayor has decided whether to exercise the power). But once the case has been 'called in', further communications should take place directly between consultees and the Mayor's office.

The Mayor should not continue to hold 'behind closed doors' discussions with developers for applications. The safeguards outlined on page two of this response will be necessary if the proposed extra powers are given to the Mayor.

The Government has stated its belief that the Mayor's planning powers need to be strengthened, but has produced no evidence to demonstrate either that this change will improve the delivery of strategic public services or the quality of life in London or that the current system does not work properly - ie either that strategically undesirable decisions are being made, or that the unacceptable delays are occurring because of the way in which the boroughs are handling strategically important applications.

The Mayor's current power to direct a borough to refuse an application gives him full opportunity to prevent developments which might damage strategic interests in London. Refused applications can be thoroughly tested through the planning appeal system. Since there is no appeal against the grant of planning permission, giving the Mayor a 'call-in' power would enable him to push through damaging development proposals without it being subject to such thorough examination. We therefore consider such a power to be undesirable, especially since the need for it has not been objectively established.

Scrutiny of the Mayor's interpretation of planning policy conformance will be important, if he is assigned the proposed increased powers, to ensure conformance with the requirements in paragraph 30 of the consultation paper.

Submitted by Peter Eversden, Chairman, London Forum of Amenity & Civic Societies