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Can Sadiq Khan's crack team take the controversy out of the viability process?

The mayor of London is assembling a team of experts to scrutinise viability reports. **Tim Clark** asks if the move will help or hinder development

In London's housing debate there is perhaps one issue more than any other that seems to raise the hackles of affordability campaigners and councillors alike: developers' viability assessments. The reports, which are used by developers to justify affordable housing contributions lower than council targets, are considered by many to be a smoke-and-mirrors exercise that serves the sole purpose of driving up developers' profits.

One reason for the controversy is that the reports are not made available to councillors or the public and are instead assessed by an independent consultant who then provides a report to the council. But this could be set to change. Already, some councils across London, such as Greenwich and Islington, are seeking to open viability reports up to public scrutiny and now the mayor of London, Sadiq Khan, has said he will assemble a crack team in City Hall to examine the financial details behind the reports. So could the tide be turning against the 'dark art' of viability?

Missed targets

A quick look at London's development history over the past decade reveals a plethora of housing-related disputes, almost all linked with the level of affordable housing committed to individual schemes. Some councils have already started to take a harder line on developers that use viability to justify lower contributions.

In February, Greenwich council introduced a policy that forces developers to publish viability assessments if they fail to meet the borough's 35% affordable housing target for schemes with 10 homes or more. Similarly, in Islington, if a developer wants to



Developing situation: Sadiq Khan wants more affordable homes in the capital

keep information confidential, it now has to demonstrate this would be in the public interest, rather than purely its own commercial interest, as has been the case. Islington, where James Murray, who is deputy mayor for housing, was in charge of housing, also requires developers to justify their levels of profit and will seek to prevent them from overpaying for land at the expense of affordable housing.

However, in some cases, local authorities are also reluctant to release details of the assessments. In 2015, Southwark council finally released a viability assessment for the controversial Heygate redevelopment in Elephant & Castle - on which the borough was a development partner - after a three-year campaign by local residents.

The figures revealed that Heygate was home to 1,194 social homes prior to its demolition.

However, under plans by Lendlease, the redeveloped site would include only 74 socially rented homes out of 2,500 new apartments, with around 500 homes in all classified as affordable.

It is exactly this kind of situation that Khan's expert team is being established to scrutinise. The new mayor has made no secret of his aim to increase levels of affordable housing, although his 50% target has been reframed as a long-term strategic aim.

Recently, the mayor instructed the London Legacy Development Corporation to increase the percentage of affordable homes at the Olympic Park to a minimum of 50% and intervened in Old Oak Common's first housing development, where he pushed affordability levels to 40%.

However, the move to establish the viability assessment team shows that Khan's housing policy is more nuanced than simply declaring an arbitrary target.

The mayor's office says the team will be "drawn from finance surveyors and property consultant experts and be based at City Hall". The aim is for

Khan has sensibly opted to create transparency in the viability system

Marc Vlessing, Pocket Homes

« the team to “support housing delivery by making planning decisions faster and more consistent, and by ensuring new developments include the maximum amount of affordable housing”.

Although the plans are at an early stage, Simon Ricketts, partner at law firm King & Wood Mallesons, believes that to be effective the mayor will need to invest in the right expertise.

“Those appointments need to be at a relatively senior level – people who are already at the cutting edge of those negotiations,” he says. “The role would involve being on the other side of firms of surveyors who do this work day in, day out, with very specific approaches.”

George Turner, who campaigned against the £1.2bn Shell Centre development by Braeburn Estates on the Southbank, says the team will also have to be totally transparent. “It is essential that any service scrutinising viability assessments should be made up of people employed directly by City Hall, with strict conflict-of-interest provisions that prevent individuals from taking up work in the private sector after they leave,” he says. “Alternatively, City Hall should employ consultancies that only work for the public sector.”

Chief executive of micro-home developer Pocket Homes Marc Vlessing believes that Khan’s announcement is a step in the right direction. “Frankly, big developers wrapping themselves up with consultants to play this trench warfare game of lobbying viability studies around the place to flummox planning departments is not the way to do this,” he says.

“Why is it the case that despite the fact that development values have gone up in the last five years, there’s less affordable housing? The only way to address market failure is to price it punitively, or [to] create transparency. Khan has sensibly opted to create transparency in the system.”

Into the light

But some are sceptical that Khan’s expert team will have much impact. Director of social enterprise Create Streets Nicholas Boys Smith argues that for Khan’s plans to succeed, the viability process should be made public.

“Transparency is normally the best disinfectant,” he says. “We’d certainly urge the GLA and London boroughs to make viability assessments public.”

Full transparency, though, could end up stymying development. Developers argue that viability reports contain sensitive information, such as build costs and sales revenues, which needs to be kept confidential for valid commercial reasons. Making this information public could see developers step away from projects.

Julia Park, head of housing research at architecture practice Levitt Bernstein, says

“Scrutiny by an expert panel, acting in the public interest, sounds sensible

Julia Park,
Levitt Bernstein



Housing battles: developers of schemes such as Bishopsgate Goodsyard use viability reports to justify lower affordable housing contributions

Khan’s approach is prudent in that it sidesteps this issue of commercial confidentiality. “Scrutiny by an expert panel, acting in the public interest, sounds sensible; it would deal with the issue of commercial sensitivity,” she says.

“Viability appraisals can pose a difficult, ethical dilemma for architects as well as planning consultants. Our clients often ask us to do things we’d rather not do, and chopping affordable housing is one of them. I think most architects would like this often unscrupulous bartering to be exposed.”

The development community may itself be tiring of the viability merry-go-round, which can cause long delays. In March, Berkeley Group chairman Tony Pidgley called on the government to set a fixed level of affordable housing nationwide, arguing that developers “would adjust accordingly”.

There are signs that the mayor’s team may be listening to such calls: City Hall is considering introducing a flat rate of affordable housing,

possibly set at 35%, as part of a trade-off with developers, who may be allowed to circumvent the viability process in order to speed up planning if they commit to the target.

Defining ‘affordable’

The problem is that both Khan’s team and developers are going to have to reconsider what exactly ‘affordable’ means. The introduction of the government’s new ‘starter homes’ policy means the definition of affordable housing is about to be rewritten.

Park warns that this could have a huge impact on viability. “Starter homes will be much more viable than the proper affordable housing they will replace,” she says. “The government’s own consultation openly said that. So assuming that the redefinition of affordable housing goes ahead through secondary legislation, affordable rent will need specific protection.”

If Khan’s team can bring greater transparency to the development process, it may prove to be a major step forward. But dealing with a central government policy focused on creating discounted homes to buy when London needs more affordable homes to rent will only make their task harder. ■