



Pinsent Masons



**Welcome to Landmark Chambers and Pinsent Masons’
“Tall Buildings in London – where next?” webinar**

The recording may be accessed [here](#).



Pinsent Masons

Your speakers today are...

「Landmark
Chambers」



Nicholle Kingsley (Chair)
Partner, Pinsent Masons



Russell Harris QC
Landmark Chambers

Topic:
Tall Buildings in London –
where next?
The London Plan Perspective



Richard Turney
Landmark Chambers

Topic:
Tall buildings in national
policy and the approach of
the Secretary of State



Iain Gilbey
Partner, Pinsent Masons

Topic:
Planning for Tall Buildings:
Where next?

Tall buildings in national policy and the approach of the Secretary of State



Richard Turney
Landmark Chambers

What are “tall buildings”?

- Undefined in national policy
- Definitions in local plans vary
- In London:

- Extant London Plan

“Tall and large buildings are those that are substantially taller than their surroundings, cause a significant change to the skyline or are larger than the threshold sizes set for the referral of planning applications to the Mayor [>30m or >150m in City]”

- Publication London Plan

“Development Plans should define what is considered a tall building for specific localities, the height of which will vary between and within different parts of London but should not be less than 6 storeys or 18 metres measured from ground to the floor level of the uppermost storey”

What does the NPPF say about tall buildings?

- Nothing! However...
- Requires “good design” (124-132)
- Requires efficient use of land/appropriate densities

“Planning policies and decisions should support development that makes efficient use of land , taking into account the desirability of maintaining an area’s prevailing character and setting..., or of promoting regeneration and change” (122)

“Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site... plans should contain policies to optimise the use of land in their area” (123)

NPPF continued

- Sets Green Belt “release conditions”

Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it... optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport (137)

- And sets a series of other relevant national policies e.g. the heritage tests in 195-196

NPPF changes consultation

- Supports character assessments, codes and masterplans to ensure land is used efficiently whilst creating “beautiful and sustainable places”
- Express support for design codes in Chapter 12, and a requirement to give “*significant weight*” to development reflects local and national design guidance and/or “*outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings*”

PPG on design

- Again no direct guidance on tall buildings
- Indicates that policies should be based on “appropriate evidence of the defining characteristics of the area” including its “townscape character”
- Refers to the National Design Guide (as a tool for assessing and improving design quality) and the benefits of design codes

National Design Guide (2021)

“70 Well-designed tall buildings play a positive urban design role in the built form. They act as landmarks, emphasising important places and making a positive contribution to views and the skyline.

71 Proposals for tall buildings (and other buildings with a significantly larger scale or bulk than their surroundings) require special consideration. This includes their location and siting; relationship to context; impact on local character, views and sight lines; composition - how they meet the ground and the sky; and environmental impacts, such as sunlight, daylight, overshadowing and wind. These need to be resolved satisfactorily in relation to the context and local character.”

Design codes

- National Model Design Code (consultation)

“Tall buildings: In many areas codes will need to make provision for taller buildings. Some city area types may include no limit on height. However, in most area types codes can either indicate zones where taller buildings can be considered or indicate the circumstances where exceptions to the height coding might be considered”

Guidance Notes for Design Codes

“115. Tall buildings can be considered in design codes. It may be appropriate to include criteria for the locations of tall buildings in some area types.

116. A tall building for the purpose of the code would be any structure that exceeded the general height guidance for a particular area type. Tools that can assist with this include:

- Accessibility measures such as distances and travel times to key facilities, including public transport stops or hubs;*
- Characterisation studies and design strategies, dealing with issues such as urban form, historic character, building typologies, prevailing sunlight and daylight levels, green infrastructure and amenity space.*

117. The policy on the location of tall buildings is likely to be part of the local plan and would take into account the factors in Figure 53.”

Tall Building Principles: Topography, characterisation studies heritage assets, local historic character and conservation areas transport accessibility, identified long views and skylines to be protected, sensitive local views, vistas and gateways.”

Other guidance?



Historic England

Tall Buildings

Historic England Advice Note 4



Secretary of State's approach: overview

- Call in and recovery (and holding directions)
- Approach on determinations
 - Importance of heritage impacts
 - Internal design advice
 - Politics?
- Plan directions – see next talk!

Tall Buildings in London – where next? The London Plan Perspective



Russell Harris QC
Landmark Chambers



Introduction

- This talk will consider the future direction of Tall Buildings Policy in London.
- It will explore the most relevant very soon to be (finally) Published London Plan policies on tall buildings and the Secretary of State's directions in relation to them.
- It will seek to answer what these policies mean and whether they disclose an approach to tall buildings that is more restrictive than before.
- But, to understand where we (and these policies) are going it's important to grapple briefly with where we have been and why.

The unlikely birth of existing tall building policy: LPAC Guidance

In 1998 Parliament was told that an exhaustive study of tall buildings for the London Planning Advisory Committee (LPAC) concluded that **"there is no overwhelming evidence to suggest that there is a need for a radical change in London's skyline through the addition of high buildings in order to secure, sustain or enhance London's importance as a World City, or to create a new image of London for Londoners or the world"**. It stressed that **"economic analysis confirms that very high office buildings are not required for London to maintain and enhance its World City role. There is no evidence to support arguments that London will lose jobs to other World Cities if high buildings are not developed"**.

LPAC 1999 Advice

- As a result LPAC produced a Guidance Note relating to Tall Buildings in London. It was restrictive in tone and in substance.
- It reflected the left leaning stance of many of the Labour boroughs and the more protectionist position of many of the bluer outer London Boroughs. It pressed for more “gentle” density in the form of mansion blocks and ground-scrapers.
- See LPAC—SUPPLEMENTARY PLANNING ADVICE ON HIGH BUILDINGS AND STRATEGIC VIEWS IN LONDON
- It perpetuated a nervousness and lack of strategic London-wide thinking about the benefits of Tall Buildings which had left London with one of the most under-developed skylines in Europe.

So, with that guidance as the starting point, how did this.....



.....Become this within 22 years....

「Landmark
Chambers」



CLEANING THE RIVER TO

And maybe this by 2023 if a number of appeals are granted?



and how did this happen at Canary Wharf.....



Or this in Croydon??



「Landmark
Chambers」

Three reasons why. (1) Ken Livingstone



Mayor Livingstone...

- Believed profoundly in the concept of London as a World City.
- Knew from individual briefings and requests from international developers, banks etc that contrary to the LPAC advice there **was** very pressing need for further taller more prestigious buildings in the City and elsewhere.
- Understood that he could not simply ignore or rip up the recently published negative LPAC advice. He knew without it the vacuum would lead to “prematurity” refusals. There needed to be a policy framework in place.
- So instead, he subtly “added” to the negative criteria contained in LPAC.

Mayor Livingstone's Interim Guidance....2020.

THE MAYOR'S INTERIM GUIDANCE ON TALL BUILDINGS, STRATEGIC VIEWS AND THE SKYLINE IN LONDON

The **additional** criteria which the Mayor **added** to the LPAC were:

- — **contribution to a cluster**
- — **marking or drawing attention to locations of civic or visual importance such as town centres and major public transport interchanges**
- — **contributing to an interesting skyline when grouped together**
- — **giving focus, momentum and publicity to areas undergoing regeneration**
- — **performing objectives of long distance views**
- — providing long distance orientation points, whether singularly or in groups
- — creating new architectural icons for the new century
- — generating confidence in London's future both economically and aesthetically

The Guidance also goes on to note that the buildings should be:

- — of the highest architectural quality commensurate with their purpose and location.
- — the ground level should be largely accessible to the public
- — elevations should be varied and interesting
- — the tops of tall buildings should be well articulated
- — materials should be appropriate to their settings
- — the surrounding public realm should be capable of handling pedestrian movement
- — wind impact should be within acceptable limits

Mayor Livingston and the emergence of modern policy

- In this way, the Mayor shifted the entire tenor of the negative LPAC advice under the cover of amending it. It became criterion based and positive in principle.
- The relevance of this Interim Guidance note is that it became Policy 7.7 of the present (for now) London Plan and has, with minor amendments, been the policy that has allowed the alteration of the London skyline, the creation of significant clusters of high quality tall buildings and the radical densification of large parts of the capital.
- Large parts of this policy matrix remain also in the soon to be published new policy D9

Three reasons why.... (2) Heron Tower Inquiry and delivery of Gherkin

- H T. First big tall building inquiry post Interim Advice.
- Bridget Rosewell advises that in commercial terms and contrary to LPAC analysis, there was need for clustering, large floor plates: accepted by Sof S and City of London.



At the same time Gherkin built and hugely successful.....becomes an icon of WC underscoring the value of Tall Buildings.



Three Reasons why.....(3) relevant local authorities embrace tall buildings. Because they deliver.

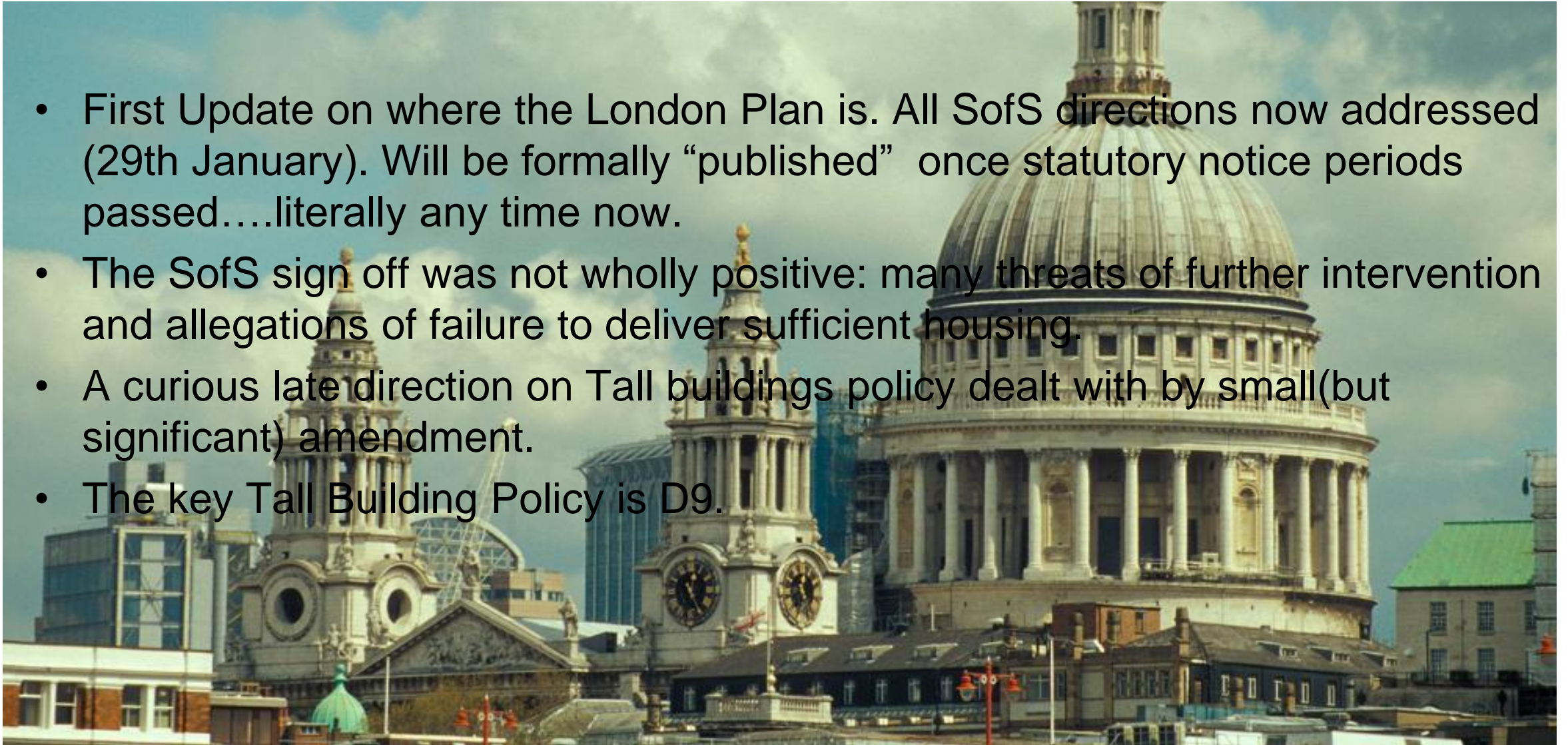
- City of London under Peter Rees and Maggie Hampson see the spatial challenge from CW and Frankfurt and the benefits of clustering set out above.
- Croydon sees opportunities of meeting office need quickly.
- Tower Hamlets accepts a cluster around Canada Square for the same reason.
- Once the potential for tall buildings was established the ability to deliver more slender more elegant smaller footprint residential development to meet housing need is inescapable: hence the rapid delivery of mixed clusters of tall buildings and eventually planned clusters of residential building at transport nodes e.g Lewisham

Adopted Plan (for days at least). Look how close Policy 7.7 reflects KL: general criterion based policy with no locational stymie.

- Tall and large buildings should:
 - a generally be limited to sites in the Central Activity Zone, opportunity areas, areas of intensification or town centres that have good access to public transport
 - b only be considered in areas whose character would not be affected adversely by the scale, mass or bulk of a tall or large building
 - c relate well to the form, proportion, composition, scale and character of surrounding buildings, urban grain and public realm (including landscape features), particularly at street level;
 - d individually or as a group, improve the legibility of an area, by emphasising a point of civic or visual significance where appropriate, and enhance the skyline and image of London
 - e incorporate the highest standards of architecture and materials, including sustainable design and construction practices
 - f have ground floor activities that provide a positive relationship to the surrounding streets
 - g contribute to improving the permeability of the site and wider area, where possible
 - h incorporate publicly accessible areas on the upper floors, where appropriate
 - i make a significant contribution to local regeneration.
- a should not affect their surroundings adversely in terms of microclimate, wind turbulence, overshadowing, noise, reflected glare, aviation, navigation and telecommunication interference
- b should not impact on local or strategic views adversely

The New London Plan: how different is it?

- First Update on where the London Plan is. All SofS directions now addressed (29th January). Will be formally “published” once statutory notice periods passed....literally any time now.
- The SofS sign off was not wholly positive: many threats of further intervention and allegations of failure to deliver sufficient housing.
- A curious late direction on Tall buildings policy dealt with by small (but significant) amendment.
- The key Tall Building Policy is D9.



Tall Buildings Policy D9 IPLP.

- The Mayoral text for D9 reflects and continues much that was contained in Livingstone’s original Policy 7.7. The impacts section of the policy changes little.
- In addition, context remains important; thus “In large areas of extensive change, such as Opportunity Areas, the threshold for what constitutes a tall building should relate to the evolving (not just the existing) context”.
- So, much of Livingstone’s broadly supportive text remains...and low rise areas planned for extensive change can change by the addition of tall buildings.
- But..three important distinctions:
 - The policy and its supporting text give new and important locational and procedural guidance on how individual boroughs should identify appropriate sites/areas for tall buildings (see below).
 - Specific requirement to have regard to cumulative impacts of existing and proposed new tall buildings.
 - No specific necessary support in principle for Tall buildings in OA or in the CAZ or TC as before

D9 in locational terms.....

- 1) Boroughs should determine if there are locations where tall buildings **may be an appropriate form of development**, subject to meeting the other requirements of the Plan. This process should include engagement with neighbouring boroughs that may be affected by tall building developments in identified locations.
- 2) Any such locations and appropriate tall building heights should be identified on maps in Development Plans.
- 3) Tall buildings should only be developed **in locations that are identified** in Development Plans.
- So a restatement and some would say significant strengthening of the Plan – led approach to tall buildings. “Only in locations identified”.

In procedural terms....an important and detailed change

- Very detailed guidance on how such development plan locations are to be identified..... and supplementary guidance promised too....
- For example:
- Boroughs should determine and **identify locations where tall buildings may be an appropriate form of development** by undertaking the steps below:
 - 1) based on the areas identified for growth as part of Policy D1 London's form, character and capacity for growth, undertake a sieving exercise by assessing potential visual and cumulative impacts to consider whether there are locations where tall buildings could have a role in contributing to the emerging character and vision for a place
 - 2) in these locations, determine the maximum height that could be acceptable
 - 3) identify these locations and heights on maps in Development Plans.

The use of visual aids and techniques are specifically identified as necessary at this stage.

Heritage assets and tall buildings and the new LP

- New policies HC1 and HC2 protect heritage assets and WHS from any harm.
- Neither they nor D9 contains or even refers to the “balance” of harm against public benefit contained in the NPPF: a surprising omission ?
- However, in applying these draft policies to date and giving them great weight, the Secretary of State has recently found:
 - Tall buildings which cause any harm do breach the “no balance” policy but not necessarily the LP plan when read as a whole and
 - even where the LP as a whole is breached, schemes which bring public benefits which outweigh that harm result in circumstances where material considerations indicate a decision than in accordance with the plan.
 - **Called-in decision: land at Citroen Site, Capital Interchange Way, Brentford (ref: 3226914 - 10 September 2020)**

The Consequences of the Changes summarised

- Support of the LPA and eventually its development plan as to the location of tall buildings is enhanced as a material consideration.
- Developers much more than ever need to engage early in the LP process to ensure sites are now identified as appropriate locations for tall buildings..
- In framing their approach to LPs, developers must engage early with the procedural guidance contained in the supporting text and promised SPD. Much more hands on guidance as to how to identify locations scientifically needs to form part of the submission.
- Once a site is within an area suitable for tall buildings: the KL tests remain largely in place.
- The national policy on heritage harm is likely to be determinative on that issue.

The Secretary of State's late intervention on tall buildings- A curious tale !



Ministry of Housing,
Communities &
Local Government

- The Secretary of State intervened heavily in the London Plan issuing powerful and wide ranging directions in relation to housing delivery etc. There was no direction on Tall buildings at all.
- Until that is 10th December 2020. No explanation is given by the Secretary of State as to the lateness of the intervention.
- The extent of the intervention is puzzling. It was pre-advertised as a fundamental shift in power between the Mayor and LPAs on tall buildings... (and in practice it still might be) but the nature of the intervention is not immediately revolutionary

The nature of the Tall Buildings direction on its face.

- The Tall building Direction was summarised by the SofS in the following way “This Direction is designed to **ensure** that there is clear policy **against tall buildings outside any areas that boroughs determine are appropriate for tall buildings**, whilst ensuring that the concept of **gentle density** is embedded London wide.”
- The covering letter said this “I am issuing a new Direction regarding Policy D9 (Tall Buildings). There is clearly a place for tall buildings in London, especially where there are existing clusters. However, there are some areas where tall buildings don’t reflect the local character. I believe **boroughs should be empowered to choose where tall buildings are built within their communities**. Your draft policy goes some way to dealing with this concern. In my view we should **go further** and I am issuing a further Direction to strengthen the policy to ensure such developments are only brought forward in appropriate and clearly defined areas, as determined by the boroughs whilst still enabling **gentle density across London**. I’m sure you will make the required change which will ensure tall buildings **do not** come forward in inappropriate areas of the capital.

The alteration sought by the direction.

-involves the addition of two words to the text we looked at earlier.
- Thus....emboldened and in red....
- Locations
 - B 1) Boroughs should determine if there are locations where tall buildings may **be an appropriate** form of development, subject to meeting the other requirements of the Plan. This process should include engagement with neighbouring boroughs that may be affected by tall building developments in identified locations.
 - 2) Any such locations and appropriate tall building heights should be identified on maps in Development Plans.
 - 3) Tall buildings should only be developed in locations that are identified **as suitable** in Development Plans.

Two words that say nothing new but mean a lot??

- Mayoral Team mystified. Directions must be exceptional and timely. Here, the late addition of two words add little to what was on any sensible reading was already contemplated in the text and in the policy. The Direction has been accepted.
- But when read in a wider context (and having regard to the background noises emanating from the department): the words might (and I think do) signify:
 - The Governments view that greater weight should be given to the views of the local authorities and that tall buildings should not be foisted on authorities by strategic decision-making. “Borough’s should be empowered to choose”suggests a new balance.
 - Support for authorities who say in effect no tall buildings here: we want gentle densification.
 - A requirement that areas be positively and firmly identified as suitable in order for permission to be granted.
 - A greater intention to police tall buildings by call-ins or recoveries where sites are not deliberately and specifically identified through the specific process.

Conclusion: Main Message.

- The role of the development plan in specifically identifying suitable locations for tall buildings is now enhanced. Sites need to be positively identified as suitable.
- Developers MUST engage more in LP processes substantively and procedurally: the big take away from this talk
- The wishes of LPA will be afforded more weight by the decision maker. This cuts both ways. LPA's will be "empowered to choose" as well as to reject tall buildings.

Risks and personal thoughts.

- There is a long term risk to this potential “rebalanced” approach. And that is that the London-wide strategic approach to the delivery of tall building development at the **right** locations, an approach which in the round has been mostly successful since the creation of the MOL in delivering densification on brown-field sites across the capital well placed for public transport is inappropriately derailed by the natural “fear” of the change brought about by tall buildings by individual boroughs and communities.
- If Boroughs (especially Outer London Boroughs) are given the choice of something called “gentle densification” which sounds wholesome and brings with it the undeserved contrast with the “rougher densification” of tall buildings: its understandable why they (like LPAC) might take the “gentle” and politically easier route.
- That will not always be the correct approach in terms of spatial planning, sustainability architecture or beauty.



Planning for Tall Buildings: Where next?

Iain Gilbey

Senior Planning Partner,
Head of Residential

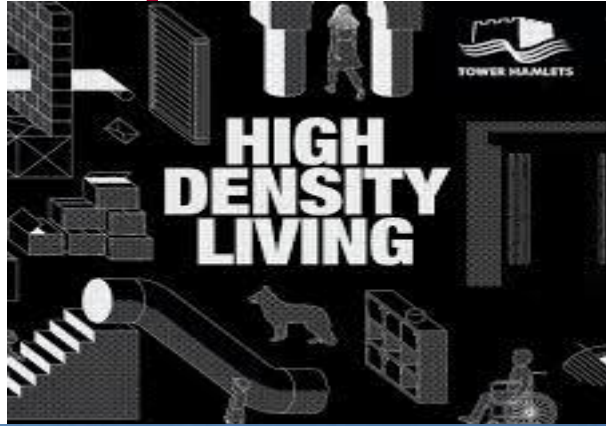


Pinsent Masons

Perception, reality and trust



Development before policy



In London

- An apparent presumption against tall buildings, and a policy landscape designed to constrain
- The reality and consequences of planning delay (+18/24 months)
- Important for delivery of BfS, BtR and later living
- Political tensions played out through the London Plan (will inevitably mean less tall buildings in London)
- Clusters vs Inner vs Outer London and the diminished role of Opportunity Areas and Housing Zones
- Affordable housing delivery (more demand, less delivery)
- Lack of consistency across London, surely this is a classic Strategic Issue?

Tall Towers and Affordable Housing – A Tale of Four Cities

Location	Scheme	Height	Headline % Affordable Housing
London	Newcombe House	ranging from ground plus 2 storeys to ground plus 17 storeys	35% by habitable room, 42% by unit
London	Bishopsgate Goods Yard	Residential ranging from 11 to 25 storeys	Recommended heads of terms for the section 106 agreement are for 50% affordable housing by habitable room
London	Kensington Forum Hotel	Part 30, part 22 and part 7 storey building	100% of all residential units
London	Spire London (formerly Hertsmere House)	67 storeys	30% affordable homes
London	Strata Tower	43 storeys	25% affordable homes
Birmingham	100 Broad Street (approved in Jan 2020)	61 storeys	5% on-site affordable housing
Birmingham	One Eastside (approved December 2019)	16 and 51 storeys	3% affordable housing
Leeds	Two Springwell Gardens	46 storeys	7%
Manchester	Deansgate Square	64 storeys	0%
Manchester	Owen Street	64 storeys	0%
Manchester	Swan Street tower	30	5%

Outside London

- An apparent presumption in favour, and largely, a policy vacuum
- Planning delay less marked
- The need to deal properly with context and impact on heritage assets not sufficiently developed (One Eastside, Birmingham)
- Land values and build costs may not support affordable housing (and may place greater pressure on fringe and green belt to deliver)
- Town centre repurposing and sustainability may militate against the appetite for tall tower developments outside of London

Summary

- An important role to play in terms of delivery especially new forms of housing and to meet new office concepts in a “with Covid” world
- Plan led rather than location or opportunity led
- The Boroughs need to grasp the opportunity afforded to them to deliver more development and more quality
- A move to gentle densification should not be at the expense of high quality schemes, well located
- Policy needs to catch up with reality
- Public concern and perception needs to be addressed with meaningful consultation
- There will be a differing role for tall buildings outside of London



Q&A

We will now answer as many questions as possible.

Please feel free to continue sending any questions you may have via the Q&A section which can be found along the top or bottom of your screen.



Pinsent Masons



Thank you for listening

© Copyright Landmark Chambers 2021

Disclaimer: The contents of this presentation do not constitute legal advice and should not be relied upon as a substitute for legal counsel.

London

180 Fleet Street
London, EC4A 2HG
+44 (0)20 7430 1221

Birmingham

4th Floor, 2 Cornwall Street
Birmingham, B3 2DL
+44 (0)121 752 0800

Contact us

✉ clerks@landmarkchambers.co.uk
🌐 www.landmarkchambers.co.uk

Follow us

🐦 [@Landmark_LC](https://twitter.com/Landmark_LC)
🌐 [Landmark Chambers](https://www.linkedin.com/company/landmark-chambers/)