

Wasted Space To Living Place

Using surplus public land for housing in London



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Introduction

Home Truths

In 2014, London First published Home Truths¹, which called for a bold approach to increasing house building in London. The report made twelve recommendations, including:

- the need for London to become a denser city;
- that new transport infrastructure must be used as the catalyst to unlock more housing development;
- that boroughs should be encouraged to review their Green Belt², and to consider how the land within it can be most effectively used and what the options are for re-designating a small fraction for new homes;
- that boroughs will need to become more accountable for meeting their housing targets, possibly losing planning powers if they consistently underperform, while also being offered a real financial incentive to help them accommodate new homes;
- that more support should be given to boroughs which want to start building again, by abolishing restrictions on local authorities borrowing against the value of their housing stock, where this would be within prudential rules.

Home Truths also recommended that:

The Government should empower the Mayor to identify publicly owned sites in London that are surplus to the public sector's operational needs – a 21st Century “Domesday Book” for housing delivery; and the Mayor should act as the disposing agent for these sites³.

The clear message from Home Truths is that there is no panacea to London's lack of house building. Action is needed on multiple fronts. This briefing paper focuses on the last recommendation set out above: how to make better use of surplus public land to get more homes built.

1. Home Truths, 12 Steps to Solving London's Housing Crisis, London First: March 2014.

2. See The Green Belt: A Place for Londoners? London First, Quod, SERC: February 2014.

3. See Recommendation 6, Home Truths, London First.

It analyses why the Mayor is best placed to lead on this issue and provides an update about relevant new legislation and emerging policy. It also sets out the challenges that must be overcome along with the positive steps required to implement a new, comprehensive system for disposing of surplus public land and assets in London.

Surplus public land

Surplus public land is operationally redundant land. In a broader sense, it is also underutilised space or poorly occupied assets. In each case, the land could be put back into productive use, sold, or redeveloped to provide better public value.

Disposing of surplus public land is a perennial issue, which for a variety of reasons – a lack of resources and skills within the public sector, for example – never seems to make sustained progress. The need for new homes has brought the need for a real solution into sharp focus.

Put simplistically, the more surplus land brought to market, the more land there is in the market in general and the greater the likelihood of more houses being built. The Government estimates that, nationally, 40 per cent of brownfield land suitable for development is in public sector ownership⁴.

Some of this land is owned by councils that, within England and Wales, must make annual returns to the Department for Communities and Local Government (DCLG). These returns have to include capital out-turn return (COR) data which requires authorities to account separately for assets that are either “surplus” or “held for sale”⁵.

In June 2014, the Audit Commission published a report⁶ providing an overview of the land and buildings that councils in England own or occupy. The report comments that land held by councils as either surplus or held for sale represents a substantial store, the largest of which is of surplus assets.

It notes that changes in income, spending and staffing levels since 2010 require local authorities to review their property systematically and regularly to ensure that it is used for best purpose.

4. Accelerating the Release of Public Sector Land, Update, Overview and Next Steps, Department for Communities and Local Government: October 2011.

5. This requirement was introduced in order to comply with International Financial Reporting Standards.

6. Managing Council Property Assets - Using data from the Value for Money Profiles, Audit Commission: June 2014.

The scale of opportunity in London

It is hard to estimate what the scale of the opportunity is in London. Looking nationally, since 2010, the activities of the Government Property Unit (GPU), through early exits from PFI deals, as well as property disposals, have yielded approximately £1.4 billion for the public purse. No geographic breakdown of this money is provided. The GPU expects to generate at least a further £5 billion of receipts by 2020⁷.

The Audit Commission, based on book values accorded to surplus land owned by councils nationally in 2010/11, concluded that these properties represent an asset store approaching £3 billion. Data based on returns for London councils in 2012/13 indicates the borough with the highest amount (by value) of surplus land has £132 million of it – and the four highest in aggregate have more than £0.25 billion. The average across all boroughs was approximately £17 million⁸.

The true scale of opportunity is, however, hard to gauge and the Audit Commission figures do not reflect what could be achieved. Council records are not always complete and are, in some instances, wholly absent. Moreover, they only account for one part of the public sector. They do not, for example, touch on land or assets owned by the NHS in London.

Furthermore, such records do not account for land or assets still in use but underutilised, whether that is a part-occupied office block, decaying housing stock in need of renewal, or space-hungry, low-rise housing which could be redeveloped to provide more modern, high-density housing.

Recent research⁹ has estimated that two million new homes could be built nationally on surplus public land. Of these, over 100,000 could be built on land owned by the Greater London Authority (GLA) group (including Transport for London). This figure includes operational sites and 40,000 homes already earmarked for the surplus land transferred to the GLA in 2012, with these sites at different stages in the development cycle (discussed in the next section).

If surplus land across the whole of the public sector in London were factored into that equation, the 100,000 home figure could be much higher – but by how much is not known. The only way to understand the true scale of the opportunity in London would be to undertake a comprehensive audit of all public land – something which, as discussed next, the Mayor is ideally positioned to do.

7. Government's Estate Strategy, Cabinet Office: October 2014.

8. The data is from http://profiles.auditcommission.gov.uk/_layouts/acwebparts/NativeViewer.aspx?Report=/Profiles/VFM_Landing

9. Spotlight Public Land: unearthing potential, Savills: Autumn 2014.



The role of the Mayor

London lacks an overarching strategy and a unified driving force to put surplus assets to best use as part of a sustained effort to build more homes. The Mayor can provide both.

Problems with the current approach

Within London, many parts of the public sector hold land which could be released for housing if the right conditions were created. It is a challenge, however, to identify when the conditions are right, and there can be inertia in decision-making.

In some instances, fear of allegations of squandering the family silver stands in the way. In others, surplus land suffers from the estate management equivalent of toys in the attic – out of sight, out of mind.

The latter is a problem of both resource (having sufficient capacity to manage assets effectively), and incentive – as the public body which owns the land will not always retain all disposal proceeds. Moreover, once assets are realised, cash achieved can move from capital to current account and cease to be available as backing for future borrowing.

Release of attic space for bed-spaces has released value for generations of Londoners. There are few reasons why surplus land cannot create both immediate value for the public purse and additional living space for Londoners.

There are examples of parts of the public sector working proactively – either individually or with the GLA – to dispose of assets and enter into joint ventures. Successes include disposals made by the Metropolitan Police of its estate and several London boroughs consolidating their office use or entering into joint ventures to regenerate council estates. However, looking at the broader picture across all public landowners in London, there is significant divergence in enthusiasm and success levels.

This is unsurprising given pressures on public sector budgets. It is also understandable that active management of property assets to release land for others to provide homes is a low priority for organisations delivering public services. Quite simply, for the majority, managing property is an administrative function rather than a corporate goal, and building homes is not what they do.

How the Mayor could help

The GLA's pan-London role, combined with the Mayor's democratic mandate, puts it in an ideal position to lead on the disposal of surplus public land in London. The Mayor should be given full rein to energise housing delivery and achieve a more efficient and cost effective use of surplus public land, to the benefit of the public purse. Acting in partnership with all public sector landowners in London, the GLA would be able to:

- deliver greater economies of scale;
- undertake, where necessary, a cost-effective public procurement process;
- create opportunities for agglomerating land; and
- apply strategic objectives with a single focus.

There are various reasons why the GLA is best placed take a lead on this issue¹⁰:

- The GLA is a substantial landowner in its own right, and therefore has relevant expertise. To date, over 145 hectares of the land inherited from the Homes and Communities Agency (HCA), London Development Agency and the London Thames Gateway Development Corporation in April 2012 have been released to the market and is in contract. Around 85% of the GLA's portfolio is now either in development or being marketed for sale, with the Mayor committed to having an exit strategy for all transferred assets by 2016.
- The Mayor has some of the tools already, including:
 - » strategic plan-making powers through producing the London Plan and associated documents such as Opportunity Area Planning Frameworks;
 - » planning decision powers which can be exercised in relation to strategic applications;
 - » a housing investment budget for affordable homes and other housing initiatives such as the London Housing Bank and Housing Zones.
- The Mayor can ensure coordination across the GLA's functional bodies, such as Transport for London, which has recently announced plans to seek development opportunities from its 5,700 acre estate as part of

10. For more information about the bullet points see Homes for London, The London Housing Strategy, Greater London Authority: July 2014

a wider drive to generate £3.4bn in non-fare revenue over the next ten years¹¹. The Mayor also has the power to create Mayoral Development Corporations (MDCs) to act as regeneration vehicles and, among other objectives, help increase housing supply.

- The Mayor has a streamlined procurement process in place – the London Development Panel (LDP) – to accelerate the disposal of land suitable for residential-led development. The LDP launched in May 2013. It is available to public sector partners, helping to optimise land value and reduce procurement costs.

The challenge for the Mayor is to establish an environment conducive to the best use of these powers. As discussed next, recent legislative and policy changes seem to have created the opportunity to make real progress.

11. See <https://www.tfl.gov.uk/info-for/media/press-releases/2015/january/foundations-laid-for-development-of-london-properties>



Changes to public policy

The Government has recently taken steps to try and get more surplus public land into the market¹². Examples include the creation of the Government Property Unit (GPU)¹³ and the establishment of a register for surplus public sector land.

The Government aimed to release public land with capacity to deliver up to 100,000 homes by March 2015. It recently announced it had slightly exceeded this target, having released land that could accommodate 103,192 homes, of which 26,834 are in London¹⁴.

While this is positive news, such announcements sometimes provide only a notional figure for the number of homes that could be built on the sites. They cannot reflect figures contained in planning applications yet to be made, and land disposals only rarely impose unequivocal obligations to achieve full development within a specified time period.

The Infrastructure Act 2015 and emerging protocol

Most recently, the Government has sought to address the issue of surplus public land through provisions within the new Infrastructure Act 2015.

Section 31 of the Act gives the Secretary of State the power, by order, to transfer land from a public body to the Homes and Communities Agency (HCA). This power supports a wider move from Government to use the HCA as a coordinating body for the disposal of surplus public land.

The idea being the HCA will receive disused land owned by public bodies and will prepare the land for release to the market by working with planning authorities.

In London, the GLA has assumed the powers of the HCA and is, under Section 31 (6) of the Infrastructure Act, given equivalent powers concerning surplus public land. The key features of this power are outlined below.

12. For more information about Government policy in this area see <https://www.gov.uk/government/policies/increasing-the-number-of-available-homes/supporting-pages/bringing-surplus-public-sector-land-back-into-use>

13. For more information about the work of the GPU see <https://www.gov.uk/government/groups/government-property-unit-gpu>

14. See <https://www.gov.uk/government/news/unused-public-sector-land-will-provide-over-100000-new-homes>

The power

Section 31(6) of the Infrastructure Act amends the GLA Act 1999 so that:

the Secretary of State may at any time make one or more schemes for the transfer of designated property, rights or liabilities of a specified public body to [the GLA] or a company or body through which [the GLA] exercises functions in relation to housing or regeneration.

Future regulations will detail the public bodies that are subject to this power and the type of property it covers. Government may also make regulations to address any tax effects of transfer schemes.

The transfer and vesting of land will, however, only happen if a transfer scheme is made by the Secretary of State and if the provisions of the scheme are consented to by the public body to which it relates.

Critical questions about this power nevertheless remain, including the nature of public bodies which will be subject to it, the categories of land to which it applies, and the mechanism under which it will operate.

Scope and operation of the HCA power

Through the Department for Communities and Local Government (DCLG), the Government has developed a protocol¹⁵ with the HCA under which 'the HCA will assume full responsibility for the disposal of all developable and viable surplus land and buildings held by central government departments and their agencies' and 'any exceptions [are to be] agreed between DCLG and HM Treasury'. This protocol was developed in parallel with the Infrastructure Act as it was making its way through Parliament.

Under the protocol:

- within 40 days of freehold or long-leasehold assets being placed upon the Register of Surplus Public Sector Land or being declared surplus within e-PIMs¹⁶, the HCA should complete an initial assessment to determine whether or not the property is suitable for transfer to the HCA;
- for sites which the HCA assesses as potentially suitable for transfer, a twelve week due diligence period follows; and
- a schedule for transfer, a transfer scheme and a transfer date are prepared, agreed between the HCA and the land holding department, and the scheme signed by the Secretary of State or a delegated civil servant.

15. Department for Communities & Local Government and Homes & Communities Agency - Disposal of Surplus Public Sector Land & Buildings Protocol for Land holding Departments (September 2014) .

16. e-PIMS is the Electronic Property Information Mapping Service which provides a central database of Government central civil estate properties and land.

The Section 31 power and the new protocol are in their infancy and remain untested. It is understood, for example, that discussions are ongoing about what land will actually be subject to this process.

As yet, a protocol along similar lines has yet to be developed between Government and the GLA. This is unsurprising given that the Infrastructure Bill had originally not provided a specific power in relation to land transfers from central government to the GLA. The relevant clause was inserted by an amendment. However, as discussed below, significant progress on this issue is now being made.

The London Land Commission

In February 2015, just weeks after the Infrastructure Act received Royal Assent, the Chancellor and the Mayor set out their aspirations for future policy in London relating to planning policy, job creation, transport infrastructure, cultural policy and housing¹⁷.

One of the housing announcements was the establishment of a London Land Commission 'to identify public sector land for development, which will help London to develop the equivalent of 100% of London's brownfield land by 2025 – supporting London to meet its target of building over 400,000 homes by 2025'. The Commission will:

- 'develop the country's most comprehensive database of public sector land' by bringing all public sector landowners in London together to assess their assets;
- consider what more can be done to kick-start development on sites (in public or private ownership) that are suitable for development but where no planning permission is in place; and
- provide a forum for the GLA to interact with Whitehall and government agencies to secure the transfer of surplus assets/land under the new Infrastructure Act power.

Further details were released about the Commission in the Budget¹⁸, confirming that the Commission will be jointly chaired by the Mayor and a Government Minister, include representatives from public bodies, and receive annual funding of £1m from the Treasury.

17. See <https://www.gov.uk/government/news/long-term-economic-plan-for-london-announced-by-chancellor-and-mayor-of-london>

18. See <http://www.london.gov.uk/media/mayor-press-releases/2015/03/mayor-welcomes-budget-that-recognises-the-extraordinary>



What success in London looks like

Within London, a great deal of surplus public land could be put to use to help meet the capital's housing need.

The challenges in London are that:

- there is no duty on the public sector to publicise (as distinct from to account for) land and assets held as surplus to operational requirements;
- there is no central repository, equivalent to e-PIMS (the Government's property and land asset database), in which all properties identified as surplus by the public sector (in its broadest sense, including central government) can be reviewed;
- there is no single body charged with reviewing surplus land and assets held by the full range of public sector bodies in order to gauge what can viably be brought to market to meet housing need;
- there is no single body which is also responsible for looking at the underutilisation of public land and assets, and which is tasked with achieving greater efficiency from existing holdings to free up more land that is surplus to operational requirements; and
- there is an array of public landowners, all with differing priorities, who are likely to have conflicting views about who receives the proceeds generated from the sale of surplus land and assets and how this money can be spent.

A 21st Century Domesday Book

A combination of the transfer power contained in the Infrastructure Act and the establishment of the London Land Commission provides London with an opportunity to create a new, comprehensive system for assessing and disposing of surplus public land – a 21st Century Domesday Book for housing delivery.

Not all surplus land will be suitable for housing or, indeed, other types of development. Conversely, after a rigorous efficiency review, some land currently held for operational purposes could become surplus and suitable for release.

The most important considerations, from the perspective of meeting London's housing need, are that: firstly, all sources of surplus public land are thoroughly reviewed to identify land suitable and viable for housing development; and secondly, that the land identified is brought to the market promptly.

London First believes that, at a London-wide level, there is both logic and merit in the GLA performing this role. As highlighted earlier, the GLA has the necessary skill-sets and market knowledge, honed through its own asset realisation programme.

The GLA will, under powers conferred by the Infrastructure Act, be applying nous and expertise to surplus land held by central government departments and other departmental agencies within London. The GLA is therefore the appropriate body with the right combination of skills and market knowledge to drive a pan-London initiative. It is the organisation best equipped to identify agglomeration opportunities which might otherwise be missed.

Measuring success of the London Land Commission

To implement a new, comprehensive system in London and to ensure the effectiveness of the London Land Commission, we recommend a combination of actions that need to be taken now by the Mayor and Government, two principal objectives for the Commission, and a series of short and long-term measures to support the Commission's work.

In terms of actions by the Mayor and Government:

- the Mayor and Government must ensure that all parts of the public sector, from Whitehall agencies, to the NHS, through to the boroughs, participate in the Commission's work and are encouraged to increase their use of the GLA's Development Partner Panel; and
- the Mayor should establish now an independent division within the GLA charged with:
 - » liaising with the London Land Commission;
 - » performing a similar role within London to the Government Property Unit across the UK – advising on the management of land and assets to ensure that priority is given to bringing forward surplus and potentially surplus land/assets especially for housing;
 - » assisting in coordinating land disposals between organisations for greatest benefit and effect; and
 - » managing transferred land/assets pending its ultimate re-use.

The London Land Commission's two principal objectives should be:

- to set a realistic target date for working out what public land and assets are surplus and, in turn, are suitable and viable for housing. The majority of the data collection and initial analysis should be completed before the Mayoral Election in May 2016; and

- to establish a rolling yearly target for moving surplus land and assets forward for release. A good, if arbitrary, target would be ten to fifteen per cent of the land identified (after allowing a suitable period for bedding in and start up).

To help the Commission achieve these objectives, immediate progress could be realised by:

- giving the GLA access to e-PIMs to assess surplus government land in London, equivalent to that enjoyed by the HCA elsewhere; and
- DCLG and the GLA agreeing a protocol equivalent to the September 2014 DCLG/HCA protocol. This would provide a swift mechanism for transfer to GLA of surplus land held by government bodies where it is viable and suitable for housing development.

In the longer term:

- the government should legislate to ensure that a statutory duty is placed on all parts of the public sector to maintain an accurate, legible, searchable pan-London register of their land assets. All surplus and potentially surplus land and assets should then be placed on an e-PIMS equivalent London database; and
- a process should be introduced to allow the GLA – if it wants to – to acquire from all public sector bodies surplus land as under the e-PIMs system operated in the DCLG/HCA protocol.

Conclusion

The London Land Commission will have its work cut out. Persuading all the public sector bodies in London (or even a majority of them) to pull consistently in the same direction is a challenge as they have differing priorities. Establishing incentives (common or complementary) for them to sell surplus land/assets and resolving the closely linked question of what is to happen to sale proceeds, will both be essential.

Yet the Infrastructure Act transfer power and establishment of the London Land Commission create a tremendous opportunity to make real inroads into London's housing shortfall.

What London needs now is for the Mayor to provide strong political leadership, seizing the opportunity the structural changes present to drive forward the work of the Land Commission, and ultimately converting wasted space into living places.

