

Case Name: *McCarthy and Stone Retirement Lifestyles Ltd & Ors, R (on the application of) v Greater London Authority* 2018 EWHC 1202 (Admin) (23 May 2018)

Full case: [Click Here](#)

Commentary: Challenge to the Mayor of London's SPG (Homes for Londoners: Affordable Housing and Viability Supplementary Guidance 2017)

Claim that the SPG is unlawful because it constitutes a policy which should only be in the London Plan (which is currently being revised).

The Court considered the distinction between guidance and policy and the case law on whether policies must be in the development plan.

The Court considered whether the SPG was inconsistent with the London Plan. It was held that it was inconsistent with the London Plan to the extent that it imposed a late stage review to single phase sites where the London Plan only envisaged those for phased developments and therefore to that extent the SPG was not lawful. Submissions on an appropriate remedy are to be heard.

However the adoption of a 35 per cent affordable housing on-site threshold at which no viability information was required, was not held to be inconsistent with the London Plan.

Challenges that the SPG should have been subject to SEA and that it was produced without due regard to the public sector equality duty were dismissed.

Case summary prepared by Town Legal LLP