

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2594

### Title: Publication London Plan

#### Executive Summary:

This Mayoral Decision seeks the Mayor's agreement to the next statutory steps in the process for the final publication of the Mayor's Spatial Development Plan ("London Plan") following receipt of the Secretary of State for Housing, Communities and Local Government's directions.

#### Decision:

That the Mayor:

1. Considers and takes account of:
  - i. the minutes of the London Assembly Plenary debating the 'Intend to Publish' version of the London Plan on 6 February 2020 and the Assembly Motion to note the draft London Plan 2020 and not to use their power to reject it. (Annex M);
  - ii. the directions of 13 March 2020 and 10 December 2020 of the Secretary of State for Housing, Communities and Local Government ("SoS") to the Mayor's 'Intend to Publish' London Plan (Annex J and K);
  - iii. pre-publication minor factual changes;
  - iv. the Integrated Impact Assessment (and Addendums) and Habitat Regulations Assessment (and updates) and Sustainability Statement (Annexes D, H, I and Q, R, T-X); and
  - v. all other material considerations including matters that have arisen since the last Mayor's Decision (MD2558) on the Intend to Publish version of the London Plan dated 9 December 2019.
2. Approves the modifications to the London Plan as set out in Annex C designed to comply with the SoS's directions and resubmission of this version of the London Plan to be called the "Publication London Plan" (to distinguish it from the "Intend to Publish" version of the London Plan") to the SoS for publication as the Mayor's Spatial Development Strategy for Greater London (Annex A with tracked changes shown in Annex B);
3. Approves the statutory notices (Annex G) and associated documentation (Annexes D, E, F, H and I) and their publication following confirmation from the SoS that he is content for the Mayor to formally publish the Publication Plan, and approves the arrangements for making the London Plan available for electronic inspection (and at a later date public inspection at the GLA's principal office); and
4. Approves the printing of 2000 copies of the London Plan at a cost of no more than £20,000 and the setting of a charge of £50 per copy for the new London Plan.

#### Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.  
The above request has my approval.

Signature:



Date: 21/12/2020

**Terms used in this report:**

CHSR 2017 – Conservation of Habitats and Species Regulations 2017

EiP – Examination in Public, as held between January and May 2019

EqIA – Equalities Impact Assessment

Equality Duty – the public sector equality duty as set out in section 149 of the Equality Act 2010

GLA Act – Greater London Authority Act 1999 (as amended)

HRA – Habitat Regulations Assessment

IIA – Integrated Impact Assessment

MOL – Metropolitan Open Land

NPPF – National Planning Policy Framework

PPTS – National planning policy for Traveller sites

SDS Regulations – Town and Country Planning (London Spatial Development Strategy) Regulations 2000

SEA Regulations – Environmental Assessment of Plans and Programmes Regulations 2004

SHLAA – London Strategic Housing Land Availability Assessment

SoS – Secretary of State for Housing, Communities and Local Government, Robert Jenrick MP

**Terms used to refer to different versions of the London Plan**

Draft London Plan – the London Plan published for consultation in October 2017

Minor Suggested Changes version – the version of the London Plan published in August 2018 and considered at the Examination in Public

Consolidated Draft London Plan – the version of the London Plan published in July 2019 incorporating changes before and during the Examination in Public

Intend to Publish London Plan – the version of the London Plan published by the Mayor in December 2019 and submitted to the Secretary of State

Publication London Plan – the version of the London Plan subject to approval in this report and set out in Annexes A and B to this form

## PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

### Decision required – supporting report

#### 1. Introduction and background

- 1.1 In October 2016, the Mayor announced his intention to carry out a full review of the London Plan by publishing A City for All Londoners, with a view to publishing a new Plan in early 2020. In November 2017, he approved publication of a Consultation Draft London Plan for a three-month period of public consultation (MD2184). Following the consultation, in August 2018, the Mayor published an updated version of the Draft London Plan, incorporating minor suggested changes (MD2337).
- 1.2 An Examination in Public (EiP) of the draft London Plan led by a Panel of Inspectors was held at City Hall between 15 January and 22 May 2019. Throughout the EiP, in response to discussions with participants that took place during the hearings, a number of Further Suggested Changes to the London Plan were put forward. A consolidated version of the draft London Plan which incorporated the Minor Suggested Changes, these Further Suggested Changes and other suggested changes arising outside the EiP sessions was considered by the Panel of Inspectors and made available online in July 2019.
- 1.3 The Inspectors' report on the EiP was received on 8 October 2019 and published on the GLA website on 18 October 2019 (Annex N). In accordance with regulation 8(9) of the Town and Country Planning (London Spatial Development Strategy) Regulations 2000 ("SDS Regulations") a copy of the report was sent to each of the boroughs with a request that it be made available for inspection at their principal offices<sup>1</sup> as well as being made publicly available at City Hall.
- 1.4 On 9 December 2019 the Mayor published his 'intend to publish' version of the London Plan, a response to the Inspectors' report and recommendations and his letter to the SoS (MD2558). An update to the Strategic Housing Market Assessment, an Integrated Impact Assessment ("IIA") Addendum, a Habitat Regulations Assessment ("HRA") report and a delivery note were also published. The Inspectors' report made 55 non-binding recommendations. The Mayor accepted 40 recommendations in full, in part or with amendment, and did not accept 15 recommendations.
- 1.5 The London Assembly debated the 'intend to publish' version of the London Plan on 6 February 2020 at a Plenary. They passed a motion that the Assembly noted the draft new London Plan 2020 and did not use its power to reject the intend to publish version of the London Plan.
- 1.6 More than three months later, the SoS, Robert Jenrick, replied to the Mayor on 13 March 2020 directing the Mayor under section 337(6) of the Greater London Authority Act 1999 ("GLA Act") to make 11 separate modifications as set out in Annex 1 of his response (Annex J). The SoS stated that he considered it expedient to issue the directions so as to avoid inconsistencies with current national policies. The directions required modifications to the following policies and text in the London Plan:

	Policy	Supporting information
DR1	Policy H10	
DR2	Policy D3	Paragraph 3.3.1
DR3		Paragraphs 4.2.12 and 4.2.13
DR4	Policies E4, E5, E7	Figure 6.1, Table 6.2 and paragraphs 2.1.16, 2.1.33, 2.1.53, 2.1.56, 6.4.5 to 6.4.11, 6.7.2
DR5	Policy G2	
DR6	Policy G3	
DR7	Policy H14	Paragraphs 4.14.1 to 4.14.9, 4.14.11 and 4.14.12
DR8		Paragraph 0.0.21

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<sup>1</sup> To note a copy of the report was sent by email.

**DR9** Table 10.3

**DR10** Policy T6.3

**DR11** Paragraph 4.1.11

- 1.7 The Mayor wrote to the SoS in April, seeking to work constructively and get the Plan published (Annex L). Shortly afterwards, in May, a small number of amendments were proposed to MHCLG to make the directions workable in practice. In September, an informal indication was received from the SoS (via MHCLG), to which the Mayor provided further amended text relating to one direction. Further matters were raised in October, to which the Mayor quickly responded.
- 1.8 The Mayor then wrote to the SoS on 9 December 2020 advising of his intention to issue a new London Plan (Annex O). The SoS issued two further directions to the Mayor on 10 December 2020 (Annex K). DR12 required modifications to Policy D9 and supporting text in paragraphs 3.9.3. Further changes were also sought to DR4 requiring further modifications to paragraph 6.4.8 of the London Plan. These were discussed with MHCLG on 15 December 2020.

## **2. Objectives and expected outcomes**

- 2.1 If the Mayor agrees to the proposed modifications set out in this report (Annex A and as shown in tracked changes in Annex B) he can proceed to write to the SoS asking him to confirm formally that he is satisfied that the directions have been addressed within his Publication London Plan.
- 2.2 The London Plan must not be published until the SoS has responded confirming that the modifications address the directions. He has six weeks to consider the London Plan, or such longer period as the SoS may require in writing.
- 2.3 The final step in the process is for the Mayor formally to publish the London Plan (the text of which is set out in Annex A to this MD) in accordance with the statutory requirements. These requirements have recently been amended by Government in an effort to address some of the practical uncertainties created by the Coronavirus pandemic. They are discussed in more detail in section 4 below.
- 2.4 Attention is drawn to the Savings Statement (Annex E). It is not in itself part of the statutory development plan but has been included as part of the published document for ease of reference. This lists the existing items of supplementary guidance which it is intended will continue in force to support the new London Plan until they are replaced. These have been “saved” by a specific textual reference in each case in the London Plan.

### **Conditions for publishing the London Plan**

- 2.5 Section 341(1)(b) of the GLA Act permits the Mayor at any time to prepare and publish a new replacement London Plan. When the Mayor publishes the replacement London Plan there are various statutory requirements that he is required to comply with set out in:
- part VIII, section 42B and 43 of the GLA Act;
  - section 42B Localism Act;
  - the Town and Country Planning (London Spatial Development Strategy) Regulations 2000 (“SDS Regulations”); and
  - the Environmental Assessment of Plans and Programmes Regulations 2004 (“SEA Regulations”).
- 2.6 Section 337(1) of the GLA Act states that the Mayor may publish the London Plan subject to a number of requirements which include taking account of:

- a) any representations made in accordance with the SDS Regulations;
- b) the 13 Directions given by the SoS;
- c) the Examination in Public and the Panel's report required by section 338 of the GLA Act; or
- d) any other material considerations.

2.7 The Mayor has had regard to his statutory duties under section 337 and 338 of the GLA Act in terms of:

- undertaking consultation and taking account of representations on the draft London Plan, in accordance with the SDS Regulations; and
- holding an Examination in Public and taking into account the EIP Inspector's report.

2.8 These aspects were set out in detail in MD2558 (9 December 2019) which noted that the necessary statutory steps had been complied with. Accordingly, this MD now focuses on the outstanding statutory requirements for the publication of the Publication London Plan following the SoS's directions.

#### London Assembly ("Assembly")

2.9 Introduced by the amending provisions of the Localism Act 2011, section 42B of the GLA Act provides that the Mayor may not publish the London Plan if, before the expiry of a 21 day period following the 'laying before' the London Assembly, the Assembly rejects the London Plan. During this period the Assembly may reject the replacement strategy if a two thirds majority of those voting is secured.

2.10 The Assembly considered the Intend to Publish London Plan at a Plenary meeting held on 6 February 2020 (Minutes attached as Annex M). Following questioning of the Mayor and his representatives, an amendment to the motion was tabled by the Chair of the Planning Committee as follows:

"That the Assembly hereby resolves to reject the Mayor's draft new London Plan 2020."

2.11 This amendment was accompanied by five specific concerns, each of which had been raised during the questioning of the Mayor and debated. These related to family-sized homes, the density matrix, protection of garden land and the small sites policy, no net loss of Strategic Industrial Locations and maximum parking standards. The amendment was not carried.

2.12 The Assembly made it clear that it strongly supported the protections for the Green Belt and Metropolitan Open Land and opposed a Green Belt review.

2.13 The motion "That the Assembly notes the draft new London Plan." was carried. Accordingly, the restriction on publication set out in section 42B of the GLA Act no longer applies.

#### Secretary of State Directions

2.14 Section 337(7) of the GLA Act allows the SoS to make a direction at any time before the Mayor has published the London Plan if it appears to him that it is expedient to do so for the purposes of avoiding:

- a) any inconsistency with national policies or relevant regional planning guidance; or
- b) any detriment to the interests of an area outside Greater London.

2.15 As detailed in paragraph 1.6 above, on 13 March 2020, the Mayor received a letter from the SoS directing him to modify his Intend to Publish London Plan. Under section 337(8) of the GLA Act the Mayor cannot publish the London Plan unless he either satisfies the SoS that he has made the modifications necessary to conform with the directions or the directions are withdrawn.

- 2.16 The SoS letter also stated that “Should you consider alternative changes to policy to address my concerns, I am also content to consider these.” The Mayor has not proposed further changes to the SoS’s suggested amendments in relation to DR1, DR3, DR5, DR8 and DR11. In the case of other policies, in order to assist with the practical application of the directions, a number of revised modifications were put forward for the SoS’s consideration on 7 May 2020 as discussed further below.
- 2.17 Following receipt of the directions, GLA officials engaged in discussions with officials from the Ministry of Housing, Communities and Local Government and Department for Transport including proposing amended text as invited to by the SoS. The SoS did not respond to any of the revised modifications proposed by the Mayor on 7 May 2020. Therefore, the Mayor wrote to the Secretary of State on 9 December 2020 advising him of his intention to approve a new draft London Plan on 21 December 2020 based on GLA officials’ best understanding of the SoS’s views to date.
- 2.18 On 10 December 2020, the SoS responded to the Mayor (Annex K), responding to the revised text relating to the 11 directions issued in March and proposed amendments to these and issuing two further directions: firstly, to modify Policy D9 Tall Buildings of his London Plan as set out below (DR12) referring to inconsistency with national policies; and secondly, to amend the earlier direction DR4 in relation to release of industrial land for housing. This results in directions relating to 13 separate matters in total.
- 2.19 Modifications have been included in the Publication London Plan as discussed below. These reflect GLA officials’ best understanding of the SoS’s views in the limited time available following the response from the SoS on 10 December 2020 and further discussions and seek to address all the matters raised. The Mayor has not proposed further changes to the SoS’s suggested amendments in relation to DR12.
- 2.20 The GLA adopts an integrated approach to assessment of its Plans to demonstrate how all the Mayor’s legal duties have been considered, in the form of an Integrated Impact Assessment (IIA). This is set out in detail within paragraphs 2.46–2.54 below. These modifications have been assessed as part of the IIA and the results are discussed within paragraphs 2.21 – 2.43 below.

	<b>Policy</b>	<b>Supporting information</b>
<b>DR1</b>	Policy H10	
<b>DR2</b>	Policy D3	Paragraph 3.3.1
<b>DR3</b>		Paragraphs 4.2.12 and 4.2.13
<b>DR4</b>	Policies E4, E5, E7	Figure 6.1, Table 6.2 and paragraphs 2.1.16, 2.1.33, 2.1.53, 2.1.56, 6.4.5 to 6.4.11, 6.7.2
<b>DR5</b>	Policy G2	
<b>DR6</b>	Policy G3	
<b>DR7</b>	Policy H14	Paragraphs 4.14.1 to 4.14.9, 4.14.11 and 4.14.12
<b>DR8</b>		Paragraph 0.0.21
<b>DR9</b>	Table 10.3	
<b>DR10</b>	Policy T6.3	
<b>DR11</b>		Paragraph 4.1.11
<b>DR12</b>	Policy D9	Paragraphs 3.9.3
<b>Amended DR 4</b>		Paragraph 6.4.8

#### *DR1 Housing size mix*

- 2.21 The Publication London Plan wording is the same as the SoS’s March direction. The modification would not alter the likely or potential impact on any objectives within the IIA.

#### *DR2 Design policies*

- 2.22 A number of minor changes were made to the SoS’s March direction to improve the wording and application in practice, as requested by the Mayor. The IIA suggested the specific text in the SoS’s

direction could result in poorer outcomes for design, connectivity, heritage primarily, health and health inequalities and social integration due to the introduction of ambiguity into the policy. However, the final text addresses this ambiguity, while also still meeting the aim of the direction, and therefore the Publication London Plan scores as highly as the Intend to Publish version.

#### *DR3 Affordable housing from small sites*

- 2.23 The Publication London Plan wording is the same as the SoS's March direction. The changes in DR3 and included in the Publication London Plan would not alter the likely or potential impact on any objectives within the IIA. However, it is noted that if this results in less affordable housing than would have been delivered otherwise, this is more likely to have an indirect impact on those with protected characteristics of race, sex and sexual orientation.

#### *DR4 Industrial Land (including amended DR4)*

- 2.24 A number of minor changes were made to the SoS's March and December directions, as requested by the Mayor, to ensure that:
- where substitution occurs, new areas must be able to function as SIL and be of a suitable size;
  - substitution must be secured through a plan-led process rather than master-planning, which only relates to one area so cannot provide for substitution in another location;
  - boroughs only look to accommodate their London Plan housing targets on suitable industrial sites and where this is done through the process of Green Belt or MOL review in line with the approach in the London Plan; and
  - inconsistencies arising from the direction were addressed.

- 2.25 The update to the IIA as a result of the directions suggests likely or potential negative impacts on equality and inclusion, sustainable land use, connectivity and economic competitiveness and employment. This could arise from the erosion of industrial floorspace capacity, making it more difficult to ensure the right type of employment floorspace in the right places. This in turn could have negative traffic implications in some parts of London, particularly where supply chains and 'just in time' services are critical. Industrial-type activities and logistics functions in particular may end up located further away from their final destinations. Overall the directions may disproportionately impact on people from BAME backgrounds who are more likely to be in the sectors affected and rely on public transport to get to work. The minor changes to the direction in the Publication London Plan do not change this assessment.

#### *DR5 Green Belt*

- 2.26 The Publication London Plan wording is the same as the SoS's March direction. While the direction could imply a reduced level of protection for Green Belt, protections do remain in place through national policy and therefore the IIA does not anticipate a significant increase in negative impacts against the objectives.

#### *DR6 Metropolitan Open Land*

- 2.27 A minor change was made to the SoS's March direction, as requested by the Mayor, to address an area of ambiguity in the policy. However, this does not affect the application of the direction. For the same reasons as DR5 Green Belt above, the IIA does not anticipate a significant increase in negative impacts against the objectives.

#### *DR7 Gypsies and Travellers*

- 2.28 Decapitalising the words Gypsy(ies) and Traveller(s) weakens the link between this group and their ethnic identity. The Mayor sought to retain capitalisation, but the SoS rejected this as failing to be consistent with national policy. A minor amendment has been made in the Publication London Plan to address a textual error that arose from the direction, but this is inconsequential.

- 2.29 The Mayor sought a wider more inclusive definition than the PPTS to assess accommodation needs for the community. The changes to the definition of Gypsies and Travellers will be likely to result in an underestimation of need, and therefore reduced provision of pitch provision that might otherwise have been achieved by excluding those who do not currently lead a nomadic lifestyle despite a cultural and/or ethnic background.
- 2.30 Some mitigation may be provided outside of the London Planning system whereby the needs of households that fall outside of the London Planning definition (e.g. Romany Gypsies and Irish and Scottish Travellers) are to be assessed and met by local authorities under provision of the Housing and Planning Act (2016). There is however no requirement in legislation to meet such need through caravan and pitch provision, and so any potential mitigation that this offers against reduced pitch targets is likely to be minimal. In this case, some households may be able to demonstrate a cultural need and right to a caravan site under the Equality Act (2010) and case law associated with the Human Rights Act 1998, however, this relies on individual members of the community having the resources available to do so.
- 2.31 Outside of the London Planning system, the Mayor may also use the more inclusive definition of Gypsies and Travellers when preparing evidence and research. This could encourage a broader understanding of the needs of Gypsies and Travellers who lead a nomadic lifestyle presently, and separately, those who do not, exploring also the institutional barriers to a nomadic lifestyle. This could facilitate a range of wider opportunities to improve health outcomes, mitigate against marginalisation and discrimination and make positive housing interventions, working in partnership with boroughs and other stakeholders.
- 2.32 Although the policy is still positive overall compared to not having a policy, the direction has reduced positive impacts compared to the Intend to Publish version in terms of health and health inequalities, housing supply, quality, choice and affordability, equality and inclusion and social integration objectives. This is particularly likely to impact upon the characteristic of race, given that many Gypsies and Travellers are protected through the Equality Act 2010 on the grounds of their ethnic identity. However, the Gypsy and Traveller community will also comprise those with all other protected characteristics and who may experience disproportionate impacts.
- 2.33 Earlier this year the Mayor was also made aware of the case of *Lisa Smith v SoS for Housing, North West Leicestershire District Council and Others* in the High Court which has relevance to the national definition of Gypsies and Travellers. Lisa Smith is a Romany Gypsy who sought permanent planning permission for their traveller site. This was refused on a number of grounds, including that those living on the site did not come within the PPTS definition as they had ceased to travel regularly. Lisa Smith attempted to challenge the London Planning Inspector's decision in the High Court, but the judge refused permission for it to proceed. She appealed that ruling and the Court of Appeal found that there were grounds for a challenge of the London Planning Policy for Travellers Sites (PPTS) and remitted the case back to the High Court in June 2020.
- 2.34 London Gypsies and Travellers are currently seeking to intervene in these proceedings jointly with Southwark Traveller Action Group (STAG), the National Federation of Gypsy Liaison Groups and Friends, Families and Travellers, with support from the Community Law Partnership, on the basis that the PPTS definition is discriminatory under equalities legislation.
- 2.35 Whilst the Mayor is not a party to these legal proceedings, he did write to London Gypsies and Travellers on 14 August 2020 with respect to supporting their need for a more inclusive definition than the PPTS definition (Annex AA) but noting the SoS's direction in this regard. The understanding is that this letter will be produced as part of the Intervening Parties evidence.
- 2.36 If the courts were to find that the PPTS definition of Gypsies and Travellers were discriminatory under equalities legislation and require that definition to be amended, this revised PPTS definition could potentially be directly applied as national policy for the purposes of boroughs undertaking needs



assessments (London Plan Policy H14(C)) and updating their development plans (London Plan Policy H14(D)).

#### *DR8 Exceeding borough housing targets*

- 2.37 The Publication London Plan wording is the same as the SoS's March direction. The changes in the direction as included in the Publication London Plan would not alter the likely or potential impact on any objectives within the IIA.

#### *DR9 Residential parking*

- 2.38 Changes were made to the SoS's March direction, as requested by the Mayor, reflecting the relatively good accessibility of PTAL 4 areas in Outer London. However, other modifications in the SoS's March direction did not change. As a result, the parking standards set out in Table 10.3 in the Publication London Plan would result in an increase in parking spaces compared to the Intend to Publish London Plan. The Publication London Plan scores better in the IIA than the SoS's March direction, depending on how the policy is applied. Analysis of the SHLAA sites in the 10-year housing target found the direction could have resulted in an increase of up to 4,804 car parking spaces – a 13% increase in parking spaces compared to the Intend to Publish London Plan. The Publication London Plan introduces a range of maximum standards for PTAL 4 areas. The higher end of this range corresponds with the approach in the direction (and could therefore result in the same increase in parking spaces). The lower end of this range corresponds to up to 2,327 additional car parking spaces in total or approximately 37,000sqm (it would be higher if small sites and windfalls were included) This is a 6% increase in potential car parking spaces from the maximum parking spaces standard in the Intend to Publish London Plan. The actual number delivered would depend on how the policy is implemented.
- 2.39 The greatest need for behaviour change in order to meet the Mayor's strategic mode share is Outer London as it accounts for 70% of London's traffic volume and existing car ownership is already high. Opportunities to capitalise on the good accessibility of PTAL 4 areas are particularly important. The Publication London Plan has slightly poorer outcomes for the connectivity objective in the IIA due to the slight increase in car parking availability. This affects connectivity by increasing congestion and traffic which in turn affects the bus network and road-based freight, and by making walking and cycling environments less attractive. It also has slightly poorer outcomes for air quality.
- 2.40 The IIA recognises that some groups with protected characteristics may be disproportionately affected by an increase in car parking provision. Young people, older people and people with disabilities are disproportionately affected by road safety. Young people, older people, women and BAME communities are more likely to use the bus network. Places with higher proportions of some BAME groups can be more likely to be exposed to above EU-limit Nitrogen Dioxide (NO<sub>2</sub>) and young Londoners, pregnant women and their babies are more susceptible to the health consequences of poor air quality than the general population. In this respect, the Publication London Plan would result in slightly poorer outcomes for equality and inclusion, social integration and health and health inequalities, connectivity and air quality when considered against equalities objectives.

#### *DR10 Retail parking*

- 2.41 A number of minor changes were made to the SoS's March direction to improve the wording and application in practice, as requested by the Mayor. The scoring for both the SoS's March direction and the Publication London Plan is slightly more uncertain compared to the Intend to Publish version for health and health inequalities, air quality, connectivity, design and sustainable land use, because it will depend on how the policy is taken forward in local plans.

#### *DR11 Housing Delivery Test*

- 2.42 The Publication London Plan wording is the same as the SoS's March direction. The changes included in the Publication London Plan would not alter the likely or potential impact on any objectives within the IIA.

### *DR12 Tall Buildings*

- 2.43 The Publication London Plan wording is the same as the SoS's December direction. The changes in the direction as included in the Publication London Plan would not alter the likely or potential impact on any objectives within the IIA.
- 2.44 It is noted that the Assembly has no power to oppose or change any part of the London Plan resulting from a SoS direction.
- 2.45 **The Mayor is invited to agree recommendation 2, that the Publication London Plan (Annex A and shown as tracked changes in Annex B) includes modifications necessary to satisfy the SoS's directions (required by section 337(2)(b) of the GLA Act) as set out in the schedule (Annex C).**

### London Plan Integrated Impact Assessment (including the Sustainability Statement) and Habitats Regulation Assessment

- 2.46 In preparing his strategies, the Mayor has legal duties to consider regarding:
- economic development and wealth creation (GLA Act 1999);
  - social development (GLA Act 1999);
  - protection and improvement of the environment (GLA Act, European Directive 201/42/EC on Strategic Environmental Assessment, The Environmental Assessment of Plans and Programmes Regulations 2004, Conservation of Habitats and Species Regulations 2010 (as amended), Habitats Directive 92/43/EEC on Habitats Regulation Assessment;
  - health inequality and promoting Londoners' health (GLA Act 1999);
  - community safety (Crime and Disorder Act 1998, Police and Justice Act 2006); and
  - equalities – equality of opportunity, elimination of discrimination and the promotion of good community relations (GLA Act 1999), public sector equality duty (Equality Act 2010).
- 2.47 The GLA adopts an integrated approach to demonstrate how these duties have been considered, in the form of an Integrated Impact Assessment (IIA). This methodology enables any common themes to be considered together. It covers strategic environmental and sustainability appraisal and community safety, health impact and equalities impact assessments. An IIA was prepared for the London Plan by independent consultants Arup. The IIA conforms to the requirements of an environmental report under the Environmental Assessment of Plans and Programmes Regulations 2004 and is an iterative process. The IIA also includes a specific Equalities Impact Assessment.
- 2.48 Regulation 102 of the Conservation of Habitats and Species Regulations 2010, which implements Article 6(3) of the Habitats Directive (92/43/EEC), requires an appropriate assessment also known as a Habitats Regulation Assessment ("HRA") to be undertaken in respect of any plan or project which, either alone or in combination with other plans or projects, would be likely to have a significant effect on a European Site, and is not directly connected with the management of the site for nature conservation. An HRA for the London Plan (November 2017) prepared by AECOM identified several amendments were required, but that once those were made, sufficient protective mechanisms would be in place to ensure that the growth objectives of the London Plan can be delivered without a likely impact on European sites. The HRA Update, also by AECOM, found that those matters had been addressed (July 2018) subject to a further amendment relating to Epping Forest.
- 2.49 Detailed advice was given to the Mayor in MD1284 on the impact of the IIA and HRA recommendations on the development of London Plan policy ahead of public consultation. The IIA and the HRA were published on 1 December 2017 together with the consultation draft London Plan.

- 2.50 Careful consideration was given to the suggested changes brought forward before and during the EiP process. The changes were considered in the Addendum to the IIA and Update to the HRA published alongside the minor suggested changes in August 2018.
- 2.51 The London Plan EiP Inspectors states that the IIA “meets legal and national policy requirements relating to sustainability appraisal and strategic environmental assessment” (London Plan Inspectors’ report paragraph 28). In relation to the Mayor’s equalities duty, the Inspectors concluded that “when considered as a whole the London Plan ensures that the disadvantages encountered by those with a relevant protected characteristic would be minimised as far as possible and their needs met in so far as they are different to those without one.” (paragraph 37). However, the Inspectors also recommended that “the Mayor should, in our view, update the IIA as necessary in accordance with relevant legal requirements before the London Plan is finalised for publication” (paragraph 602). With respect to the HRA, the Inspectors concluded that “subject to our recommendations, we are satisfied that the London Plan meets the requirements of the Conservation of Habitats and Species Regulations 2017 and relevant national policy and guidance.” (paragraph 30). The recommendation change was made to paragraph 4.1.8B<sup>2</sup>
- 2.52 In arriving at his decision to approve the Intend to Publish London Plan for submission to the SoS, advice was given to the Mayor in MD2558 on both the implications of the Inspector’s recommendations and the Mayor’s response to them, together with an Addendum to the IIA and Update to the HRA (Annexes Q and R) considering all of the amendments proposed in response to the Inspectors’ report. These were published alongside the ‘intend to publish’ London Plan on 13 December 2019. The Addendum to the IIA concluded that overall the majority of changes are likely to lead to more positive impacts / improved outcomes, and that in most cases these were relatively minor. Key matters to note are as follows:
- The reduction in small sites targets and housing targets (Policy H1 Increasing housing supply, H2 Small sites and deletion of H2A Small housing developments) shows negative impacts in the EqIA on young, BAME, LGBT+ Londoners and single parent families. However, it is acknowledged that overall this is still an improved position in relation to the current London Plan and therefore this was a downgraded positive impact rather than identified as a negative impact.
  - Changes to references to Policy E2 and Policy E3 relating to low-cost and affordable workspace would result in the policy being less positive in the medium term under the SEA objective 10 economic competitiveness and employment, and this could impact disproportionately on young people, disabled people, people from BAME backgrounds and women.
- 2.53 The Addendum also considers those changes in the Mayor’s ‘intend to publish’ version and therefore the impact of Inspectors’ recommendations that were not accepted have not been set out.
- 2.54 The Mayor has been directed by the SoS to modify his London Plan. This has inevitably had an impact upon some of the Mayor’s other legal duties. The IIA was reassessed following the SoS’s directions and this has resulted in some likely or potential negative impacts in outcomes in relation to particular directions such as DR4 (including the amendment), DR7 and DR9 as discussed in detail within paragraphs 2.21–2.43 above. Further amendments to the text in the directions were suggested by GLA officers (as set out in paragraph 2.16 and 2.19 above) to improve outcomes and specific concerns about poorer outcomes as reflected in the IIA were brought to the attention of MHCLG. However, the Publication London Plan represents the best understanding of what the SoS’s position is on these matters as set out in his response of 10 December 2020 and further discussions since that time. This IIA Addendum will be published alongside the Publication London Plan.

### *Sustainability Statement*

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<sup>2</sup> London Plan – Consolidated Suggested Changes version July 2019

2.55 Annex D is the London Plan Sustainability Statement which will be published alongside the London Plan. Also known as a post-adoption statement for the purposes of the Environmental Assessment of Plans and Programmes Regulations 2004, this statement outlines the sustainability considerations that have been integrated into the London Plan prior to its publication, the reasons for choosing the preferred policies and measures for monitoring the London Plan. It also sets out the specific environmental aspects considered during the development of the London Plan and the specific considerations in relation to equalities to demonstrate the Mayor and the GLA have met their requirements under the GLA Act and the Equality Act 2010.

2.56 **The Mayor is invited to consider and take account of the Integrated Impact Assessment (including Addendums) and Habitat Regulations Assessment (including updates) (Annexes H, I, Q, R and T-X) as set out in part 1iv) of the recommendations in this MD; and approves the IIA Addendum (Annex H) and HRA Update (Annex I) and Sustainability Statement (Annex D) as set out in part 3 of the recommendations in this MD.**

Any other material considerations

2.57 Section 337(2)(d) of the GLA Act requires the Mayor to take into account ‘any other material considerations’ before publishing his replacement London Plan. It is considered that the following matters amount to material considerations:

- i) correspondence received by the Mayor since he last considered the London Plan, on 9 December 2019, if that concerns matters not considered at Examination in Public nor addressed by the Inspectors in their report. It is important that any such representations are considered in this decision form;
- ii) the Government has made changes to Permitted Development Rights and the Use Classes Order. For completeness, the Government’s proposed changes to the current planning system (and consultation thereon) are also considered in this section; and
- iii) the Coronavirus pandemic.

2.58 It is noted that it is important to get the new London Plan published in a timely way to support London’s recovery from the pandemic, to support London’s Local Planning Authorities and the development sector by providing certainty and to deliver against the policy framework in the new London Plan including increased housing targets and design standards.

Correspondence

2.59 On the 4 May 2020, Councillor Linda Haysey, Chair of the East of England Infrastructure and Growth Panel and Leader of East Hertfordshire District Council wrote to the SoS and the Mayor regarding the new London Plan. She supported the SoS with respect to London increasing its planning for and delivery of its housing needs and an increase in engagement between the Mayor and SoS on this matter. She raised concerns regarding the shortfall in housing targets as a result of the Panel recommendations and that the implications of these had not been fully managed and mitigated, including through IIA. She referred to text within the SoS’s letter that could be interpreted as suggesting the Wider South East should be contributing towards meeting London’s unmet need in advance of a London Plan review and sought clarification. She noted that any process involving the Wider South East should only proceed where London’s Green Belt and Metropolitan Open Land have been reviewed to explore their potential for contributing to housing, noting also demographic changes.

2.60 The SoS responded to Councillor Haysey on 14 September 2020 (Annex Y). In terms of specific and practical actions relevant to consideration of the new London Plan to address the reduced housing provision in the Intend to Publish London Plan, he suggested ambitious boroughs who want to exceed their housing targets should work with his department and work collaboratively with authorities in the

Wider South East such as the Thames Estuary. He noted that it will be a matter for London and the WSE authorities to decide how this should be done and associated timescales but suggests a strategy for the WSE should inform the review of the London Plan.

- 2.61 This response by the SoS ignores the fact that the Mayor has no strategic planning powers outside London to support the preparation of such a new strategy for the WSE. Under current circumstances, the WSE policies of the Intend to Publish London Plan provide an appropriate framework for voluntary collaboration with the WSE on a wide range of strategic matters. It calls for willing partners to work with the Mayor to build longer-term relationships that could also help to unlock strategic growth. The Mayor has also been exploring the potential for joint working and shared evidence across the WSE—working with strategic area-based partnerships and other strategic organisations that share the ambition to address longer-term growth needs such as Local Enterprise Partnerships and Sub-national Transport Bodies. However, collaboration requires the willingness and resources from all sides to work together.
- 2.62 A London resident has written to the Mayor and jointly to the Mayor and Secretary of State Robert Jenrick MP on various dates since March 2020<sup>3</sup> requesting modification to or withdrawal of the London Plan, setting out concerns and referring to grounds for possible challenge. Their concerns in relation to the London Plan are set out in detail and addressed in Annex Z. These include:
- A. not meeting the requirements of the Conservation of Habitats and Species Regulations 2017 (“the CHSR 2017”) despite concluding that London Plan policies will not have an adverse effect on European sites under Chapter 8 (105) (12);
  - B. accusing the Mayor of not taking into account in the Strategic Environmental Assessment of the London Plan the effect of planned development on the environment in Kingston;
  - C. the downgrading of Policy GG2 F, “those involved in planning and development must...protect and enhance London’s open spaces, designated conservation sites and local spaces” to an objective is a major change and weakening of the requirement for “good growth” in relation to the protection of the environment in the London Plan and should have been subject to consultation;
  - D. requesting Policy HC1 Heritage conservation and growth and Policy D9 Tall buildings are amended to make them consistent with national policy as set out in the 2012 NPPF; and
  - E. concerns regarding inconsistencies between the Intend to Publish London Plan and the 2012 NPPF in relation to section 41 of the GLA Act.
- 2.63 Having reviewed the material provided by the resident, the detailed matters were discussed at the EiP. The Panel concluded that both the HRA and SEA met the requirements of the CHSR 2017, and the relevant national policy and guidance, including those relating to sustainability appraisal and strategic environmental assessment. The Panel were satisfied that “subject to our recommendations, the London Plan represents a spatial development strategy that accords with relevant legislation and national policy”<sup>4</sup>.
- 2.64 The Mayor is required to have regard to the need to ensure consistency with national policy but there is no absolute requirement for all parts of the draft London Plan to be entirely consistent with national policy, as long as there is clear, evidence-based justification for any divergence which is proportionate to the degree of divergence and the significance of the policy in question. Whilst the definitions differ, they do not give rise to an inconsistency with national policy that requires modifications or affects the publication of the London Plan. The SoS has not exercised his powers to

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<sup>3</sup> Correspondence to the Mayor dated 25 March, 6 April, 4 May, 6 May, 11 May, ? June 2020 (1339), 18 August, 20 August, 9 September, 8 November 2020 and correspondence to the Mayor and Secretary of State for Housing, Communities and Local Government 21 July and 6 August 2020

<sup>4</sup> Paragraph 61 of the Panel's report

issue a direction in relation to any of the matters the resident is concerned about and has therefore concluded that there is no inconsistency with national policy.

- 2.65 There is nothing that would suggest that the situation has materially changed since the EiP or publication of the Mayor's Intend to Publish version or that a different conclusion should be reached on the matters raised.

#### *Changes to the London Planning System*

- 2.66 On 20 July 2020 the SoS published The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020<sup>5</sup>, which came into force on 1 September 2020. These regulations have reduced the number of use classes and created broader categories. The effect is that shops<sup>6</sup>; restaurants and cafes; financial and professional services; indoor sports, recreation or fitness; health services; nurseries and day centres; offices; research and development; and light industrial premises are all now within the same use class (Class E) and can change use to any other use within this list without a requirement for planning permission. The same is true for uses within the new Class F1 – education; art galleries; museums; public libraries' public halls or exhibition halls; places of worship or religious instruction; and law courts – and uses within the new Class F2 – shops selling essential goods including food (that are smaller than 280 sqm and have no other such facility in a 1km radius); a hall or meeting place for the principal use of the local community; outdoor sports or recreation; indoor swimming pool or skating rink. The following uses have been added to the list of sui generis uses: pubs, wine bars and drinking establishments; hot food takeaways; venues for live music performance; cinemas; concert halls, bingo halls and dance halls. The Government have stated that these changes are designed to increase flexibility for commercial businesses, in order to support high streets and the economy as part of the recovery from the Covid-19 pandemic<sup>7</sup>.
- 2.67 These changes introduce significant flexibility for premises to change use without the need for planning permission, particularly in relation to the Class E uses. While the London Plan seeks to promote greater diversity of commercial uses – which these changes are ostensibly aimed at facilitating – it is possible instead that the introduction of Class E could result in the loss of some uses that the London Plan would otherwise seek to retain or replace, for example light industrial uses or nurseries. It is also possible that the lost uses could be replaced more readily in a more flexible planning environment. The extent to which these flexibilities will be taken up are dependent on a broad range of factors including different rents and business rates, the desirability of different locations for different uses, the types and nature of leases, and the individual decisions of landowners and occupiers. It will also have different impacts in different places. The exact impacts are therefore difficult to predict and will come to light over time, and GLA officers will seek to review them, for example through the development of future evidence base work (for example new versions of the Town Centre Health Check). Overall, however, the London Plan continues to set a robust strategic framework for how Local Plans and planning decisions should support the delivery of retail, employment, leisure, community and other commercial uses.
- 2.68 The changes will not directly impact on applications for new-build development, or where a site is being redeveloped (as opposed to an application for change of use only). These schemes will continue to be considered against the relevant Development Plan policies including those in the London Plan. In a number of policies, the London Plan directly refers to specific use classes that have been revoked and superseded as a result of the changes to the Use Class Order. While it is not desirable to have a Plan that refers to superseded use classes, the late stage of preparation of the London Plan means that changes made now to try to take full account of them could further delay publication. The

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<sup>5</sup> <https://www.legislation.gov.uk/uksi/2020/757/contents/made>

<sup>6</sup> Except for those that fall within the F2 Use Class.

<sup>7</sup> <https://www.gov.uk/government/publications/permitted-development-rights-and-changes-to-the-use-classes-order/flexible-use-on-the-high-street-key-facts-brief>

policies and supporting text make it clear as to what uses the policies should be applied to and decision-makers should be able to interpret them accordingly. The new Use Class Order should not therefore undermine their application. This issue was considered in a recent Local Plan examination, where Local Plan policies similarly referred to superseded use classes and was at a late stage following examination hearings. The Inspector concluded that proceeding with adoption of the Local Plan without modifying these policies was the most appropriate way forward<sup>8</sup>. In order to provide further assurance and consistent decision-making, a note will be published alongside the London Plan that sets out how the policies that mention superseded use classes should be applied to the new use classes (see Annex F).

- 2.69 On 20 July 2020 the SoS published The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020<sup>9</sup>. This allows for the demolition of purpose-built detached blocks of flats and offices, research and development or light industrial detached buildings and their replacement with a detached block of flats or a single house. Planning permission is not required but an application for prior approval must be made, which allows consideration of transport, contamination, flooding, design, external appearance, natural light, neighbouring amenity, noise, impact on businesses, heritage and archaeology, and protected vistas. The permitted development right does not apply to conservation areas, listed buildings, buildings built since 1990, and those over 18m in height. The building must have been vacant for 6 months. There is no requirement for contributions toward affordable housing and no explicit requirement that such schemes should meet residential space standards – although the Government have subsequently announced that this latter requirement will be introduced<sup>10</sup>.
- 2.70 On 20 July 2020 the SoS published The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020<sup>11</sup>. This gives permitted development for upward extension above existing homes and commercial buildings to create new dwellings, and enlargement of existing dwellings through extending upwards. The regulations apply only to buildings built between 1948 and 2018, exclude conservation areas and listed buildings, and there are limitations in relation to height. The regulations allow for extensions of up to two storeys or a single storey in certain circumstances.
- 2.71 These new permitted development rights have the potential to undermine delivery of London Plan policies that seek to retain offices and industrial premises, those that support the delivery of affordable housing, and those that support the delivery of well-designed homes in the right locations. The potential impacts will be explored further by GLA officers to establish how they might be mitigated and to continue to make the case for devolution or revocation of permitted development rights. The impacts will be monitored and will be considered as new evidence work is undertaken and when developing London Plan Guidance, as well as in future versions of the London Plan. However, it is also noted that whilst they may impact on the ability to achieve the desired outcomes or objectives set out in the London Plan, including Good Growth objectives, compared to these permitted development rights not being in place, the new London Plan still provides a robust policy framework for assessing and determining proposals that do still require planning permission. It also provides a robust policy framework for consideration of those matters where discretion exists for example transport, contamination, flooding, design, external appearance, natural light, neighbouring amenity, noise, impact on businesses, heritage and archaeology, and protected vistas. Therefore, whilst these additional permitted development provisions are unwelcome and may impact in some way on the

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<sup>8</sup> See Report on the Examination of the Suffolk Coastal Local Plan, 2020: <https://www.eastsuffolk.gov.uk/planning/planning-policy-and-local-plans/suffolk-coastal-local-plan/preparation-of-the-suffolk-coastal-local-plan/suffolk-coastal-local-plan-examination/>

<sup>9</sup> <https://www.legislation.gov.uk/uksi/2020/756/contents/made>

<sup>10</sup> <https://www.gov.uk/government/news/permitted-development-homes-to-meet-space-standards>

<sup>11</sup> <https://www.legislation.gov.uk/uksi/2020/755/contents/made>

implementation of the London Plan, they are not grounds for not proceeding with publication of the new London Plan.

2.72 On the 1 August 2020 the Government commenced consultation on proposed changes to the current planning system. While the Mayor has significant concerns about the potential implications of many of the proposals should the Government press ahead with them, they are not considered to affect publication of the London Plan as follows:

- a revised standard method for assessing housing numbers – this would not be applied to the London Plan retrospectively;
- First Homes – London Plan Policy H6 Affordable housing tenure is sufficiently flexible to potential changes;
- temporarily increasing the threshold for affordable housing to 40 – 50 homes – as a temporary measure, this would take precedence over London Plan threshold in Policy H4 Delivering affordable housing for its duration, as it would do had the London Plan already been published in accordance with the anticipated GLA Act timetable; and
- extending Permission in Principle for major developments – does not affect the application of the London Plan as part of the statutory development plan for the considerations of planning applications.

2.73 Therefore, implementation of any or all of these changes does not impact on the publication of the London Plan irrespective of the timing of any changes.

#### *The Coronavirus pandemic*

2.74 Since the new London Plan was last considered in December 2019, the Coronavirus pandemic has had an unprecedented impact causing global social and economic disruption. The Mayor and GLA family have acted in multiple capacities to respond to the immediate crisis, support public health interventions, support the NHS, carers, education and childcare provision, provide blue light services, and undertake a range of measures and interventions to support London and Londoners in the face of the economic impacts of the pandemic. The London Recovery Board, jointly chaired by the Mayor and London Councils, has established nine ‘missions’ to support London’s recovery from the crisis<sup>12</sup>. The new London Plan clearly intersects with these missions.

2.75 Consideration needs to be given as to whether the new London Plan should proceed to publication in the context of the global pandemic, the potential changes to people’s behaviours, lives and priorities, and structural economic changes that may arise from or be exacerbated by the pandemic. It is important to note that the long-term trends of the pandemic cannot yet be understood at this stage, particularly the impacts that current phases of necessary public health interventions will have on London after, for example, an effective vaccine is widely available. This may include changes to demographic trends; work behaviour patterns and workspace demand and supply; retail trends; economic impacts including employment levels, relative wealth and inequalities, business formation and survival; long term health and well-being including mental health; and specific impacts on BAME communities and inter-generational inequalities. These impacts will also intersect with other key events and circumstances such as Brexit, the climate emergency and, as a global city, emerging international economic trends, stability and relationships with the UK.

2.76 Despite this considerable disruption, careful assessment of the London Plan and emerging data shows that it remains fit for purpose. The London Plan provides a robust policy framework that operates effectively and flexibly across a wide range of circumstances and scenarios, including those arising at this stage and the foreseeable future. Key priorities such as measures to address the climate

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<sup>12</sup> A Green New Deal, A Robust Safety Net, High Streets For All, A New Deal For Young People, Good Work For All, Mental Health & Well-Being, Digital Access For All, Healthy Food, Healthy Weight, Enabling Resilient Communities



emergency and the biodiversity crisis, the delivery of homes particularly affordable tenures, a focus on high quality placemaking and healthy streets and a responsive approach to the Central Activities Zone and town centres are all embedded within the policy framework. It is considered that publication of the new London Plan will help London in responding effectively to current and emerging circumstances. Importantly many of these measures also provide the leadership and progressive approach that will be necessary to support a green and sustainable recovery and help inform the future direction for London and its places.

- 2.77 Ongoing monitoring of social, economic and demographic trends will enable future reviews of the London Plan to consider longer-term implications as they become clearer and ensure it remains up to date - however immediate changes to the London Plan in response to the pandemic are not required.
- 2.78 **The Mayor is invited to consider recommendation 1v), namely that he considers and takes account of any other material considerations since the Mayor last considered the London Plan on 9 December 2019.**

### ***Publishing the London Plan***

- 2.79 The text of the London Plan for publication, incorporating the modifications required to conform with the directions and minor factual changes agreed is set out in Annex A. As set out in section 3 of this form above it is considered that the Mayor has met all the necessary conditions at the final pre-publication stage of the London Plan's preparation, except for confirmation that the SoS is satisfied that the wording of modifications to paragraph 6.4.8 satisfies his further direction relating to his amendment to direction DR4 issued on 10 December 2020.
- 2.80 If the Mayor agrees to the recommendations within this report, it will be submitted to the Secretary of State. Subject to his confirmation that he is satisfied that the Mayor can now formally publish the London Plan, it will be formally published under the procedure prescribed in paragraphs 2.82-2.92 below. The SoS has up to six weeks to issue his response or seek a further extension of time. The Mayor cannot publish his London Plan until he has received a response from the SoS that he will not issue a further direction to this Publication London Plan.
- 2.81 **The Mayor is invited to adopt recommendation 2, to approve the modifications to the London Plan as set out in Annex A and submit the Publication London Plan to the SoS for publication as the Mayor's Spatial Development Strategy for Greater London.**
- 2.82 It is proposed that the new London Plan will be published as soon as reasonably possible after receipt of confirmation from the SoS referred to in paragraph 2.80 above.

### ***Public Inspection***

- 2.83 Section 335 of the GLA Act requires the Mayor to comply with the SDS Regulations. SDS regulation 9(3)(c) requires the Mayor to make available for public inspection:
- i) a copy of the London Plan;
  - ii) a copy of the Directions given by the SoS under section 337(7) of the GLA Act;
  - iii) a copy of any written statement of the SoS indicating for the purposes of section 337(8)(a) of the GLA Act that the necessary modifications have been made to the London Plan to comply with their Directions; and
  - iv) where the Mayor has not accepted any recommendation contained in the Examination in Public report, a statement of his reason for not accepting that recommendation.
- 2.84 However, section 43 of the GLA Act has been amended by section 21 of the Business and Planning Act 2020 to allow the London Plan to be available free of charge by appropriate electronic means in a

reasonably convenient way, rather than by physical inspection of the document. The Business and Planning Act 2020 (London Spatial Development Strategy)(Coronavirus)(Amendment) Regulations 2020 extended the date for this provision to have effect until 31 December 2021. After that date the legal requirement to make the London Plan physically available for public inspection will reapply. Government has also issued amendments to the SDS Regulations via the Town and Country Planning (Spatial Development Strategy)(Coronavirus) (Amendment) Regulations 2020. These separately allow the Mayor to make all the documents listed in regulation 9(3) of the SDS Regulations available “for inspection on the Greater London Authority’s website” until 31 December 2020.

- 2.85 Therefore, copies of these required documents can be provided electronically until such time as these amending provisions expire or are extended.

#### Public Notice

- 2.86 The Mayor is required by regulation 9(3)(a) of the SDS Regulations to give notice by advertisement in Form 3. This notice has to be placed in the London Gazette and by local advertisement i.e. publication on at least one occasion in two successive weeks in a newspaper circulating in Greater London. The Mayor is invited to note that by decision of MD2558 he authorised expenditure of up to £8,000 for placing statutory notices.

#### Notification

- 2.87 The Mayor is required by regulation 9(3)(c) of the SDS Regulations to “serve notice in similar form on the persons specified in section 335(3)(c) and (d) of the GLA Act”. This includes the council of any county or district whose area adjoins Greater London and is affected by the proposed Plan or such other persons or bodies as may be prescribed by the SDS Regulations. The Mayor is also required by regulation 9(3)(d) of the SDS Regulations “to send to the SoS and to the council for each London borough a copy of”:

- i) the London Plan;
- ii) the Public notice published pursuant to regulation 9(3)(a); and
- iii) the statement of reasons why the Mayor has not accepted any recommendation contained in the report of the EiP Inspectors.

- 2.88 From the date of publication it will replace the London Plan (Spatial Development Strategy for London Consolidated with Alterations since 2011) March 2016 and become operative as the new London Plan (Mayor’s Spatial Development Strategy) forming part of the development plan for Greater London under section 38 of the London Planning and Compensation Act 2004.

#### Post Publication requirements

- 2.89 Regulation 12 of the SDS Regulations requires the Mayor as soon as reasonably practicable after he has legally published the London Plan under section 337(1) of the GLA Act to ensure that printed copies of the London Plan are made available for inspection during normal office hours at the principal office of the Greater London Authority and, on payment of any reasonable fee required by the Mayor, for purchase. The Mayor shall continue to make printed copies of the London Plan available for public inspection and purchase until it is altered or replaced. The Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020 together with amendments made to section 43 of the GLA Act by the Business and Planning Act 2020 mean that the London Plan can be made electronically available until 31 December 2021.
- 2.90 As soon as reasonably practicable after this date the Mayor is required to take the necessary action to ensure that printed copies of the London Plan are made available for inspection during normal office hours at the principal office of the Greater London Authority and, on payment of any reasonable fee required by the Mayor, for purchase on expiry of the temporary Coronavirus provisions relating to hard

copies of the Plan. It is therefore proposed to have 2,000 copies printed, at a cost of no more than £20,000, and to make these available for purchase at a charge of £50 per copy. The cost of printing will be met from existing budgets and will be offset at least in part by the proceeds from sale of copies of the document.

- 2.91 Regulation 16(1)(a) of the Environmental Assessment of Plans and Programmes Regulations 2004 (“SEA Regulations”) also requires the Mayor as soon as reasonably practicable post publication of the London Plan to “make a copy of the London Plan and its accompanying environmental report available at its principal office for inspection by the public at all reasonable times and free of charge”. This usual requirement has been amended by the Environmental Assessment of Plans and Programmes (Coronavirus)(Amendment) Regulations 2020 so that these documents can be “made available on a website”. Regulation 16(b)(iii) has also been amended until 31 December 2020 so that the Mayor can now take such steps he considers appropriate to bring to the attention of the public the website address at which a copy of the London Plan together with its accompanying environmental report and Sustainability Statement containing all the particulars specified in regulation 16(4) may be viewed or obtained. The Mayor is also required to notify the consultation bodies, any public consultees of the London Plan and the Secretary of State.
- 2.92 Section 17 of the SEA Regulations also requires monitoring of significant environmental effects of the London Plan’s implementation with the purpose of identifying unforeseen adverse effects at an early stage and being able to undertake appropriate remedial action. Planning Practice Guidance also states that monitoring arrangements for these significant environmental effects may comprise or include arrangements established for other purposes. A monitoring statement is included at Section 5 of the Sustainability Statement set out at Annex D.
- 2.93 **Subject to confirmation by the SoS that he is content for the Mayor to formally publish his Publication London Plan, the Mayor is invited to approve the publication of the statutory notices and associated documentation and the arrangements for making the London Plan available for public inspection as set out within recommendation 3.**
- 2.94 **The Mayor is invited to approve recommendation 4 to print 2000 copies of the London Plan at a cost of no more than £20,000 and the setting of a charge of £50 per copy for the new London Plan.**

### **3. Equality comments**

- 3.1 The Mayor and GLA are subject to the public sector equality duty, as set out in section 149 of the Equality Act 2010. The 2010 Act includes a single public sector equality duty (“Equality Duty”) bringing together race, disability, sex, age, sexual orientation, marriage and civil partnership, religion or belief, pregnancy and maternity and gender reassignment. These are the grounds upon which discrimination is unlawful and are referred to as ‘protected characteristics.’
- 3.2 The Equality Duty requires the Mayor when exercising his functions to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.3 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; encourage persons who share a relevant protected characteristic to participate in

public life or in any other activity in which participation by such persons is disproportionately low. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding. Compliance with these duties may involve treating some persons more favourably than others.

- 3.4 The courts have emphasised that “due regard” requires an active and engaged analysis of the relevant material with the specific statutory considerations in mind, but the Duty does not require that the considerations raised in the analysis are decisive in the particular case and finally, that the weight to be given to the requirement that “due regard” is to be had is for the decision maker to decide.
- 3.5 These duties apply to the Mayor’s decision whether to publish the London Plan.
- 3.6 In light of this, the draft London Plan has been subject to an Integrated Impact Assessment (IIA) which included an Equalities Impact Assessment (“EqIA”) as set out in section 2 above. The IIA framework uses objectives and key ‘guide questions’ to assess the London Plan’s policies against a range of criteria and was informed by a steering group which included the Equality and Human Rights Commissions, Inclusion London and a community umbrella organisation that represented groups such as Age UK and Race on the Agenda.
- 3.7 An IIA report (November 2017) (Annex V) was published alongside the draft London Plan for consultation in December 2017. As a result of the consultation, the draft London Plan was amended to take account of the consultation responses and a Minor Suggested Change version of the London Plan was published in August 2018. An IIA Addendum report (July 2018) (Annex T) was also published alongside the Minor Suggested Changes version of the London Plan, which assessed any changes to the draft London Plan policies as a result of the consultation. The IIA Addendum report also concluded that, overall, the majority of changes to policies resulted in further improvements in impacts in relation to equality considerations.
- 3.8 During the EiP in 2019, at the request of the Inspectors, a summary of the equality implications of the London Plan on each of the nine protected characteristics (under the Equality Act) was published and is attached for reference (Annex S).
- 3.9 Following the EiP, a further IIA Addendum Report (November 2019) (Annex Q), including an EqIA was prepared, including an assessment of the Further Suggested Changes which were proposed as part of the EiP and an assessment of the changes to policies as a result of the Inspectors’ recommendations.
- 3.10 A further Addendum Report (December 2020) (Annex H), including EqIA, was prepared including an assessment of the modifications made to conform with the SoS’s directions. Some of the outcomes resulting from these directions – most notably DR4 (and later amendment), DR7 and DR9 as set out within section 2 of this MD – have not been positive in equalities terms. The Mayor should have regard to the contents of this report in deciding whether to agree the recommendations within this report.

## **4. Other considerations**

### Key risks and issues

- 4.1 The Mayor has been directed by the SoS to modify his London Plan. However, in making those directions under section 337 of the GLA Act, the SoS is not required to give consideration to those matters that the Mayor must take into account before publication of his London Plan as set out in section 2. Therefore, as highlighted in paragraph 3.10 above there is potential for inconsistencies to arise between the directions and the considerations the Mayor must take into account and the implications for outcomes as set out in the IIA. Whilst this creates a potential risk of challenge following publication of the London Plan, the IIA is just an audit of impacts of policy choices to ensure

the decision maker can make an informed choice; nothing requires the Mayor to adopt policies which only lead to positive outcomes. Furthermore, legal advice (including advice from Leading Counsel) has been taken throughout the process for the publication of the London Plan in order to minimise any potential risks. This includes advice on the implications of the SoS directions.

- 4.2 There is also a risk at this stage that the SoS will not give his approval to the modifications set out in Annex C in relation to the further amendment to DR4 issued as a direction on 10 December 2020. It is also noted that the SoS can issue further directions up until such time as the new London Plan is published.
- 4.3 It is also noted that section 337 of the GLA Act does not specify timescales requiring the SoS to respond. Once this Publication London Plan has been sent to the SoS, he is required to respond within six weeks or such time as he requests. There are no provisions within section 337 to compel the SoS to respond to the Mayor or facilitate the resolution of a direction within any specific timescale. Therefore, despite this MD, the response from the SoS could continue to be protracted.
- 4.4 The 2021 Mayoral elections will be held on the 6 May 2021 after being postponed from May 2020 due to the Coronavirus pandemic. Publication of the London Plan would not be able to take place during the pre-election period.
- 4.5 The London Assembly's power to reject a Mayoral strategy posed an additional risk. In the event, as set out in paragraphs 2.9 – 2.13, the Assembly did not seek to exercise this power.
- 4.6 The London Plan has been, and will continue to be, tightly project managed and GLA officers will continue to do all they can within their control to ensure key deadlines are met and that expenditure stays within budget. Provision has been made to publish the London Plan in the current budget setting process to meet the fiscal pressures arising from the Coronavirus pandemic.

#### Links to Mayoral strategies and priorities

- 4.7 The London Plan, the Mayor's Spatial Development Strategy, sets out the Mayor's policies for the development and use of land in London. It also incorporates the spatial – geographical and locational – aspects of his transport, economic development, housing, environmental and other strategic policies for London in a single, comprehensive framework. It provides the basis for implementation of these strategies and policies through the London Planning system, to the extent that this is appropriate.

#### Impact assessments and consultations

- 4.8 The impact assessment of the London Plan through the IIA process is considered in paragraphs 2.46 – 2.54 above.
- 4.9 Public consultation on the draft new London Plan was considered in MD2558. There is no further requirement for public consultation. The GLA Act required consultation with the London Assembly which has been undertaken as set out in section 2 above.

## **5. Financial comments**

- 5.1 Approval is sought for expenditure of up to £20,000 for printing costs related to the published version of the London Plan. Much of this expenditure will occur in 2021-22 and only when printed copies of the Plan are required. The Plan will be available digitally when published.
- 5.2 This expenditure will be funded from the London Plan budget. The London Plan allocation for 2021-22 is to be confirmed as part of the budget setting process, however as the London Plan is a statutory function sufficient budget for all essential tasks will be in place.

- 5.3 A small income will be received once printed copies are available to external parties for purchase at a reasonable fee as determined by the Mayor.

## **6. Legal comments**

- 6.1 This section deals with legal issues not covered elsewhere in this decision form.
- 6.2 The Mayor is required to prepare and publish a spatial development strategy (known as the London Plan) under section 334 of the GLA Act. The Strategy must include his general policies in respect of the development and use of land in Greater London and must deal only with matters, which are of strategic importance. However, in making that determination, it is immaterial whether or not the matter affects the whole of Greater London. The current London Plan was published in July 2011, replacing earlier versions, and was consolidated with the revised early Minor Alterations (REMA) in October 2013 and Further Alterations (FALP) in March 2015 and Minor Alterations to the London Plan (MALP) in March 2016.
- 6.3 The Mayor has a duty under section 340 of the GLA Act to keep this strategy under review and can under section 341(1) (b) of that GLA Act at any time prepare and publish a new spatial strategy. As such in October 2016, the Mayor announced his intention to prepare a new London Plan.
- 6.4 Sections 337 and 341 of the GLA Act sets out the procedure to be followed for the preparation and publication of a new London Plan and this has been rigorously followed.

### Publication

- 6.5 Once confirmation is received by the SoS that the Mayor can formally publish the Publication London Plan, the Mayor may proceed with the statutory steps required to legally publish the London Plan as set out within section 2 above.
- 6.6 On publication, the London Plan will formally become the Mayor's Spatial Development Strategy and form part of the development plan for Greater London.

### Matters to which the Mayor should have regard

- 6.7 Under section 342 of the GLA Act, when considering a new London Plan, the Mayor must have regard to any regional planning guidance issued by the SoS insofar as that relates to an area which includes or adjoins Greater London and such other matters as he may prescribe. The Publication London Plan reflects this requirement as the modifications necessary to address the SoS's directions and pre-publication minor factual changes set out in the Publication London Plan do not give rise to any such matters.
- 6.8 Under section 41 of the GLA Act the Mayor must also have regard to the need to ensure that the London Plan is consistent with national policies, other statutory strategies, the resources available for the implementation of the London Plan and the desirability of promoting and encouraging the use of the River Thames safely for the provision of passenger transport services and for the transportation of freight. The Publication London Plan meets these requirements insofar as they relate (the modifications and pre-publications minor factual changes do not impact on the River Thames).
- 6.9 In addition, paragraph 2.46 sets out other legal duties to which the Mayor must have regard. These issues were considered as part of the various assessments carried out in developing the Publication London Plan including the IIA, the HRA and the Sustainability Statement. These assessments are considered by GLA officers to contain an adequate analysis of the material to which the Mayor must pay "due regard" to in making the decision to publish the London Plan and regard should be had to their conclusions as part of this decision.

## Public Sector Equality Duty

- 6.10 The Mayor and GLA are subject to the public sector equality duty, as set out in section 149 of the Equality Act 2010 and detailed within section 3 of this MD. In light of these duties GLA officers have reviewed what is proposed in the Publication London Plan and updated the Equalities Impact assessment as appropriate following the SoS directions. Details of how regard has been had to the equality duty is set out in section 3 of this MD and regard should be had to as part of this decision.

## High Court challenge

- 6.11 Upon publication of the Plan there is still a risk of a statutory challenge. A High Court challenge to the Plan could be made upon publication under section 113 of the Planning & Compulsory Purchase Act 2004 which relates to the validity of the Mayor's Spatial Development Strategy. This section gives a person aggrieved by the plan the power to make an application to the High Court on the ground that:
- a) the document is not within the appropriate power (i.e. sections 334 to 343 of the Greater London Authority Act 1999); or
  - b) a procedural requirement has not been complied with and the interests of the applicant have been substantially prejudiced by this failure.
- 6.12 Any application must be made not later than the end of the period of six weeks starting with the date the Mayor publishes his Plan. If a challenge is successful, the High Court may make an interim order suspending the operation of the Plan wholly or in part; generally or as it affects the property of the applicant. Legal advice (including advice from Leading Counsel) has been taken throughout the process for the publication of the London Plan in order to minimise these risks. This includes advice on the implications of the SoS directions.

## **7. Planned delivery approach and next steps**

- 7.1 Contingent on this MD being signed off by the Mayor on 21 December 2020, the remaining steps to the publication of the London Plan are as follows:

tbc	<ul style="list-style-type: none"><li>• Secretary of State confirms that the modifications remove the inconsistency referred to in the directions</li></ul>
Not less than one week later than SoS response	<ul style="list-style-type: none"><li>• Commission statutory notices to be placed in London Gazette and London Evening Standard</li></ul>
Not less than three weeks later than SoS response	<ul style="list-style-type: none"><li>• Final version of the London Plan sent to the printers</li><li>• notice in the London Gazette and first notice in the London Evening Standard</li><li>• publish the new London Plan on the GLA's website and archive the 2016 London Plan</li><li>• serve notices on statutory parties and send copies of required documents</li><li>• send notices and required documents to the Secretary of State and to the London boroughs</li></ul>

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	<ul style="list-style-type: none"> <li>• email stakeholders</li> </ul>
Not less than nine weeks later than SoS response	<ul style="list-style-type: none"> <li>• send copies of the London Plan to the Secretary of State and to the London boroughs</li> <li>• second notice in the London Evening Standard</li> </ul>

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## **Appendices and supporting papers:**

Annex A: Publication London Plan (clean version)

Annex B: Publication London Plan (tracked changes version showing the modifications made to address the Secretary of State's Direction)

Annex C: Schedule of modifications to conform with the Secretary of State's Direction (December 2020)

Annex D: Sustainability Statement (December 2020)

Annex E: Saving Statement (December 2020)

Annex F: Statement on Use Classes Order (December 2020)

Annex G: Statutory Notice

Annex H: Integrated Impact Assessment Addendum Report (December 2020)

Annex I: Habitat Regulations Assessment Report (December 2020)

Annex J: Secretary of State's Response of 13 March 2020 to the Intend to Publish London Plan and Direction

Annex K: Secretary of State's Response of 10 December 2020 to the Intend to Publish London Plan and Direction

Annex L: Mayor's letter to the Secretary of State 24 April 2020

Annex M: London Assembly 6 February 2020 Minutes

Annex N: Inspectors' Panel Report of the Examination in Public of the London Plan 2019 and Recommendations (October 2020)

Annex O: Mayor's letter to the Secretary of State responding to the Inspector's recommendations (December 2019)

Annex P: Mayor's response to the Inspectors' recommendations (December 2019)

Annex Q: Integrated Impact Assessment Addendum Report (November 2019)

Annex R: Habitat Regulations Assessment Report (December 2019)

Annex S: Summary of equality implications published during the EiP (April 2019)

Annex T: London Plan Integrated Impact Assessment Addendum Report (July 2018)

Annex U: Draft London Plan Habitats Regulations Assessment Update Report (July 2018)

Annex V: Integrated Impact Assessment for the draft New London Plan (November 2017)

Annex W: Draft London Plan Habitats Regulations Assessment (November 2017)

Annex X: Integrated Impact Assessment Scoping Report (February 2017)

Annex Y: Correspondence from the Chair of the East of England Infrastructure and Growth Panel and Leader of East Hertfordshire District Council

Annex Z: Matters raised by a London Resident in relation to the London Plan



Annex AA: Letter from the Mayor to London Gypsies and Travellers (Aug 2020)

Annex AB: Programme of meetings and events during the London Plan consultation period

**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

**Part 1 – Deferral**

**Is the publication of Part 1 of this approval to be deferred? NO**

**Part 2 – Sensitive information**

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

**Is there a part 2 form – YES**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to confirm the following (✓)

**Drafting officer:**

Lisa Fairman has drafted this report in accordance with GLA procedures and confirms the following:

✓

**Sponsoring Director:**

Phillip Graham has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

**Mayoral Adviser:**

Jules Pipe has been consulted about the proposal and agrees the recommendations.

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**Corporate Investment Board**

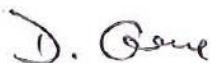
This decision was agreed by the Corporate Investment Board on 21 December 2020.

**EXECUTIVE DIRECTOR, RESOURCES:**

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

**Signature**

**Date**



21 December 2020

**CHIEF OF STAFF:**

I am satisfied that this is an appropriate request to be submitted to the Mayor

**Signature**

**Date**



21 December 2020