

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD1614

Title: Publication of the Housing Standards and Parking Standards Minor Alterations to the London Plan (MALPs)

Executive Summary:

This MD seeks the Mayor's approval to publish (i.e. adopt) the Housing Standards and Parking Standards Minor Alterations to the London Plan (MALPs) as alterations to his spatial development strategy. It addresses the statutory steps in the finalisation of the MALPs and sets out the issues and matters for the Mayor to consider before deciding to publish them.

Decision:

That the Mayor:

1. considers the response of 2 February 2016 of the Minister of State for Housing and Planning to the Mayor's submission of the 'intend to publish' Housing Standards and Parking Standards MALPs to the Secretary of State CLG (Annex E)
2. considers the outcome of the Plenary meeting of the London Assembly held on 10 February 2016 at which the 'intend to publish' Housing Standards and Parking Standards MALPs were considered, and the Assembly Motion contained in the letter of 17 February 2016 from the Head of Committee and Member Services (Annex F)
3. approves his reply to the letter of 17 February 2016 from the Head of Committee and Member Services as set out in Annex H
4. considers any representations made since the Mayor last considered the Housing Standards and Parking Standards MALPs on 16 December 2015 (Annexes I and J)
5. approves the Housing Standards and Parking Standards MALPs for publication as alterations to the London Plan, the Mayor's spatial development strategy for Greater London, as set out in Annexes K and L
6. approves minor consequential changes to the London Plan, as set out in Annex M
7. approves publication of the statutory notices of publication, the publication of the schedule of his response to the MALPs EIP inspector's recommendations (Annex C), the giving of the required notice to local authorities, the Secretary of State and others, and the arrangements for making the MALPs and associated documentation available for public inspection.

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:

10 March
2016

PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**Decision required – supporting report****1 Introduction and background***Summary of previous decisions and actions to date*

- 1.1 On 27 April 2015 the Mayor signed MD1482, agreeing the Housing Standards and Parking Standards Minor Alterations to the London Plan (MALP) for public consultation. The consultation took place between 11 May and 22 June 2015, and some 130 consultation responses were received.
- 1.2 In response to suggestions from consultees, and to clarify policy intent, correct errors, and to provide updates, a number of Suggested Changes were published by the Mayor on 21 August and on 29 September 2015.
- 1.3 An examination in public (EiP) into both sets of Minor Alterations was conducted by David Hogger, an independent planning inspector appointed by the Secretary of State, and this sat in City Hall for two days hearings on 21 and 22 October 2015.
- 1.4 Following a request from the Inspector and in response to issues raised at the EiP, on 28 October 2015 the Mayor put forward a number of Further Suggested Changes to the MALPs.
- 1.5 Mr Hogger submitted his Inspector's report to the Mayor on 15 December 2015.
- 1.6 On 16 December 2015 the Mayor signed MD1587, in which he:
 - considered the MALP EiP Inspector's report
 - agreed to accept all the EiP Inspector's recommendations
 - approved arrangements for publishing the Inspector's report
 - noted the MALPs formal assessments – the Integrated Impact Assessments for the Housing Standards MALP and the Parking Standards MALP, and the Parking Standards MALP Habitats Regulations Assessment Screening report
 - noted the opinion of legal counsel on the compatibility of the MALP Parking Standards with air quality law
 - approved 'intend to publish' versions of the MALPs for submission to the Secretary of State for Communities and Local Government and the London Assembly
 - agreed to notify the Secretary of State for Communities and Local Government in writing of his intention to publish the Housing Standards MALP and the Parking Standards MALP, enclosing his response to the EiP Inspector's recommendations together with copies of the 'intend to publish' MALPs
 - agreed to lay the 'intend to publish' Housing Standards and Parking Standards MALPs before the London Assembly
 - authorised expenditure of up to £6,000 for placing statutory notices for publication of the Housing Standards and Parking Standards MALPs and up to £45,000 for printing a revised consolidated version of the London Plan incorporating the Housing Standards and Parking Standards MALPs
- 1.7 On 16 December 2015, the Mayor wrote to Greg Clark MP, Secretary of State for Communities and Local Government, to notify him of his intention to publish the MALPs (Annex A1), enclosing the 'intend to publish' MALPs and the schedule of his responses to the Inspector's recommendations (Annex A2).

- 1.8 On 4 January 2016, the MALPs EiP Inspector's report was published on the GLA's website, and copies of it were sent to each London borough council and made available for inspection at locations where the consultation draft MALPs had been placed on deposit.
- 1.9 On 25 January 2016, the Deputy Mayor, on behalf of the Mayor, submitted the MALPs to the London Assembly (Annex B1).
- 1.10 On 2 February 2016, the Mayor received a letter from Brandon Lewis, Minister of State for Housing and Planning, confirming that he was content for the Mayor to publish the MALPs (Annex A3). This is discussed in further detail in section 5 of this MD.
- 1.11 The Assembly considered the MALPs in Plenary session on 10 February 2016, where a motion setting out various concerns about the altered policies in the MALPs was agreed (Annex B2). This is discussed in further detail in section 6 of this MD.

This MD

- 1.12 This decision form addresses the next statutory steps in the finalisation of the MALPs and sets out the issues and matters which the Mayor must formally consider before deciding to publish the MALPs as alterations to his as spatial development strategy.

2 Publication conditions

- 2.1 Section 341 (1) (b) of the Greater London Authority Act 1999 (as amended) (the 'GLA Act') permits the Mayor at any time to prepare and publish alterations to the spatial development strategy – in this case, the Housing Standards and Parking Standards Minor Alterations to the London Plan (MALPs).
- 2.2 Section 341 (3) (a) of the GLA Act explains that the provisions for preparing and publishing an alteration to the strategy are the same as for strategy itself.
- 2.3 Under section 337 of the GLA Act, the Mayor may publish the spatial development strategy if:
 - it is in the same form as the draft strategy published for public consultation, either as originally proposed or changed to take account of comments raised during consultation, in response to recommendations from the panel that conducted the examination in public or to a ministerial direction
 - the Mayor has considered any representations made during the consultation and engagement process required by the Act and Regulations, and has received the report of the examination in public inspector
 - the Secretary of State has not made a direction or, if he has made such a direction, the Mayor has complied with it.
- 2.4 In addition – introduced by the amending provisions of the Localism Act 2011 – Section 42B of the GLA Act provides that the Mayor may not publish the strategy/alterations before the expiry of a 21 day period following their 'laying before' the London Assembly. During this period the Assembly may reject the strategy/alterations if a two thirds majority of those voting is secured.
- 2.5 Section 337 (2) (d) of the GLA Act also requires the Mayor to take into account 'any other material considerations' before publishing the strategy/alterations. Any correspondence relating to the MALPs that have been received by the Mayor since he last considered the alterations (at his 16 December 2015 Planning & SDS Meeting at which he signed MD1587) falls into this category, so it is important that any such representations are also considered in this decision form.

2.6 To assure the Mayor that compliance with these requirements can be demonstrated, and to enable him to formally consider and agree that all the conditions for publishing the MALPs have been met, the following sections of this MD address:

- consultation responses (section 3)
- EiP Inspector's report (section 4)
- response from the Secretary of State (section 5)
- response from the London Assembly (section 6)
- further representations (section 7)

3 Consultation responses

3.1 Under section 337 (2) (a) of the GLA Act, the alterations proposed to be published must take account of any representations on the draft Housing Standards and Parking Standards MALPs made in accordance with the SDS Regulations, and under section 337 (4) (a) of the GLA Act the Mayor may not publish the alterations until after he has considered any representations made in accordance with the regulations.

3.2 The statutory requirements for public consultation on the spatial development strategy or alterations to it are set out in Regulation 7 of the Town and Country Planning (London Spatial Development Strategy) Regulations 2000 (SI 2000 No. 1491) (the 'SDS Regulations').

3.3 Regulation 7 (7) stipulates that if, in the opinion of the Mayor, proposed alterations constitute minor alterations, public consultation should be for a period of not less than six weeks. Public consultation on the draft Housing Standards and Parking Standards MALPs ran for six weeks from 11 May to 22 June 2015

3.4 Under Regulation 7 there are three statutory elements to public consultation

- public inspection of key documents
- formal notice by statutory advertisement
- sending key documents to statutory consultees and stakeholders

Public inspection

3.5 Regulations 7 (1) to (3) require the Mayor to make the SDS and the Sustainability Appraisal available for public inspection at the principal office of the Greater London Authority and those of the London boroughs (including the City of London).

3.6 On 11 May 2015 the Mayor wrote to the Chief Executives of the London boroughs and development corporations, enclosing copies of the Housing Standards and Parking Standards MALPs, the Housing Standards and Parking Standards Integrated Impact Assessments (IIAs), the Parking Standards Habitats Regulations Assessment Screening Report (HRA) and an explanatory note, requesting that the documents be placed in their public offices for public inspection for a 6 week consultation period. These documents were also placed in City Hall reception for public viewing.

3.7 The MALPs and associated documentation were also made available for download on the GLA's website from 11 May 2015

Statutory advertisement

3.8 Regulation 7 (4) requires the Mayor to give notice by advertisement of the publication of draft alterations for public consultation, the form of which is specified in an annex to the Regulations.

Regulation 2 (1) defines the process of advertisement as publication in the London Gazette and on at least one occasion in two successive weeks in a newspaper circulating in Greater London.

- 3.9 Statutory advertisements were placed appeared in the London Gazette on 11 May and in the London Evening Standard on 11 and 18 May 2015.

Sending documents to statutory consultees and stakeholders

- 3.10 Under the provisions of Regulation 7 (5), the Mayor is required to send copies of the SDS to the Secretary of State, every London borough council, the council of any county or district whose area adjoins Greater London and is affected by the proposed SDS, the Countryside Agency and the Nature Conservancy Council for England (subsequently English Nature, now Natural England), the Environment Agency, and the Historic buildings and Monuments Commission for England (subsequently English Heritage and now Historic England). Under section 335(3)(aa) inserted into the GLA Act by Section 228 of the Localism Act 2011, the Mayor is also required at this stage to send the SDS to the London Assembly and the GLA functional bodies

- 3.11 Accordingly, on 11 May 2015, letters inviting a consultation response together with copies of the MALPs, the IIAs and the HRA were sent to:

- the Secretary of State for Communities and Local Government
- the Chair of the London Assembly and the Chair of the London Assembly's Planning Committee
- the GLA functional bodies – Transport for London, the London Fire and Emergency Planning Authority, and the Mayor's Office for Policing and Crime
- the Environment Agency, Natural England and Historic England
- London borough and development corporation planning directors, and
- Chief planners in counties and districts adjoining London and the wider south east

- 3.12 Emails were also sent to all stakeholders on the GLA's planning mail lists inviting consultation responses and giving details of where the documents could be downloaded from. This included:

- respondents/participants to the Further Alterations to the London Plan (FALP) in the previous year
- planning officer networks in London (the Association of London Borough Planning Officers (ALBPO) and the Planning Officers Society (POS London))
- planning officer networks outside London (the Strategic Spatial Planning Officer Liaison Group (SSPOLG) and other contacts in the wider south east)

- 3.13 Additionally, any group or individual who requested copies of the MALPs were sent them.

Public consultation meetings and events

- 3.14 Over and above the statutory requirements for public participation, a short programme of meetings and events took place during the MALPs consultation period. Offers to attend meetings or to hold specific meetings to discuss the MALPs were made to all groups consulted. The following took place:

- public launch event with the Deputy Mayor for Planning on 14 May 2015 at City Hall
- presentation to POS London on 15 May at Tottenham
- Housing Standards MALP public meeting on 18 May at City Hall
- presentation to ALBPO on 19 May at London Councils
- Parking Standards MALP public meeting on 27 May at City Hall
- scrutiny by the London Assembly Planning Committee on 16 June at City Hall

- 3.15 In addition, but outside the formal London Plan consultation process, the Mayor asked his independent Outer London Commission to advise him on parking policy in outer London. The Commission gathered intelligence to inform its response to the Mayor through four meetings in public around the quadrants of Outer London as well as through its own work and independent submissions.

Written Responses

- 3.16 At total of 142 written responses to the MALPs were received – 71 on housing standards and 71 on parking standards. These were passed to the independent Inspector, and from these responses he selected the matters for discussion at the EiP, and the participants. The responses were posted on the EiP Library webpage at <https://www.london.gov.uk/what-we-do/planning/london-plan/minor-alterations-london-plan/minor-alterations-london-plan-2015-%E2%80%93>

Suggested and further suggested changes to the MALPs

- 3.17 Officers reviewed each of the consultation responses on behalf of the Mayor. Where it was possible to respond positively to changes put forward by respondents, to clarify the intent of policies or to correct any errors, officers proposed a suggested changes. Each change was screened as to whether further consultation or assessment was required, and each was considered to be sufficiently minor in nature as to not warrant either action.
- 3.18 Six suggested changes to the Housing Standards MALP and three suggested changes to the Parking Standards MALP were published by the Mayor on 21 August, together with a note explaining the rationale to suggested change HSC6¹. Two 'further suggested changes' to the Housing Standards MALP were published on 29 September 2015.
- 3.19 On 7 October 2015, the MALPs EiP Inspector requested further information from the Mayor on potential air quality mitigation measures. The Mayor prepared a Note and submitted it to the EiP Secretary on 19 October 2015. The Note also included the written legal opinion of Stephen Troman's QC on the lawfulness of the proposed Parking Standards MALP under EU and UK air quality law. The Note can be found on the MALP webpage at <https://www.london.gov.uk/what-we-do/planning/london-plan/minor-alterations-london-plan/minor-alterations-london-plan-2015>. A copy of this Note can be found at Annex A to this form.
- 3.20 During and immediately following the EiP, held on 21 and 22 October 2015, the Inspector requested various clarifications and further small pieces of work from the Mayor. These were sent to him on 28 October 2015, and comprised notes on post-EiP actions, seven consequential further suggested changes to the Housing Standards MALP and one further suggested change to the Parking Standards MALP. All these documents can be found on the MALP webpage as listed above.
- 3.21 **It is therefore considered that the Mayor has fulfilled his duties under sections 337 (2) (a) of the GLA Act that the alterations proposed to be published must take account of any representations on the draft Housing Standards and Parking Standards MALPs made in accordance with the SDS Regulations, and under section 337 (4) (a) of the GLA Act not to publish the alterations until after he has considered any representations made in accordance with the Regulations.**

¹ In response to the Government's announcement of 10 July 2015 that it no longer intended to proceed with the zero carbon Allowable Solutions carbon offsetting scheme, or the proposed 2016 increase in on-site energy efficiency standards, suggested change HSC6 deleted the alterations proposed to London Plan Policy 2.2 Minimising Carbon Dioxide Emissions. The consequence of deleting the minor alterations proposed to Policy 5.2 was that this policy reverted back to the March 2015 London Plan.

4 EiP Inspector's report

- 4.1 Under section 337 (2) (c) of the GLA Act, the Mayor in determining alterations proposed to be published, must take account of the MALP EiP Inspector's report, and under section 337 (4) of the GLA Act the Mayor may not publish the alterations until after the Inspector has made his report to the Mayor.
- 4.2 Mr Hogger, the MALPs EiP Inspector, submitted his report to the Mayor on 15 December 2015. He concluded that the London Plan, as changed by the Minor Alterations, provides an appropriate basis for the strategic planning of Greater London – provided the suggested and further changes (including the deletion of the proposed alterations to policy 5.2) and his recommendations are all accepted. A copy of Mr Hogger's report is attached at Annex B of this report.

- 4.3 Mr Hogger summarised his recommendations as follows:

Housing Standards MALP

- clarification of the types of residential development to which the relevant building regulations apply
- clarification of the consequences if the provision of lifts is found to be not viable
- deletion of references to the Lifetime Homes standards

Parking Standards MALP

- inclusion of a more specific reference to the consideration of air quality implications

- 4.4 In detail, the Inspector's seven recommendations to the Mayor were:

- IRC H1: amend the title of Table 3.3 on minimum space standards (replacing 'development' with 'dwellings') and add a footnote to explain that in this context new dwellings refers to new build, conversions and change of use
- IRC H2: amend note 1 to Table 3.3 to replace 'studio' with 'one person dwelling'
- IRC H3: add a footnote to clauses BC and Bd of Policy 3.8 on Housing choice to clarify the application of Part M of the Building Regulations
- IRC H4: amend paragraph 3.48 (supporting Policy 3.8) and add a footnote to clarify the applications of Part M to new build
- IRC H5: amend paragraph 3.48A (supporting Policy 3.8) to clarify issues around lift provision and viability in building of four storeys or less
- IRC H6: amend paragraph 7.5 (supporting Policy 7.1 Lifetime neighbourhoods) to delete a reference to the now-superseded Lifetime Homes Standards
- IRC P1: amend paragraph 6.42k (supporting Policy 6.13 Parking) to add a reference to air quality implications

- 4.5 MD1587, which the Mayor signed on 16 December 2015, reviewed and discussed the Inspector's seven recommendations in detail and reproduced them for the Mayor's consideration in full. The Mayor was advised that the Inspector's recommendations were not binding on him – however, he should give the recommendations significant weight and should he wish not to accept any of the recommendations he must send to the Secretary of State a statement of reasons for not accepting them.
- 4.6 In the context of considering the Inspector's recommendation IRC P1, the Mayor's attention was drawn to the written legal opinion of legal counsel (Mr Stephen Tromans QC) on the compatibility of the proposed Parking Standards MALP with air quality law (Annex E1 of MD1587, and also part of Annex A to this MD).

- 4.7 In addition to his seven recommendations, the EiP Inspector recommended incorporating each of the Mayor's suggested and further suggested changes (detailed in paragraphs 3.17 and 3.18 above) into the MALPs.
- 4.8 In arriving at his decision through MD1587 on 16 December 2015 to approve the 'intend to publish' MALPs for submission to the Secretary of State CLG and onwards to the London Assembly, the Mayor took full account of the Inspector's recommendations and agreed to accept all of them. Consequently the 'intend to publish' MALPs were amended to incorporate each of the suggested and further suggested changes as endorsed by the Inspector.
- 4.9 In line with Regulation 9 (2) (a) this was set out in a schedule that was submitted to the Secretary of State for Communities and Local Government together with the Mayor's notification of his intention to publish the MALPs. This schedule is attached as Annex C to this MD.
- 4.10 Under Regulation 8 (9), the Mayor must publish the MALP Inspector's report within eight weeks of receiving it. The report must be made available at locations where the consultation MALPs were put 'on deposit', and a copy sent to each London borough council and the City of London.
- 4.11 On 4 January 2016 the Mayor published the Inspector's report – sending it to statutory consultees, to MALP respondents and EiP participants, to wider stakeholders, and to the boroughs for public inspection. The report was also posted on the GLA's website at <https://www.london.gov.uk/what-we-do/planning/london-plan/minor-alterations-london-plan/minor-alterations-london-plan-2015>
- 4.12 **It is therefore considered that the Mayor has fulfilled the requirements under section 337 (2) (c) of the GLA Act to take account of the MALP EiP Inspector's report and under section 337 (4) not to publish the alterations until after the Inspector has made his report to the Mayor.**

5 Response from the Secretary of State

- 5.1 Under SDS Regulation 9 (2) (a) the Mayor must send to the Secretary of State:
- a statement of his intention to publish the MALPs
 - a copy of the MALPs as intended to be published, and
 - where he proposes not to accept any of the Inspector's recommendations, a statement of reasons for not accepting that recommendation.
- 5.2 Under section 337 (2) (b) of the GLA Act the alterations proposed to be published must take account of any direction from the Secretary of State.
- 5.3 Under SDS Regulation 9 (2) (b), but subject to the Assembly's power to reject the MALPs (see below), the Mayor may publish the MALPs only after six weeks has elapsed from submitting the statement of intention to publish to the Secretary of State, unless the Secretary of State directs otherwise.
- 5.4 On 16 December 2015, the Mayor wrote to Greg Clark MP, Secretary of State for Communities and Local Government, to notify him of his intention to publish the MALPs (Annex D), enclosing the 'intend to publish' MALPs and the schedule of his responses to the Inspector's recommendations (Annex C).
- 5.5 On 2 February 2016, the Mayor received a letter from Brandon Lewis, Minister of State for Housing and Planning (Annex E). The letter confirms that he is content for the Mayor to publish the Housing

Standards and Parking Standards MALPs. There is no direction to the Mayor to make further changes to the MALPs.

5.6 The Mayor is invited to agree recommendation 1, that he:

- 1. considers the response of 2 February 2016 of the Minister of State for Housing and Planning to the Mayor's submission of the 'intend to publish' Housing Standards and Parking Standards MALPs to the Secretary of State CLG (Annex E)**

Access standards

5.7 Whilst confirming in his letter that he is content for the Mayor to publish the Housing Standards and Parking Standards MALPs, the minister makes an additional point on access standards – one of the issues addressed in the Housing Standards MALPs. The penultimate paragraph of the letter states:

"With regard to access standards, you will know that national policy is that authorities may apply the new optional Building Regulations' standards for accessible homes and wheelchair accessible homes where this is justified by need and does not compromise the viability of development. It will be important to keep the relevant London policies under review as part of the next full revision of the Plan, in particular to take account of the conclusions of Lord Heseltine's estate regeneration panel."

Officer comments

- 5.8 The Minor Alterations adopt the Building Regulations optional standards to which the Minister refers. As part of this process, and in line with the requirements of the NPPG, clear evidence was produced which demonstrates that the approach is justified by need and did not compromise the viability of development. The Inspector, Mr Hogger, took account of and accepted this evidence in coming to his recommendations. The relevant policies will be kept under review as part of the next full revision of the Plan. Account will also be taken of the conclusions of Lord Heseltine's estate regeneration panel once its findings are reported.
- 5.9 **There being no direction from the Secretary of State to further amend the Housing Standards and Parking Standards MALPs, it is considered that the Mayor has fulfilled the requirements under section 337 (2) (b) of the GLA Act that the alterations proposed to be published must take account of any direction from the Secretary of State.**

6 Consideration of the MALPs by the London Assembly

- 6.1 Under section 42B of the Greater London Authority Act 1999 Act (an amendment made by the Localism Act 2011), before he publishes them the Mayor must lay copies of the alterations before the London Assembly, in accordance with GLA standing orders. This may be either the 'intended to publish' versions sent the Secretary of State, or further versions containing any changes directed by the Secretary of State.
- 6.2 The Mayor cannot formally publish (i.e. adopt) the alterations within a period of 21 days beginning with the day on which the MALPs are laid before the Assembly. Within these 21 days the Assembly has the power under section 42B of the Act to reject the alterations. The Assembly may not amend or modify the alterations – it may only reject them. To carry a motion to reject requires the agreement of at least two thirds of the Assembly members voting (absentees and abstentions are not counted) at a meeting of the whole Assembly. In those circumstances the Mayor may not proceed to publish the alterations.
- 6.3 On 25 January 2016 the Deputy Mayor for Policy & Planning wrote to the Chair of the London Assembly on behalf of the Mayor to formally lay the Housing Standards and Parking Standards

MALPs before the Assembly (attached as Annex F). The Minister's letter of 2 February was also forwarded to the Assembly as soon as it was received by the Mayor.

- 6.4 The London Assembly considered the MALPs in Plenary session on 10 February 2016. After extensive questioning of the Deputy Mayor for Policy & Planning and officers, the Assembly debated a single motion. An amendment to the motion to reject the MALPs was debated but not carried. A second amendment was debated which did not call for the rejection of the MALPs but instead raised concerns about housing standards, car parking and air quality. This amended motion was agreed by 12 votes to nine but, as it did not seek to reject the MALPs, the alterations were not rejected for the purposes of section 42B of the Act – permitting the Mayor to proceed to publish them.
- 6.5 On 17 February 2016, the Head of Committee and Members Services wrote to the Mayor confirming the full text of the motion passed by the Assembly (attached as Annex F).
- 6.6 Although the motion did not seek to reject the MALPs, under section 337 (2) (d) of the Act the Mayor must take into account 'any other material considerations' before publishing the alterations. Any representations relating to the MALPs received by the Mayor since he last considered the alterations on 16 December 2016 falls into this category, so it is important that the Assembly's formal motion is considered by the Mayor in this decision form, and be given due and proper weight it being an elected body representing Londoners.
- 6.7 The Mayor is invited to agree recommendation 2, that he:

2. considers the outcome of the Plenary meeting of the London Assembly held on 10 February 2016 at which the 'intend to publish' Housing Standards and Parking Standards MALPs were considered, and the Assembly Motion contained in the letter of 17 February 2016 from the Head of Committee and Member Services (Annex F)

- 6.8 The motion raises a number of issues in the MALPs of concern to the Assembly: housing standards, car parking and air quality. To enable the Mayor to give proper consideration to the motion, the following section of this decision form sets out the issues raised by the Assembly. These are followed by officer comments.

Housing standards

Assembly concerns

- 6.9 "This Assembly condemns the decision by Government to force London to abandon its housing standards through the planning system. These standards work for London, and London should have been able to keep them."
- 6.10 "The GLA has a well-established and effective series of housing standards which are lauded for improving the condition of housing in the capital. Many of these are designed to be joined-up with other policies, such as on transport, health and tackling and adapting to climate change, which all contribute to quality of life. The loss of these standards will undermine the ability of City Hall to secure high-quality housing that is spacious, saves Londoners money on energy bills, and is better for the environment."

Officer comments

- 6.11 It is true that the Mayor originally had in place London Plan policies and Supplementary Planning Guidance addressing similar issues to those covered by government's new standards. However, by formally adopting the latter these standards now have greater weight and will provide a more consistent, transparent and authoritative framework for achieving the Mayor's policy objectives.

6.12 The benefit of having such a robust framework in place is considered to outweigh the loss of relatively minor details set out in the Mayor's original standards. For example, although the Government has introduced apparently lower space standards by reconfiguring stairways in houses, this does not apply to the seven eighths of new housing output in London which is flats. And although the Government's proposals will result in the loss of some but not all the original room size standards, and also in the loss of a standard which specified the proportion (20%) of a room which should receive direct sunlight, the London Plan Housing SPG still retains the general intent of the standard to secure decent daylighting in line with BRE requirements. Many of the other SPG standards, such as those relating to private open space, units per core and dual aspect, also remain in place.

6.13 Officers suggest that the Mayor may wish to concur with these officer comments.

Car parking

Assembly concerns

6.14 "This Assembly is concerned by the potential introduction of minimum car parking standards, which would represent a radical departure from current policy and could result in developers being forced to provide more car parking than a scheme requires, reducing the construction of much needed housing in the capital²".

Officer comments

6.15 The Parking Standards MALP at paragraph 6.42i introduces the possibility of minimum residential parking standards as part of a package of higher levels of parking provision which outer London boroughs could implement in areas of low public transport accessibility, where justified locally by a number of factors including pressure for on-street parking, levels of car dependency, the degree of on-street parking measures, air quality implications and the criteria set out in NPPF paragraph 39.

6.16 This proposal stemmed from a recommendation from the Outer London Commission (OLC)³ that a reference to minimum standards should be included in the supporting text [to Policy 6.13 Parking standards] to allow boroughs to set these locally in the light of local need or overspill pressure, and received strong support from a number of outer London boroughs as part of the engagement process for the OLC and in the responses to the MALP consultation.

6.17 It is important, however, to understand that any minimum residential parking standards introduced locally will still operate within a framework of maximum parking standards – the London Plan's approach to maximum residential parking standards has not been altered through MALP. As such, this is not the significant shift that the London Assembly appears to fear.

6.18 As to the potential loss of housing resulting from increased car parking, the Mayor accepts that there is some evidence that there might be a minor impact on the delivery of homes. The Outer London Commission Fourth Report – which the Assembly motion references – suggests that 5.8ha per year might be lost as a result of one extra parking space per dwelling in the area covering PTAL 0-1 in outer London. This is a worst case scenario and equates to a maximum of 260 dwellings per year, and will be dispersed across outer London – ranging from 33 homes pa in Hillingdon to five each in Kingston and Haringey. The reality of development suggests that this is not a significant constraint on overall housing delivery, and at an individual site level, it is possible for increased parking provision to be designed into a scheme without impacting on the number of dwellings provided.

² Outer London Commission Fourth Report – Residential Parking Standards. May 2015: paragraph 4.4.14

³ Ibid paragraph 5.2.3

- 6.19 The EiP Inspector did not consider the potential loss of dwellings to additional parking spaces to be a significant threat to the need to significantly boost housing supply nor to meeting objectively assessed need (Inspector's report paragraph 46). Officers suggest that the Mayor concurs with him.

Air quality

Assembly concerns

- 6.20 "This Assembly highlights the finding by the independent planning inspector that the implementation of the car parking alterations will result in a predicted decrease in air quality⁴. Given London is already in breach of the Ambient Air Quality Directive⁵, any further deterioration in air quality is unacceptable."
- 6.21 "The inspector puts the onus on the Mayor to clearly demonstrate "through appropriate modelling and monitoring mechanisms" that mitigation measures outweigh the impact on air quality⁶. This Assembly calls upon the Mayor to refrain from implementing the proposed alterations until this has been demonstrated."
- 6.22 "These policies and the planning decisions they inform will have a major impact on London in coming years. Until there is a new London Plan, the decisions that are taken will lock London into a trajectory that is at odds with key goals of developing a sustainable city."

Officer comments

- 6.23 In its first point on air quality, the Assembly's motion attributes the "finding by the independent planning inspector that the implementation of the car parking alterations will result in a predicted decrease in air quality" to paragraph 51 of the Inspector's report.
- 6.24 It is important to set the Inspector's deliberations in context. In paragraphs 48 to 53 of his report the Inspector considers the issue of air quality as a possible significantly adverse implication of the proposed parking standards (the Inspector's EiP issue P5). In paragraph 50 the Inspector notes the concerns of objectors; in paragraph 51 he summarises the approach of the Mayor and TfL; in paragraph 52 he arrives at his conclusions and at 53 his recommendation.
- 6.25 The Mayor has acknowledged that, at a high level, implementation of the Parking Standards MALP is likely to result in a small increase in air pollutant emissions. Modelling work undertaken by TfL to inform the IIA suggests that a small increase in air borough level pollutant emissions of approximately 0.5% for all pollutants⁷ may occur as a result of the Parking Standards MALP. These estimates, modelled at the London level, assume all boroughs were to implement the policy, and cannot at this stage be translated into effects on ambient air quality at specific locations. This should not be taken to imply that there will be a 0.5% shortfall against limit value requirements.⁸ In paragraph 51 of the Inspector's report, to which the Assembly's motion refers, the Inspector describes this impact as a "predicted decrease in air quality", but he goes on to say that this is "a figure that I do not consider to be unduly significant". This is not so much a 'finding' (as the Assembly motion puts it) but rather simply a statement that is part of the Inspector's general summary of the Mayor's approach to the Parking Standards MALP.

⁴ MALP EiP Inspector's Report, para 51

⁵ "UK government failing legal duty on air pollution, supreme court rules". *Guardian* 1 May 2013

⁶ MALP EiP Inspector's Report, para 52

⁷ Estimates of emissions of PM₁₀, NO_x and CO₂ were recorded as outputs from the modelling.

⁸ Limit values for the levels of nitrogen dioxide, benzene, sulphur dioxide, PM10, lead, and carbon monoxide in ambient air are laid down in Annex XI of Directive 2008/50/EC, which apply from the dates set out therein

- 6.26 The Assembly motion's second air quality point quotes from paragraph 52 of the Inspector's report, in which he reaches his conclusion regarding the conflicting views of objectors and the Mayor.⁹ He notes the impact that other measures that will mitigate the increases might have, and considers that "the way forward being espoused by the Mayor is reasonable". As the Assembly motion refers, he concludes by stressing the importance of the Mayor and boroughs implementing a range of measures to mitigate the increases – as highlighted by the Mayor in his evidence – and monitoring and review, to ensure the NPPF's key planning principle of the reduction in air pollution is achieved as soon as possible.
- 6.27 However, the Inspector did not make the actions with which he ends his paragraph 52 a condition- precedent to him finding the Parking Standards MALP sound, nor did he refer to monitoring or mitigation in his formal recommendations. He concluded that, in the circumstances, a pragmatic and proportionate approach had been taken towards the gathering, up-dating and analysis of the evidence on which the MALP Parking Standards was based (paragraph 34). Additionally he was satisfied that the evidence in the IIA was sufficiently robust and proportionate. On the issue of air quality, he simply recommended the addition of a reference to the implication of air quality to paragraph 6.42k, which the Mayor has agreed to accept. Thus it is not required, nor would it be appropriate, for the Mayor to refrain from implementing the proposed Parking Standards alterations until the impact of mitigation measures has been demonstrated at a local level.
- 6.28 Officers consider that there already exists a framework that is sufficient to meet the Inspector's objectives for monitoring, modelling and mitigation of the implementation of the Parking Standards in terms of adoption by outer London boroughs and their consideration of individual planning applications. This framework is comprised of various relevant statutory mechanisms which allow air quality assessments to be undertaken at a stage where it is possible to make a meaningful decision, and is as set out below:
- The Mayor of London and Transport for London are statutory consultees on draft London borough Local Plans / Development Plan Documents (DPDs) and can attend EIPs if necessary
 - Any outer London borough that wished to change its Local Plan / DPDs to relax parking standards in line with MALP must undertake a strategic environmental assessment (SEA) that would include an assessment of the likely environmental impacts – including air quality – of the proposed changes and mitigations, not limited to the borough's boundaries. This is a requirement of the Environmental Assessment of Plans and Programmes Regulations 2004/1633
 - This SEA assessment would form part of the public consultation and would be examined by the Inspector at the EIP into the alteration.
 - The air quality impact would be a consideration when the Mayor decided whether to give a statement of conformity with the London Plan.
 - Individual planning applications meeting the relevant thresholds would themselves have to have an EIA that would form part of the public consultation which would highlight air quality impacts from the proposed development, including potential mitigations, and be considered by the borough when considering the application. This is a requirement of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011/ 1824.
 - The Mayor could also make it a requirement that Local Plans assess the cumulative air quality impacts of smaller developments within the borough, as identified through the SHLAA¹⁰, which would not be picked up under Environmental Impact Assessment (EIA).

⁹ "In weighing up the conflicting views I am mindful that the overarching objective is to improve air quality and there is no reason to conclude that mitigation measures would not contribute significantly to achieving that objective. Therefore, provided it can be clearly demonstrated, through appropriate modelling and monitoring mechanisms, that mitigation measures outweigh the predicted 0.5% decrease in air quality that may arise from the implementation of the MALP (Parking Standards), I consider that the way forward being espoused by the Mayor is reasonable. Nevertheless the onus is on the Mayor, in co-operation with the London Boroughs, to undertake the necessary measures, including monitoring and review, to ensure that the overarching objective is achieved as soon as possible." MALP EIP Inspector's Report, page 12.

¹⁰ Strategic Housing Land Availability Assessment (SHLAA)

- EIA assessments could take the following form:
 - At a minimum the local authority should take the outputs from their transport assessment and use the DEFRA Emissions Factor Toolkit (EFT)¹¹ to understand how emissions may change between the reference case and the 'with policy' case¹². They can look at specific link level changes in emissions and look for overlaps between areas of existing or future high air quality, determined by looking at the London Atmospheric Emissions Inventory (LAEI)¹³; local air quality hotspots / GLA focus areas¹⁴; air quality management areas.
 - Following this it may be prudent to carry out a full air quality assessment of the affected area. These are routinely carried out when a new development is expected to change exposure, lead to significant traffic changes or composition (e.g. increases in heavy goods vehicles).
- If the proposed development met the thresholds of a referable application under the Town and Country Planning (Mayor of London) Order 2008/ 580, the Mayor may direct the refusal or call-in of such applications. These currently require referral of development which comprises or includes the provision of more than 150 houses, flats, or houses and flats. However, the Government has confirmed its intention to bring forward proposals to allow the Mayor to call in planning applications of 50 homes or more¹⁵.
- London Plan policy 7.14 requires developments to be air quality neutral and therefore would require local mitigations to be put in place to overcome any local increases associated with the development. As with all London Plan policies, this policy is subject to the principle of plan-monitor-manage.¹⁶
- Under the proposed London Local Air Quality Management system (which supports boroughs' existing local air quality management duties under Part V of the Environmental Protection Act 1995) the Mayor and boroughs will work more effectively to improve air quality in London. The Mayor produces the publically available London Atmospheric Emissions Inventory (LAEI) and associated concentration modelling to assist boroughs in the identification of sources of pollution and hotspot locations. This valuable database also acts as a base for any scenario testing – for example the future Ultra Low Emissions Zone and the measures within the Mayor's Air Quality Strategy. Using data from the network of mostly-borough owned monitoring stations the Mayor has commissioned studies into understanding the trends in pollution over time, seeking to identify causes and the impact of solutions at a local level. Boroughs must monitor air pollution using the LAEI and declare Air Quality Management Areas, with associated measures, if air quality limit values are exceeded.
- Various types of measures are being funded and implemented that will help achieve the overarching objective in the NPPF to improve air quality in London. Examples are set out in the Mayor's Note published in response to the Inspector's request for further information on potential air quality mitigation measures (Annex A to this form). Measures already developed and approved for implementation – such as the Ultra Low Emissions Zone (ULEZ) – clearly cannot be 'double counted' as mitigation for the policy, but do more than offset the estimated small increase in NOx emissions. However, schemes like the Low Emission Neighbourhoods and Mayor's Air Quality Fund, whilst fully funded, have not been fully developed by the boroughs themselves. These two funding streams allow boroughs the flexibility to develop local measures to help tackle specific air quality issues within their boroughs which will have an impact over a larger area.

¹¹ DEFRA Emissions Factor Toolkit (EFT) <http://laqm.defra.gov.uk/review-and-assessment/tools/emissions-factors-toolkit.html>

¹² The 'reference case' here is a situation with the future development in place but with the previous parking standards in place NOT a situation without any development

¹³ London Atmospheric Emissions Inventory (LAEI) <http://data.london.gov.uk/dataset/london-atmospheric-emissions-inventory-2010> (note new one to come in the following months)

¹⁴ GLA air quality focus areas <http://data.london.gov.uk/dataset/air-quality-focus-areas>

¹⁵ Paragraph 9.20, Fixing the Foundations: Creating a More Prosperous Nation, HM Treasury, July 2015.

¹⁶ Paragraph 8.8, London Plan March 2015

- 6.29 The Assembly's final air quality point raises concerns that the Parking Standards MALPs will have a major impact on London in coming years and will lock the capital into a trajectory that is at odds with key goals of developing a sustainable city.
- 6.30 This analysis is contested. The Parking Standards alterations limit increased parking flexibility solely to parts of outer London with demonstrably poor public transport connectivity, and furthermore, to those outer London boroughs that wish to respond to local circumstances by adopting them. In deciding whether to adopt these locally, outer London boroughs will need to assess and consider the implications for air quality and comply with London Plan Policy 7.14 on emissions, including through the use of mitigations.
- 6.31 As officers put it to the EiP, it is arguable that without these alterations, the London Plan's commitment to continued parking restraint throughout the rest of the capital, and particularly in inner and central London, would have been put at risk. The measured and balanced approach to residential parking in London embodied in the Parking Standards MALP has been endorsed by both the EiP Inspector and the Secretary of State.
- 6.32 Officers suggest that the Mayor may wish to concur with these officer comments.
- 6.33 The text of a proposed reply from the Mayor to the Head of Committee and Member Services is attached for approval as Annex H. The Mayor is recommended to approve the text of this reply, and agree recommendation 3, that he

3. approves his reply to the letter of 17 February 2016 from the Head of Committee and Member Services as set out in Annex H

- 6.34 **As the London Assembly's motion of 10 February 2016 did not seek to reject the Housing Standards and Parking Standards MALPs under section 42B of the Act, it is considered that the requirements of section 42B have been met and the Mayor is now able to publish the alterations.**

7 Further representations

- 7.1 Section 337 (2) (d) of the GLA Act requires the Mayor to take into account 'any other material considerations' before publishing the alterations. Correspondence relating to the MALPs received by the Mayor since he last considered the alterations on 16 December 2015 falls into this category, so it is important that any such representations are considered in this decision form.
- 7.2 Two such further representations have been received in addition to the London Assembly's motion, discussed in section 6 above:
- a letter of 31 January 2016 to the Mayor from Simon Birkett, Founder and Director, Clean Air in London (attached as Annex I to the MD)
 - an email of 11 February 2016 to Richard Linton, Strategic Planning Manager, also from Simon Birkett, Founder and Director, Clean Air in London (attached as Annex J)
- 7.3 The Mayor is invited to consider recommendation 4, namely that he:
- 4. considers any representations made since the Mayor last considered the Housing Standards and Parking Standards MALPs on 16 December 2015 (Annexes I and J)**
- 7.4 The letter from Clean Air in London (CAIL) makes the following points:

- the MALP Parking Standards alterations are major alterations, not minor ones
- the Inspectors report warns that any change to the MALPs should include a more specific reference to the consideration of air quality implications
- in putting the “onus on the Mayor in co-operation with the London boroughs” to “clearly demonstrate through appropriate modelling and monitoring mechanisms, that mitigations measures outweigh the predicted 0.5% decrease in air quality” the inspector must be congratulated for imposing such a heavy burden of proof on the Mayor
- that the inspector reiterates the importance of having accurate and up-to-date monitoring and modelling mechanisms for the purpose of examining air quality
- contends that the Inspector’s reference to “clearly demonstrate” (as above) means that the Mayor must prove that the techniques involved with monitoring, measurement and mitigation of additional air quality measures are innovative, robust, certain and fully funded before proceeding with any proposed weakening standards
- that responsibilities passed to local authorities to comply with air quality directives is a shocking and unacceptable ‘passing of the buck’ by the Mayor
- if the Mayor rejects these objections, he is asked to confirm in writing that he will clearly demonstrate through appropriate modelling and monitoring mechanisms that mitigation measures outweigh the predicted 0.5% decrease in air quality before proceeding with the MALP

7.5 The email from CAIL reiterates the point about the alterations being major, not minor, and urges the Mayor to drop the Parking Standards MALPs and consider them only, if at all, when the next Mayor revises the whole London Plan.

Officer comments

- 7.6 Regulation 7 of the SDS Regulations says that it is the Mayor who decides whether a proposed alteration(s) to the London constitutes a ‘minor alteration’ or a ‘major alteration’. The only consequence is that the minimum consultation period prescribed period for a ‘minor’ alteration is not less than 6 weeks rather than a minimum of 12 weeks for a ‘major’ alteration. Therefore the distinction lies in the length of the consultation period considered to be appropriate rather than the anticipated impact of the alteration(s). Aside from the shorter minimum consultation period all other procedures remain the same. As it is the two MALPs were consulted on for a period of six weeks, appropriate for minor alterations. The potential air quality implications of the MALP Parking Standards were examined at the EiP where CAIL was a participant and made submissions to the Inspector. The description of the proposed alterations as ‘minor’ has not prejudiced a proper consideration of the issues or the statutory process.
- 7.7 The Inspector does indeed recommend that air quality should be included as a consideration when a decision is being taken, and in MD1586 officers advised the Mayor to accept this. The Inspector’s recommendation IRC P1 was duly agreed by the Mayor, and the phrase ‘implications for air quality’ has been inserted into the Parking Standards MALP at paragraph 6.42k.
- 7.8 The Mayor and the London boroughs are working together through the London Local Air Quality Management mechanism to improve air quality in London as mentioned in paragraph 6.28 (second to last bullet point).
- 7.9 Schemes like the Low Emission Neighbourhoods and Mayor’s Air Quality Fund are available as mentioned in paragraph 6.28 (last bullet point) to help tackle specific air quality issues within their boroughs. As detailed in paragraph 6.28, it is considered that there is already a framework that is sufficient to meet the Inspector’s objectives for monitoring, modelling and mitigation of the implementation of the Parking Standards.

- 7.10 Because the uptake of the revised parking standards made possible by the MALP is as yet unknown – it is not compulsory and not all outer London boroughs will implement them, and the criteria give those authorities that will take them up a measure of discretion, within defined parameters, as to where in their borough increased flexibility may be applied – it is not possible for the Mayor to model location-specific examples of how possible mitigations might be applied.
- 7.11 Instead TfL modelled for the Mayor an estimate at the strategic level of the potential increase in emissions, and this was fed into the IIA. The Mayor has been able to demonstrate, however, that there are mitigation measures which will help achieve the overarching objective, and that there are funding streams available for measures to be developed by those boroughs that may choose to adopt these new parking measures (as well as boroughs that wish to tackle air quality hotspots in their area). The Mayor also provides data, tools, research and evidence to support strategic and local action to tackle poor air quality.
- 7.12 Legal advice to the Mayor from Leading Counsel is clear that the MALP Parking Standards are compatible with European air quality law and relevant Directive (2008/50/EC). The advice was from Stephen Tromans QC, a noted environmental and European law expert. The advice was specifically commissioned about the MALP Parking Standards, and it found them to be lawful. The ‘Robert McCracken advice’, referred to by CAIL and others at the EiP, was about general air quality issues and was not about MALP specifically. This asserts that any significant deterioration in air quality is unlawful, including in an area that is below EU limit value levels. That is not accepted by Mr Tromans.
- 7.13 The written advice from Mr Tromans states that as the proposed alterations contemplate a possible relaxation of residential car parking standards in limited areas, it would therefore be for the relevant outer London borough as planning authority to decide whether a more flexible approach should be adopted in its area or in relation to a particular planning application, having regard to all relevant considerations.
- 7.14 The advice goes on to set out that an outer London borough’s consideration (of a new parking standards or of a particular planning application) would need to include the potential effect on air quality which would have to be assessed and mitigated as appropriate, having regard to all material factors, including compliance with Policy 7.14 of the London Plan, EU air quality requirements and the implications for human health.
- 7.15 Thus, if a relaxation of parking policy appears to have significant adverse implication for air quality, this would be a material consideration to be considered by the relevant outer London borough, and MALP does not preclude that. This is not ‘passing the buck’. This is setting out the facts on how this policy will be implemented by those outer London authorities that choose to do so. As set out in paragraphs 6.27 and 6.28 above, there is already in place a statutory framework which enables air quality assessments to be undertaken at the stage where meaningful decisions can be made.
- 7.16 The Inspector did not require the Mayor to “clearly demonstrate through appropriate modelling and monitoring mechanisms, that mitigations measures outweigh the predicted 0.5% decrease in air quality” before publishing the MALPs. As discussed above in paragraph 6.24 of this MD, he simply recommended the addition of a reference to the implication of air quality to paragraph 6.42k, which the Mayor has agreed to accept.
- 7.17 Thus it is not required, nor would it be appropriate, for the Mayor to refrain from implementing the proposed alterations until the impact of mitigation measures at a local level has been demonstrated.
- 7.18 Officers suggest that the Mayor may wish to concur with these officer comments.

- 7.19 **Having considered the letter and email from Clean Air in London, and the motion from the London Assembly (in section 6), and there being received no further representations on the MALPs since the Mayor last considered the alterations on 16 December 2015, it is considered that the Mayor has fulfilled the requirements under section 337 (2) (d) of the GLA Act that the alterations proposed to be published must take account of any other material considerations.**

8 Approval for publication

- 8.1 As set out above, it is considered that the Mayor has met all the necessary conditions at the final pre-publication stage of preparing the Housing Standards and Parking Standards MALPs.
- 8.2 Insofar that the Mayor:
- has taken account of representations on the draft MALPs in arriving at his decision to approve the 'intend to publish' MALPs under MD 1587 on 16 December 2015, as set out in section 3 of this MD;
 - has taken account of the EiP Inspector's report in arriving at his decision to approve the 'intend to publish' MALPs under MD 1587 on 16 December 2015, as set out in section 4
 - has considered the Minister of State for Housing and Planning's response of 2 February 2016 to the intend to publish MALPs as submitted to the Secretary of State, as set out in section 5 and agreed as recommendation 1;
 - has in section 6 considered both the outcome of and the motion agreed at the London Assembly's MALPs Plenary meeting of 10 February 2016, agreed as recommendation 2, and approved his reply to the Assembly's motion as set out in the letter of 17 February 2016 from the Head of Committee and Member Services, agreed as recommendation 3; and
 - has considered representations made since he last considered the MALPs on 16 December 2016, as set out in section 7 and agreed as recommendation 4;

it is considered that the MALPs can now be published.

- 8.3 Publication-ready Housing Standards MALP and Parking Standards MALP are set out as Annexes K and L. The Mayor is invited to consider the MALPs for publication and agree recommendation 5, that he:

5. approves the Housing Standards and Parking Standards MALPs for publication as alterations to the London Plan, the Mayor's spatial development strategy for Greater London, as set out in Annexes K and L

9 Updating the London Plan

- 9.1 An updated version of the London Plan will be prepared for release online on the date of publication of the MALPs. This will be formally titled 'The London Plan March 2016 consolidated with alterations since 2011', and will incorporate the Housing Standards and Parking Standards MALPs.
- 9.2 In addition to the incorporation of the MALPs, a small number of minor consequential changes to the London Plan March 2015 will be required, including:
- an updated front cover (March 2016 and an updated Primrose Hill photo)
 - an updated frontispiece to make clear this edition of the London Plan is consolidated with the MALPs 2016, in addition to REMA October 2013 and FALP March 2015

- updated page headers throughout the Plan (March 2016)
- updates to the Overview and Introduction chapter, comprising minor changes to:
 - the *Alterations to the London Plan* section (paragraphs 0.16A to 0.16C)
 - the *London Plan (consolidated with alterations since 2011)* section (paragraph 0.16D to 0.16H)
 - the *Integrated Impact Assessment* section

9.3 These are set out in full in Annex M to this decision form. Officers consider that these changes are purely factual and do not require either further consultation or statutory assessment, nor resubmission to the Secretary of State and the London Assembly.

9.4 Under decision (viii) of MD1587, signed on 16 December 2015, the Mayor authorised expenditure of up to £45,000 for printing a revised consolidated version of the London Plan incorporating the Housing Standards and Parking Standards MALPs.

9.5 The Mayor is invited to consider these minor changes and agree recommendation 6, that he:

6. approves minor consequential changes to the London Plan, as set out in Annex M

10 Publication arrangements

Date of publication

10.1 It is proposed that the Housing Standards and Parking Standards MALPs will be published on Monday 14 March 2016. From this date the MALPs will become operative as formal alterations to the London Plan (the Mayor's spatial development strategy) and will form part of the development plan for Greater London under section 38 of the Planning and Compensation Act 2004.

Notice of publication

10.2 Under the SDS Regulations, the Mayor is required to place an advertisement in the London Gazette and in the press giving notice of publication of the alterations. The wording is prescribed in the regulations. The Mayor is invited to note that by decision (viii) of MD1587 he authorised expenditure of up to £6,000 for placing statutory notices.

10.3 The Regulations also require notice to be given in the same form as the press advertisement to London boroughs and the local authorities adjoining Greater London; that the statement of reasons why the Mayor has not accepted any recommendation contained in the report of the EiP Inspector is made available for public inspection; and that a copy of the MALPs is made available for inspection during normal office hours at City Hall.

10.4 The Mayor must also send to the Secretary of State and to the Council for each London borough copies of the MALPs, a copy of the notice published in the newspaper and any statement of reasons for not accepting a recommendation of the Panel.

10.5 Given the Mayor accepted all the MALPs EiP Inspector's recommendations, there is no statement of reasons for not accepting a recommendation of the Panel that should be distributed under the requirements of Regulations 9 (3) (c) (iv) and 9 (3) (d). However, in order to make clear to stakeholders the Mayor's response to the EiP Inspector's recommendations, it is proposed to make the schedule of the Mayor's responses that was sent to the Secretary of State and to the London Assembly available for public inspection with the MALPs and send this out together with the publication notifications.

SEA Post Adoption Statement

- 10.6 Under the provisions of the Environmental Assessment of Plans and Programmes Regulations 2004, a Post Adoption Statement must be prepared and published as soon as reasonably practicable after the adoption of the MALPs. This also fulfils the role of the sustainability statement required by the SDS Regulations. To comply with this requirement, officers will prepare a Statement which will outline the sustainability considerations that have been integrated into the MALPs prior to their publication, the reasons for choosing the preferred policies and measures for monitoring the MALPs as part of the overall London Plan. The Statement comprises the final step of the assessment process as part of the implementation, monitoring and formal publication process of the MALPs.
- 10.7 The Statement will draw on the MALPs IIAs and HRA. These were published together with the consultation draft MALPs in May 2015 in compliance with the SDS Regulations, as outlined in section 3 above. The IIAs and HRA examined the likely impacts of the proposed policies and conformed to the legal requirements regarding Sustainability Appraisal, the Environmental Assessment of Plans and Programmes Regulations 2004 and the Conservation of Habitats and Species Regulations 2010 ('Habitats Regulations'). Equalities Impact Assessments were included within the IIAs. These demonstrate that the Mayor and the GLA have met their requirements under the GLA Act and the Equality Act 2010.
- 10.8 The Post Adoption Statement does not require Mayoral approval. It will be prepared by officers for publication in April 2016 and approved under an appropriate decision form.
- 10.9 The Mayor is invited to approve recommendation 7 of this form, namely that he:
- 7. approves publication of the statutory notices of publication, the publication of the schedule of his response to the MALPs EiP inspector's recommendations (Annex C), the giving of the required notice to local authorities, the Secretary of State and others, and the arrangements for making the MALPs and associated documentation available for public inspection.**

11 Equality comments

- 11.1 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, gender, age, sexual orientation, 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.'
- 11.2 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.
- 11.3 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. The steps involved in meeting the needs of disabled persons include, in particular, steps to take account of disabled persons' disabilities. 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.

- 11.4 These duties apply to the Mayor's decision to approve publish the Housing Standards and Parking Standards MALPs as alterations to the London Plan.
- 11.5 In light of these duties GLA officers have reviewed what is proposed in the MALPs for publication (Annexes K and L of this MD), and the contents of the IIAs (their equalities findings in particular) and advise that there is nothing raised by such which has not been already addressed as part of the statutory process or requires further consideration by the Mayor.

12 Other considerations

Key Risks and issues

- 12.1 In MD1587, officers drew the Mayor's attention to paragraph 52 of the EiP Inspector's report in which he weighs up the conflicting views presented at the EiP on the likely air quality impact of the MALP's proposals to relax parking standards in certain parts of outer London. He considers that, provided it can be clearly demonstrated, through appropriate modelling and monitoring mechanisms, that mitigation measures outweigh the predicted 0.5% increase in air pollutant emissions that may arise from the implementation of the MALP (Parking Standards), the way forward being espoused by the Mayor is reasonable. Whilst officers were content to advise the Mayor that he should accept the inspector's recommendation IRC P1 – that a specific reference to air quality is made in MALP paragraph 6.42k – there is a risk that the inspector's line of reasoning could open up a line of criticism or challenge, as evidenced by the Assembly's motion and further representations from CAIL, as discussed in sections 6 and 7 of this MD.
- 12.2 One of the main risks associated with the final stages of the MALP's preparation was that the Secretary of State might not have accepted the Mayor's responses to the Inspector's recommendations, and may have directed the Mayor to make further changes to the MALPs. To minimise this risk, officers discussed the 'intend to publish MALPs' informally with officials from the Department for Communities and Local Government. As outlined in section 5 of this MD, the Secretary of State did not direct.
- 12.3 The London Assembly's power to reject a Mayoral strategy posed an additional risk. In the event, as set out in section 6 above, the Assembly did not seek to exercise this power.
- 12.4 There remains the risk of legal challenge (by statutory challenge) following the publication/adoption of the MALPs.
- 12.5 Legal advice (including advice from Leading Counsel) has been taken throughout the process of preparing the MALPs in order to minimise these risks and to ensure that the Mayor's response to the Inspector's recommendations is clear and sufficient.
- 12.6 The London Plan has been, and will continue to be, tightly project managed to ensure that key deadlines are met and that expenditure stays within budget.

Links to Mayoral strategies and priorities

- 12.7 The Housing Standards and Parking Standards MALPs propose alterations to the London Plan, the Mayor's spatial development strategy. This 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 planning system, to the extent that this is appropriate.

Impact assessments

- 12.8 In preparing his strategies, the Mayor also has legal duties to consider and have due regard to the following:
- the promotion of economic development and wealth creation (GLA Act)
 - the promotion of social development (GLA Act 1999)
 - the 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, the Conservation of Habitats and Species Regulations 2010, Habitats Directive 92/43/EEC on Habitats Regulation Assessment), Directive on Ambient Air Quality 2008/50/EC (all as amended)
 - contributing to the achievement of sustainable development in the UK (GLA Act)
 - contributing towards the mitigation of and adaptation to climate change in the UK (GLA Act)
 - the health of Londoners, reducing their health inequality and promoting their health (GLA Act)
 - 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), and the public sector equality duty (Equality Act 2010).
- 12.9 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. The IIA for the Housing Standards MALP was prepared by independent consultants AMEC and the Parking Standards MALP IIA was prepared internally by officers. The IIAs conform to the requirements of an environmental report under the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended), and is an iterative process. The IIAs also include a specific Equalities Impact Assessment.
- 12.10 Regulation 102 of the Conservation of Habitats and Species Regulations 2010 (as amended), 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. As the Housing Standards MALPs were limited in scope and non location-specific, officers advised the Mayor in MD1482 that a HRA screening was not required. An HRA for the Parking Standards MALP was carried out in house by officers.
- 12.11 Advice was given to the Mayor in MD1482 on the impact of the recommendations of the IIAs and HRA on the development of MALP policy ahead of public consultation. The IIA reports and the HRA screening report were published on 11 May 2015 together with the consultation draft MALPs. Careful consideration was given to the proposed changes brought forward during the EiP process. The changes were not considered to significantly change the effects of the policies and therefore no further formal assessment or consultation was required.
- 12.12 In arriving at his decision to approve the 'intend to publish' MALPs for submission to the Secretary of State and to the London Assembly, advice was given to the Mayor in MD1587 on the EiP Inspector's conclusions and recommendations. The Mayor was advised that the MALP EiP Inspector considered the approach of the Housing Standards IIA to be "proportionate and relevant to the alterations being considered" (Inspector's report paragraph 9). The Inspector concluded that a

pragmatic and proportionate approach had been taken towards the gathering, updating and analysis of evidence presented in the Parking Standards IIA (Inspector's report paragraph 34) and that it was sufficiently robust and proportionate (paragraph 35). The Inspector accepted the HRA's findings that the Alterations would have no likely significant effect on protected nature conservation sites (paragraph 36)

- 12.13 The Inspector did not make any recommendations in respect of the MALPs impact assessments. In respect of the seven recommendations that he did make (discussed in section 4 above), officers advised the Mayor in MD1587 that the proposed changes to MALP arising from accepting these recommendations did not require further assessment.
- 12.14 As set out in paragraphs 10.6 to 10.8 above, officers will prepare a Post Adoption Statement for publication in April 2016.

Public consultation

- 12.15 Public consultation on the draft MALPs is considered in section 3 above. There is no further requirement for public consultation. The GLA Act and the SDS Regulations set out the requirements for public engagement in preparation or alteration of the London Plan. Under this legislation, public consultation was undertaken in May to June 2015 and the MALPs were laid before the London Assembly in January 2016.

13 Financial comments

- 13.1 No new financial implications arise from the decisions in this form.
- 13.2 In respect of actions referred to in this MD, decision (viii) of MD1587 authorised the necessary expenditure of up to £6,000 for placing statutory notices for publication of the Housing Standards and Parking Standards MALPs and up to £45,000 for printing a revised consolidated version of the London Plan incorporating the Housing Standards and Parking Standards MALPs.

14 Legal comments

- 14.1 This section deals with legal issues not covered elsewhere in this decision form.
- 14.2 The Mayor is required to prepare and publish a spatial development strategy for Greater London (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.
- 14.3 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 the Further Alterations to the London Plan (FALP) in March 2015.
- 14.4 The Mayor has a duty under Section 340 of the GLA Act 1999 to keep this strategy under review and can under section 341 (1) (a) of the Act at any time prepare and publish amendments (or more formally "alterations") to the Plan to this end. At paragraph 0.16H of the March 2015 London Plan the Mayor set out his intention to undertake alterations to reflect Government housing standards and changes to national policy on car parking should those be brought forward.

- 14.5 Section 341 of the Act sets out the procedure to be followed for the preparation and publication of the London Plan; section 341(3) has the effect that the procedure for preparing a replacement London Plan shall also be used for its alteration; this has been rigorously followed.

Secretary of State Direction

- 14.6 On 16 December 2015 the Mayor approved the sending to the Secretary of State of a statement of his intention to publish Housing Standards and Parking Standards Minor Alterations to the London Plan, copies of the text of the MALPs in the form he intended to publish together with a schedule setting out his response to the Inspector's recommendations. These documents were sent to the Secretary of State on 16 December 2015.
- 14.7 The Secretary of State had six weeks to consider the MALPs and, in particular, whether to give the Mayor a Direction under Section 337 (7) of the GLA Act requiring him to modify the intended to publish versions before they are formally published if it appears to him that it is expedient to do so for the purpose of avoiding:
- (a) any inconsistency with current national policies or relevant planning guidance, or
 - (b) any detriment to the interests of an area outside Greater London,
- 14.8 A response from the Minister of State for Housing and Planning was received on 2 February 2016 confirming that no such Direction had been given by the Secretary of State.

London Assembly power to reject

- 14.9 On 25 January 2016 the Mayor caused copies of the 'intend to publish' text of the MALPs to be laid before the Assembly in accordance with section 42B of the GLA Act. The Assembly met to consider the alterations on 10 February 2016 and did not resolve to reject the alterations under section 42B.

Publication

- 14.10 Accordingly, the Mayor may now proceed to publish the MALPs which shall become operative on the date on which they are so published. On publication, the MALPs will formally alter the London Plan, the Mayor's Spatial Development Strategy, and the altered Plan will form part of the development plan for Greater London.

Publication of alterations

- 14.11 The Mayor is required to give notice of publication by advertisement in a newspaper and in the London Gazette and by serving a copy of the notice on those specified in Section 335 of the Act namely:
- (a) the Assembly,
 - (b) the functional bodies,
 - (c) the Secretary of State
 - (d) each London borough Council,
 - (e) the Common Council,
 - (f) the council of any county or district whose area adjoins Greater London and is affected by the proposed Replacement London Plan,
 - (g) the Countryside Agency and the Nature Conservancy Council for England (subsequently English Nature and now Natural England),
 - (h) the Environment Agency,
 - (i) the Historic Buildings and Monuments Commission for England (subsequently English Heritage and now Historic England).
 - (j) any other body or person whom the Mayor considered it appropriate to consult.

- 14.12 The Mayor must also make the MALPs and the schedule giving his response to the recommendations contained in the EiP Inspector's report available for public inspection. Copies of the MALPs shall be made available for inspection during normal office hours at City Hall and may be purchased on payment of any reasonable fee determined by the Mayor.
- 14.13 The Mayor must also send to the Secretary of State and to the Council for each London borough a copies of the MALPs, a copy of the notice published in the newspaper and the schedule giving his response to the recommendations contained in the EiP Inspector's report.

Matters to which the Mayor should have regard

- 14.14 Under section 41 of the GLA Act 1999 the Mayor must have regard to the need to ensure that the Alterations are consistent with national policies, European Union and other obligations of the United Kingdom, consistency with other statutory Mayoral strategies, the resources available for the implementation of the revised Strategy 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. In formulating the Alterations, regard must be had to the national waste management plan, the objectives of preventing major accidents and limiting their consequences, the need to (in the long term) maintain appropriate distances between establishments and residential areas, areas of public use and places of natural sensitivity, and in the case of establishments not increasing the risk to people from dangerous substances.
- 14.15 In addition, under the Crime and Disorder Act 1998, the Greater London Authority has to do all it reasonably can to prevent crime and disorder. An assessment of community safety impacts of the MALPs were carried out as part of the IIAs and officers do not consider that the Inspector's report raises any issue not addressed by those assessments.
- 14.16 The Mayor is also required to have regard to the economic development and wealth creation, social development and improvement of the environment in Greater London. The Mayor must also have regard to and include such of the available policies and proposals relating to the subject matter of the London Plan as he considers best calculated to promote improvements in the health of persons in Greater London, promoting the reduction of health inequalities between persons living in that area, as contribute towards the achievement of sustainable development and contribute towards the mitigation of, or adaptation to, climate change in the UK. These considerations are assessed in the IIAs for the MALPs.
- 14.17 These duties and the considerations set out in paragraph 12.8 above apply to the MALPs and the Mayor's decision to approve them for publication as alterations to the London Plan.
- 14.18 The IIA and HRA reports were made publicly available during consultation and 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 approve the MALPs for publication as alterations to the London Plan. This view was endorsed by the EiP Inspector's Report.
- 14.19 Officers do not consider the changes made during the EiP process required further formal assessment, nor is it considered that the Inspector's report raises any issue not addressed by the IIAs or HRA. Accordingly, the Mayor is asked to give particular attention to the reports.
- 14.20 A Post Adoption Statement for the purposes of the Environmental Assessment of Plans and Programmes Regulations 2004, will be prepared by officers for publication in April 2016. This will describe the statutory assessments which were undertaken through the Integrated Impact Assessment (IIA) of the MALPs.

15 Investment & Performance Board

15.1 Not applicable.

16 Planned delivery approach and next steps

16.1 The remaining steps to the publication/adoption of the Housing Standards and Parking Standards MALPs are as follows:

Monday 14 March 2016	Publish/Adopt Housing Standards and Parking Standards MALPs <ul style="list-style-type: none"> • notice in the London Gazette • first notice in the London Evening Standard • publish on the GLA's website • send copies to and serve notices on statutory parties • make the available for public inspection • send copies and notices to the Secretary of State and to the London boroughs • email stakeholders
Monday 21 March 2016	<ul style="list-style-type: none"> • second notice in the London Evening Standard

APPENDICES AND SUPPORTING PAPERS

- Annex A – MALP Parking Standards note on air quality mitigation 19 October 2015
- Annex B – MALP EiP Inspector's report 15 December 2015
- Annex C – schedule giving the Mayor's response to the MALP EiP Inspector's recommendations
- Annex D – letter 16 December 2015 from the Mayor to Greg Clark MP Secretary of State for Communities and Local Government
- Annex E – letter 2 February 2016 to the Mayor from Brandon Lewis MP Minister of State for Housing and Planning
- Annex F – letter 25 January 2016 from Sir Edward Lister, Chief of Staff and Deputy Mayor for Policy & Planning, to Jennette Arnold AM, Chair of the London Assembly
- Annex G – letter to the Mayor 17 February 2016 from Ed Williams, Head of Committee and Member Services, re motion agreed at Plenary Session of the London Assembly on 10 February 2016
- Annex H – proposed response from the Mayor to the Head of Committee and Member Services
- Annex I – letter 31 January 2016 to the Mayor from Simon Birkett, Founder and Director, Clean Air in London
- Annex J – email 11 February 2016 to Richard Linton, Strategic Planning Manager, from Simon Birkett, Founder and Director, Clean Air in London
- Annex K – Housing Standards Minor Alterations to the London Plan
- Annex L – Parking Standards Minor Alterations to the London Plan
- Annex M – schedule of minor consequential changes to the London Plan

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) 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 approval or on the defer date.

Part 1 Deferral:

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

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – YES NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Richard Linton has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

✓

Assistant Director/Head of Service:

Stewart Murray has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Sponsoring Director:

Fiona Fletcher-Smith has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Sir Edward Lister has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. B. C.

Date

2.3.16

CHIEF OF STAFF:

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

Signature

E. Lister

Date

02.03.2016