

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD1450

### Title: Publication of the Further Alterations to the London Plan (FALP)

#### Executive Summary:

This MD seeks the Mayor's approval to formally publish the Further Alterations to the London Plan (FALP) as his spatial development strategy.

#### Decision:

That the Mayor

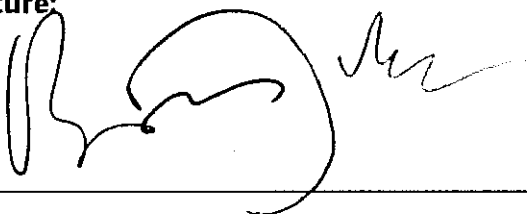
1. approves factual changes to the Further Alterations to the London Plan (FALP) as set out in Annex A
2. considers the response of 27 January 2015 of the Minister of State for Housing and Planning to the Mayor's submission to the Secretary of State CLG of the FALP as intended for publication (Annex B3)
3. considers the outcome of the Plenary meeting of the London Assembly held on 6 February 2015 at which the FALP were considered, and the Assembly motion contained in the letter of 6 January 2015 from the Head of Committee and Member Services (Annex C1)
4. approves his reply to the letter of 6 February 2015 from the Head of Committee and Member Services as set out in Annex C2
5. considers any representations made since the Mayor last considered FALP on 12 December 2014
6. takes account of the Sustainability Statement on the preparation of the FALP (Annex D) which will be published together with the FALP
7. approves the FALP, as amended by the factual changes approved under decision 1, for publication as his spatial development strategy, as set out in Annex E
8. approves publication of the statutory notices of publication, the publication of the schedule of his response to the FALP EiP inspector's recommendations, the giving of the required notice to local authorities, the Secretary of State and others, and the arrangements for making the FALP 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:

26 Feb 2015

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

- 1.1 On 18 December 2013 the Mayor signed MD1295 agreeing the draft Further Alterations to the London Plan (FALP) for public consultation. This took place between 15 January and 10 April 2014, and some 330 consultation responses were received. On 7 July the Mayor published 'Suggested Changes' to the FALP. These were put forward in response to suggestions from consultees and included correcting errors, updates to data and clarifications.
- 1.2 An examination in public (EiP) was conducted by Mr A Thickett, the independent planning inspector appointed by the Secretary of State, and this sat in City Hall for eleven days between 1 and 18 September 2014.
- 1.3 Throughout and shortly after the EiP, and in response to discussions with participants that took place in hearings, the Mayor put forward to the Inspector a number of 'Further Suggested Changes' to FALP. The Suggested Changes and the Further Suggested Changes to FALP were published in consolidated form on 28 October 2014.
- 1.4 The EiP Inspector submitted his report to the Mayor on 18 November 2014.
- 1.5 On 12 December 2014 the Mayor signed MD1423, in which he considered the FALP EiP Inspector's report, agreed to accept the Inspector's recommendations for FALP, and approved arrangements for publishing the Inspector's report. Noting the two formal assessments of FALP – the Integrated Impact Assessment and the Habitats Regulations Assessment Screening report – he approved an 'intend to publish version' of FALP for submission to the Secretary of State for Communities and Local Government. He agreed that subject to the Secretary of State indicating that the FALP could be published, the FALP should be 'laid before' the London Assembly. Looking ahead, he also authorised expenditure of up to £51,000 for the EiP Inspector's fees and expenses, up to £2,500 for placing statutory notices in connection with FALP's eventual publication and up to £25,000 for its printing.
- 1.6 On 15 December 2014, the 'intend to publish' FALP was submitted to the Secretary of State together with a schedule giving the Mayor's formal responses to the Inspector's recommendations and a letter from the Mayor explaining his reasons for accepting them.
- 1.7 Also on 15 December 2014, the 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 FALP had been placed on deposit.
- 1.8 Following discussions between GLA and CLG officers, the Deputy Mayor for Planning agreed under delegated authority a further minor change to FALP paragraph 0.16F to clarify the Mayor's intention to carry out an early review of the Plan's parking standards.
- 1.9 On 27 January 2015, 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 FALP. This is discussed in further detail in paragraphs 3.29 to 3.37 below.
- 1.10 On 28 January 2015, the Deputy Mayor, on behalf of the Mayor, submitted the FALP to the London Assembly. The Assembly considered the FALP at its Plenary meeting on 6 February, where a motion

was agreed calling upon the Mayor to amend FALP in various ways. This is discussed in further detail in paragraphs 3.38 to 3.83 below.

*This MD*

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

## **2. Factual changes to FALP**

- 2.1 Before arriving at the decision to publish however, officers wish propose some final minor editorial amendments to tidy up the Introduction and Overview chapter to FALP – in particular to the sections of this chapter which deal with previous alterations to the London Plan and the preparation of FALP.
- 2.2 These are set out in Annex A 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.
- 2.3 The Mayor is invited to consider these factual changes and agree recommendation 1, that he:
- 1. approves factual changes to the Further Alterations to the London Plan (FALP) as set out in Annex 1**

## **3. Conditions for publishing FALP**

- 3.1 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, FALP). Section 341(3) (a) explains that the provisions for preparing and publishing an alteration to the strategy are the same as for strategy itself.
- 3.2 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.
- 3.3 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.
- 3.4 Section 337 (2) (d) of the GLA Act requires the Mayor to take into account 'any other material considerations' before publishing the strategy/alterations. Any correspondence relating to FALP that has been received by the Mayor since he last considered the alterations – at his 12 December

2014 31 Planning & SDS Meeting – fall into this category, so it is important that any such representations are also considered in this decision form.

- 3.5 In preparing his strategies, the Mayor has legal duties to consider and have due regard to the following:
- economic development and wealth creation (GLA Act)
  - 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);
  - 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), public sector equality duty (Equality Act 2010).
- 3.6 The GLA adopts an integrated approach to demonstrate how these duties have been considered in preparing or altering the London Plan, and this is addressed through an Integrated Impact Assessment (IIA).
- 3.7 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 FALP have been met, section 3 of this decision form addresses the following:
- FALP consultation responses
  - FALP EiP Inspector's recommendations
  - response from the Secretary of State
  - London Assembly FALP motions
  - further representations on FALP
  - FALP impact assessment and Sustainability Statement

#### FALP consultation responses

- 3.8 Public consultation on the draft FALP took place between 15 January and 10 April 2014.
- 3.9 Regulation 7 of the Town and Country Planning (London Spatial Development Strategy) Regulations 2000 (SI 2000 No. 1491) (the 'Regulations') sets out the statutory requirements for public consultation on the spatial development strategy or alterations to it. There are three elements to this:
- public inspection of key documents
  - formal notice by statutory advertisement
  - sending the FALP and key documents to statutory consultees and stakeholders

#### *Public inspection*

- 3.10 Regulation 7(1) to (3) requires the Mayor to make the strategy SDS and its sustainability appraisal available for public inspection at the principal office of the Greater London Authority and those of the London boroughs. On 15 January 2014 the Mayor wrote to the Chief Executives of the London boroughs, enclosing copies of the FALP, the IIA, the Habitats Regulations Assessment (HRA) and an explanatory note, requesting that the documents be placed in their public offices for public inspection for a 12 week consultation period. He also placed copies of the FALP, the IIA and the

HRA in City Hall reception for public viewing. The FALP and associated documentation were also made available for download on the GLA's website from 15 January.

#### *Statutory advertisement*

- 3.11 Regulation 7(4) requires the Mayor to give notice by advertisement, 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. The FALP statutory advertisement appeared in the London Gazette on 15 January and in the London Evening Standard on both 15 and 22 January 2014.

#### *Sending documents to statutory consultees and stakeholders*

- 3.12 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 (now English Nature), the Environment Agency, and the Historic buildings and Monuments Commission for England (now English Heritage). Under section 335(3)(aa) of the Act the Mayor is also required at this stage to send the SDS to the London Assembly and the GLA functional bodies.
- 3.13 Accordingly, on 15 January 2014, letters inviting a consultation response together with copies of the FALP, the IIA and the HRA were sent to:
- the Chair and Deputy Chairman of the London Assembly, the Chair and Deputy 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 Secretary of State for Communities and Local Government
  - English Nature, the Environment Agency and English Heritage
  - London borough planning directors, and
  - Chief planners in counties and districts adjoining London.
- 3.14 Letters and copies of the FALP were also sent to:
- London Borough Council Leaders
  - the Chair of the London Legacy Development Corporation
  - Chief planners in authorities in the ROSE (rest of the South East) not included in the above.
- 3.15 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. Additionally, any group or individual who requested a copy of the FALP was sent one.

#### *Public consultation meetings and events*

- 3.16 Over and above the statutory requirements for public participation, an extensive programme of meetings and events took place during the FALP consultation period. This included:
- ALBPO Development Plans Group, 14 January at London Councils
  - London Sustainable Development Commission, 23 January, City Hall
  - University College London, 28 January at UCL
  - a formal launch event with the Deputy Mayor for Planning, 31 January in City Hall
  - London Waterways Commission, 3 February, City Hall
  - London School of Economics, 10 February, LSE
  - Nathaniel Lichfield and Partners, 11 February, at SJ Berwin

- scrutiny by the London Assembly Planning Committee, 25 February City Hall
- north London event with North London Strategic Partnership, 25 February, Enfield Civic Centre
- central London event with Central London Forward, 4 March, City of London Guildhall
- Urban Design London leaders' planning briefing, 4 March, at Palestra
- London LEP's London Infrastructure Group, 5 March, City Hall
- a voluntary/community sector event with Just Space on 6 March in City Hall
- Nine Elms Strategy Board, 7 March, at City Hall
- TCPA London roundtable, 7 March, Carlton House Terrace
- south London event with South London Partnership, 11 March, Merton Civic Centre
- east London event, 13 March, Havering Town Hall
- a business sector event with London First on 18 March hosted at CBRE
- west London even with West London Alliance, 19 March, Brent Civic Centre
- Planning Officers Society London, 21 March, London First at Gerald Eve
- London RTAB, 24 March at Guildhall
- Waterloo CDG, 26 March, Waterloo Action Centre
- ALBPO Policy Officer Group, 27 March, at London Councils
- an event for authorities from the wider south east on 28 March in City Hall, (with a follow up meeting on 25 June in City Hall)

- 3.17 Written responses were received from a total of 324 consultation respondents. These were passed to the independent Inspector, and from these responses he selected the matters for discussion at the EiP, and the participants.

*Suggested and further suggested changes to FALP*

- 3.18 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 series of suggested changes to FALP. 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.
- 3.19 A total of 116 suggested changes were agreed on the Mayor's behalf by the Deputy Mayor for Planning and submitted to the FALP EiP Secretary on 7 July 2014. These were posted on the EiP website as library document FA/CD/06 and can be found at <http://www.london.gov.uk/priorities/planning/london-plan/examination-in-public/eip-library>
- 3.20 Throughout and shortly after the EiP, and in response to discussions with participants that took place in hearings, the Mayor put forward to the Inspector a number of further suggested changes – 54 in total. As for the suggested changes, each further suggested change was screened by officers and agreed by the Deputy Mayor for Planning
- 3.21 The suggested changes and the further suggested changes to FALP were published in consolidated form on 28 October 2014. This is logged as EiP library document FA/EX/64b (web reference as above).
- 3.22 In arriving at his decision through MD1423 on 12 December 2014 to approve the 'intend to publish' FALP for submission to the Secretary of State CLG and onwards to the London Assembly, the Mayor took full account of FALP consultation responses. On the EiP Inspector's recommendation, the 'intend to publish' FALP was amended to incorporate each of the suggested and further suggested changes.

- 3.23 **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 FALP 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.**

#### FALP EiP Inspector's recommendations

- 3.24 The Inspector sent his report to the Mayor on 18 November 2014. His overall findings were that provided the suggested and further suggested changes were incorporated, and the Mayor accepted his recommendations, the FALP was sound and could be adopted (published). He summarised his recommendations as:
- committing to a full review of the London Plan
  - removing references to London boroughs being required to carry out their own assessments of objectively assessed housing need
  - allowing boroughs to set their own income criteria with regard to intermediate housing
- 3.25 MD1423, which the Mayor signed on 12 December 2014, reviewed and discussed the Inspector's four recommendations in detail and permitted the Mayor to consider them in full. The Mayor agreed to accept each of the recommendations. In line with Regulation 9(2)(a) this was set out in a formal schedule that was submitted to the Secretary of State for Communities and Local Government on 15 December 2014, along with a letter explaining his reasons for accepting the recommendations and a version of the FALP as intended to be published. For information, the Mayor's letter and the schedule are attached to this MD as Annexes B1 and B2.
- 3.26 Under Regulation 8(9), the Mayor must publish the FALP Inspector's report within eight weeks of receiving it. The report must be made available at locations where the consultation FALP was put 'on deposit', and a copy sent to each London borough council.
- 3.27 This took place on 15 December 2015 when a copy of the Inspector's report was also placed on the GLA's website at <http://www.london.gov.uk/priorities/planning/london-plan/draft-further-alterations-to-the-london-plan>.
- 3.28 **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 FALP 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.**

#### Response from the Secretary of State

- 3.29 Following detailed discussions between GLA and CLG officers on the content of the draft FALP, the Deputy Mayor for Planning agreed under delegated authority a further minor change to FALP to clarify the Mayor's intention to carry out an early review of the Plan's parking standards. This consisted of including the following statement in paragraph 0.16F:

The Mayor recognises the flexible approach in the National Planning Policy Framework on parking standards, and the abolition of maximum parking standards in national policy. National planning guidance published in 2014 also recommends that planning policies should consider how parking provision can be enhanced to encourage the vitality of town centres. Whilst the Mayor considers that there are sound reasons for retaining residential parking standards in core and inner London, he recognises the opportunity to adopt a more flexible approach in parts of outer London, especially where public transport accessibility levels are lower. He therefore intends to bring forward an early review of parking standards in Outer London in advance of the general review of the Plan. In doing so he will give active consideration to any changes to

national policy on car parking should Government bring these forward.

3.30 On 27 January 2015, the Mayor received a letter from Brandon Lewis, Minister of State for Housing and Planning. This letter is attached as Annex B3.

3.31 The Mayor is invited to agree recommendation 2, that he:

**2. considers the response of 27 January 2015 of the Minister of State for Housing and Planning to the Mayor's submission to the Secretary of State CLG of the FALP as intended for publication (Annex B3)**

3.32 Whilst confirming that he was content for the Mayor to publish the FALP, the minister makes two additional points in his letter:

#### *Parking standards*

3.33 The letter states the Government's view on car parking – that more spaces should be provided alongside new homes that families want and need, especially in areas of low public transport accessibility; and that even in urban areas, insufficient spaces, which may be caused by maximum parking standards among other reasons, risk a 'vicious cycle' of clogged up streets leaving motorists running the gauntlet of congestion, unfair fines and parking restrictions. The letter therefore welcomes the clear commitment in FALP to carry out an early review of parking standards in outer London.

#### *Early review of the London Plan*

3.34 The letter welcomes FALP's commitment to work closely with authorities outside London as part of the full-scale review of the Plan, but notes that these face their own challenges in meeting housing need which may impact on their ability to accommodate any of London's unmet need. The letter comments that the abolished regional strategies 'built up nothing but resentment' and states that the Government has no intention of resurrecting SERPLAN or the South East Plan 'from the dead'. Noting the FALP Inspector's suggestion that the Mayor might wish to explore options beyond the Plan's existing approach, the letter cautions that the NPPF affords the Green Belt the highest protection in the planning system; it is an environmental constraint which may impact on the ability of authorities to meet housing need; that recent guidance reaffirms Green Belt boundaries may only be altered in exceptional circumstances; and that housing need alone does not justify the harm done to the Green Belt by inappropriate development when drawing up a local plan.

#### *Officer comments*

3.35 Given the key role of maximum parking standards in inner and central London in managing congestion, the Government's recognition that the scope of parking deregulation should be restricted to outer London – acknowledged both in the letter and through the negotiated additional change to FALP paragraph 0.16F – is to be welcomed. Officers are currently scoping policy options focused on low PTAL parts of outer London with a view to bringing forward minor alterations to the London Plan in May 2015.

3.36 Government advice on the nature of strategic liaison and current policy on Green Belt is accepted, and GLA Act London Plan consultation/notification obligations and Localism Act co-operation duties on other authorities, together with London Plan policy, require the Mayor to continue to engage fully with its neighbours on issues of strategic planning. The Mayor is currently working with authorities in the wider south east to actively consider these issues, and a member-level summit is planned for 19 March to consider proposals to facilitate closer co-operation.

- 3.37 **There being no direction from the Secretary of State to further amend the FALP, 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.**

*London Assembly FALP motion*

- 3.38 The London Assembly considered the FALP at a Plenary meeting held on 6 February 2014. After extensive questioning of the Deputy Mayor for Planning and officers, the Assembly debated a single motion. This did not call for the rejection of FALP. Rather it proposed a series of amendments to it.
- 3.39 Later on 6 February, the Head of Committee and Members Services wrote to the Mayor giving the full text of the motion (attached as Annex C1). This stated that the motion was agreed by 14 votes to eight and consequently as the motion did not seek to reject the proposals under the GLA's standing orders and section 42B of the Act, the Assembly was deemed not to have rejected FALP.
- 3.40 The letter states that the motion was made under section 60 of the Act. Section 60 states "Where the Assembly decides to do so, the Assembly may submit a proposal to the Mayor". Although under S.45(2) of the Act an Assembly proposal requires a Mayoral response in an MQT Mayor's report (this will next take place on 25 March), section 337 (2) (d) of the Act requires the Mayor to take into account 'any other material considerations' before publishing the alterations. Any representations relating to FALP received by the Mayor since he last considered the alterations on 12 December 2014 falls into this category, so it is important that the Assembly's motion is considered by the Mayor in this decision form.
- 3.41 The Mayor is invited to agree recommendation 3, that he:

**3. considers the outcome of the Plenary meeting of the London Assembly held on 6 February 2015 at which the FALP were considered, and the Assembly motion contained in the letter of 6 January 2015 from the Head of Committee and Member Services (Annex C1)**

- 3.42 The motion raises a number of issues in the Further Alterations to the London Plan (FALP) of concern to the Assembly – on housing supply, opportunity areas, town centres, industrial land use, open space, exposure to air pollution, waste and lifetime homes – and then makes section 60 proposals for each issue.
- 3.43 To enable the Mayor to give proper consideration to the motion, the following section of this decision form sets out (in italics) the issues raised and the S.60 proposals made by the Assembly. These are followed by officer comments.

*Housing supply – Assembly comments*

- 3.44 *This Assembly notes with disappointment that the Further Alterations to the London Plan's (FALP) annual housing target fails to meet the need identified by the Mayor's own evidence base. The annual housing target of 42,000 falls short of the annual need of 49,000-62,000 identified by the evidence, thereby failing to satisfy the National Planning Policy Framework (NPPF) requirement to fully meet objectively assessed local housing need<sup>1</sup>. Moreover, the FALP fails to give strategic direction to the boroughs on how to make up this gap.*

<sup>1</sup> National Planning Policy Framework, paragraph 47.

*Housing supply – Assembly S.60 proposal*

- 3.45 *Revise the FALP's annual housing target upwards – from 42,000 to 49,000 – in accordance with the minimum level of demand determined by the SHMA and in order to ensure that the revised London Plan is compliant with the NPPF.*

*Housing supply – officer comments*

- 3.46 It is not the case that the FALP is not designed to meet London's housing needs, and the Alterations are specifically designed to address this important principle of national planning policy. They do this as a broad strategic plan covering the largest housing market area in the country rather than as a more specific local plan with a limited market area. The latter interpretation of the NPPF may have influenced the Assembly's view. However, it would not be appropriate in the unique circumstances of London and would not best serve the interests of Londoners. Government has accepted the Mayor's approach to this.
- 3.47 On specifics, the 62,000 pa need figure referred to by the Assembly illustrates the level of provision which would be required to meet need, including the backlog of need, in ten years. The Inspector and Government accepted that in light of historic and potential future supply it would not be realistic to adopt this as a formal target. It is however a useful indication of the scale of need which London should aspire to address over and above the 49,000 pa figure in order to meet need as soon as possible.
- 3.48 The 49,000 pa figure identifies the scale of need, including the backlog, annualised over 20 years. It provides a practical needs based target which can be addressed realistically by a combination of the 42,000 pa minimum supply target based on the SHLAA, and rigorous new policies which are designed to bring forward additional capacity from appropriate locations where higher density development is encouraged – these include some town centres, Opportunity Areas, other large housing sites and surplus industrial land with good public transport accessibility. The SHLAA and work for the EIP showed that anticipation of an additional increment to capacity from these sources is realistic – indeed London has been approving capacity for some 58,000 dwellings a year. Government has accepted this assessment.
- 3.49 If the FALP is read as a whole, and in particular, when the cross references between Policies 3.3 (housing supply) and 3.8 (need) are taken into account, the Alterations clearly provide strategic direction to the boroughs 'on how to make up this gap' (that arising from the local expression of the strategic 42,000 supply and 49,000 need figures). Each Borough is required to assess its local and strategic needs and if there is a gap between this figure and its supply figure set out in Table 3.1 it must demonstrate how it will seek to address the gap through its local plan in the context of overall London Plan policy. Supplementary Planning Guidance will be provided on this process and the way boroughs address it will be an important when considering whether their local plans are in General Conformity with the London Plan.

*Housing supply – Assembly comments*

- 3.50 *The FALP tenure split target – which gives a numerical target of 17,000 affordable homes per year<sup>2</sup> – falls significantly below London's needs and threatens to undermine the prospect of socially and economically mixed communities. The Mayor's evidence base, the London Strategic Housing Market Assessment (SHMA), is clear that 52% of all new dwellings must be affordable housing in order to meet demand in the capital<sup>3</sup>.*

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<sup>2</sup> FALP Policy 3.11.

<sup>3</sup> SHMA Table 19.

*Housing supply – Assembly S.60 proposals*

- 3.51 *Uprate the tenure split on new developments from a numerical target of 17,000 to a percentage target of 52% of all new dwellings, in order to meet the level of demand determined by the SHMA.*

*Housing supply – officer comments*

- 3.52 The Mayor agrees with the Inspector that there is a significant challenge in addressing the gap between the identified need for affordable housing (26,000 pa) and the affordable housing minimum supply target (17,000 pa). However, as is required by the NPPF, the 17,000 figure represents a realistic target in terms of currently anticipated resources. It is also 30% higher than that in the 2011 Plan. The Mayor is working with government and others to increase affordable housing investment, not least through greater devolved revenue raising powers, and by increasing overall private sector housing output so that this can contribute further to affordable provision.
- 3.53 The NPPF is clear that viability must be a key consideration in seeking affordable housing contributions. This is not just a matter of the overall quantum of resources available for London as a whole – account must also be taken of the local circumstances where they are invested. It is not meaningful and indeed can be counter-productive to seek to impose a top down, percentage based strategic target across the spectrum of sites in a city the size of London. If percentage based targets are to be used then, as the London Plan already makes clear, it is more meaningful for them to be applied at borough level. For strategic planning purposes, and for Londoners, the key parameter in a strategic target is the amount of affordable housing sought rather than a proportion.

*Opportunity areas – Assembly comments*

- 3.54 *This Assembly welcomes the 35,000 homes and 60,000 jobs that the capital's new Opportunity Areas have the potential to create. However, we are concerned by the lack of progress that has been achieved on a significant number of the existing Opportunity Areas<sup>4</sup>. Designation as an Opportunity Area should not automatically mean tall buildings are allowed, and we note that the independent planning inspector indicates that high densities can be achieved without high rise. This Assembly is also concerned that prioritising housing over employment, as suggested in FALP paragraph 2.62<sup>5</sup>, undermines the concept of Opportunity Areas as becoming sustainable communities providing not just places to live but local jobs, retail, and services for residents.*

*Opportunity areas – Assembly S.60 proposals*

- 3.55 *Introduce a Key Performance Indicator to ensure Opportunity Areas are provided with timely planning frameworks developed with genuine community consultation.*
- 3.56 *Revise FALP paragraph 2.62, to reflect the fact that Opportunity Areas should help form sustainable communities. They should provide higher than existing levels of affordable housing and more employment opportunities for local people, as well as retail and services for residents.*

*Opportunity areas – officer comments*

- 3.57 Substantial progress has been made in preparing Opportunity Area Planning Frameworks (OAPFs). In all, planning frameworks of different sorts have been completed for 21 of the 38 Opportunity Areas identified in FALP. In 2014/15 OAPFs were adopted for Southall and Euston, and consultation draft Frameworks were published for the City Fringe and London Riverside. Officers are working with boroughs on seven others (Bexley, Isle of Dogs, Royal Docks, Old Kent Road, Old Oak Common, Harrow & Wealdstone and Bromley town centre) and engaging with Haringey, Kingston, Hounslow and Sutton on four more which were proposed during the FALP preparation process. A KPI to

<sup>4</sup> GLA website, [Location of London's Opportunity and Intensification Areas](#).

<sup>5</sup> FALP paragraph 2.62 directs that employment allocations should not fossilise housing potential.

measure progress on preparing OAPFs is unnecessary as information on this is already recorded in the London Plan Annual Monitoring Report.

- 3.58 The London Plan already makes clear that high density development does not have to mean high rise. In stating that “to ensure that housing output is optimised, employment capacities should, if necessary be reviewed in light of strategic and local employment projections”, FALP is clearly not prioritising housing over employment. The Alterations are following the prudent and well established London Plan dictum to “plan, monitor and manage” London’s limited land supply so that it is used in the most effective way. FALP Annex 1 outlines how individual Opportunity Areas should be planned to accommodate a range of uses which will support locally sustainable communities as well as contribute to wider strategic objectives. The proportion of affordable housing is most effectively assessed in terms of local viability and supporting infrastructure requirements are already identified through local Development Infrastructure Funding (DIF) studies.

*Town centres – Assembly comments*

- 3.59 *This Assembly welcomes the changes to the town centres policy proposed in the FALP – specifically the potential for increased housing density and the benefits that this will bring to the business community and social life of the capital’s struggling high streets. However, this Assembly is concerned that major and district centres will be undermined if the policy is not implemented along with complementary measures to revitalise the town centres.*

*Town centres – Assembly S.60 proposal*

- 3.60 *Revise the FALP to make it explicit that opportunities for high-density residential development should only be pursued where these will contribute to the revitalisation of town centres.*

*Town centres – officer comments*

- 3.61 The Assembly’s support for FALP’s new policy 2.15 on town centre renewal is welcomed. The purposes of the policy are twofold and do address the Assembly’s concern over vitality: it will enable boroughs and other partners to address the challenges posed by changing patterns of consumer behaviour by encouraging and enabling their renewal for a range of business and community functions through higher density, housing led mixed use re-development which will also help to meet London’s pressing housing needs. The expression of this strategic policy will vary depending on local circumstances, but in general terms it is anticipated that the higher value of the new housing will enable the replacement of lower floors for a mix of commercial and community uses in modern premises set in a street environment attractive to this new mix of town centre activities. Viability will be a key consideration in determining this mix.

*Industrial land use – Assembly comments*

- 3.62 *This Assembly is concerned that the release of industrial land poses a serious threat to London’s future economic growth. Forfeiting too much of our industrial land will lock London into a post-industrial state too dependent on shock-susceptible financial and business services. If London is to develop an industrial base, such as in the secondary materials economy or clean-tech and increasingly logistics, it must provide the land for these types of firms to emerge.*

*Industrial land use – Assembly S.60 proposal*

- 3.63 *Define surplus in FALP paragraph 2.85 to make clear that industrial land should not be considered surplus so long as there remains the potential for that site to be used for industrial purpose and only where effort has been made to make the land viable for a wide range of industrial uses.*

*Industrial land use – officer comments*

- 3.64 The Mayor shares the Assembly's concerns over the pressures on London's limited stock of industrial land. The FALP has updated the policy framework to carefully manage the release of surplus industrial space. Detailed guidance on its implementation (including definitions) is properly given in the Land for Industry and Transport SPC rather than the body of the Plan itself, including the release processes and mechanisms to which the Assembly refers.

*Open space – Assembly comment*

- 3.65 This Assembly notes with concern that Policy 2.18 Green Infrastructure: The Multifunctional Network of Green Spaces has been weakened so that there is no longer a requirement to meet deficiency in open space. This is particularly worrying as open spaces are coming under huge development pressure.

*Open space – Assembly S.60 proposal*

- 3.66 Changes to Policy 2.18 should be reversed so that deficiencies in open space must be met.

*Open space – officer comments*

- 3.67 The Mayor shares the Assembly's concerns over potential pressures on London's green spaces and wish to reassure it that Policy 2.18 has been clarified but has not been weakened. It makes clear that green infrastructure strategies are, *inter alia*, intended to plan positively for the protection of such infrastructure and to identify areas of deficiency and priorities in addressing them. This is complemented by Policy 7.18 on protecting open space and addressing deficiency.
- 3.68 Evidence presented to the Assembly Planning Committee on 28.1.14 suggested that policy to protect open space is working well – despite potential pressures London is losing only 0.02% pa of its open space.

*Exposure to air pollution – Assembly comments*

- 3.69 This Assembly notes that Policy 7.14 Improving Air Quality provides the basis for the Mayor to address air pollution in development applications through seeking to minimise increased exposure to existing poor air quality.<sup>6</sup>
- 3.70 However, the alterations proposed do not put sufficiently strong barriers in place to protect the most vulnerable. For example, it may still be possible for a new school to open on a very highly polluted road, when a less polluting site is available. The same could apply to the elderly and unwell.

*Exposure to air pollution – Assembly S.60 proposals*

- 3.71 Strengthen the air quality provisions currently included in the London Plan, strongly discouraging the provision of new schools, care homes or health clinics near existing air pollution hotspots when a less polluted site is available, as recommended by the House of Commons Environmental Audit Committee in its recent report 'Action on Air Quality'
- 3.72 Strengthen the air quality provisions currently included in the London Plan, strongly discouraging the provision of new schools, care homes or health clinics near existing air pollution hotspots when a less polluted site is available, as recommended by the House of Commons Environmental Audit Committee in its recent report 'Action on Air Quality'

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<sup>6</sup> FALP Policy 7.14.

*Exposure to air pollution – officer comments*

- 3.73 Just as a matter of process it should be noted that the Further Alterations were not a comprehensive review of the Plan and did not propose any changes to Policy 7.14. To take the Assembly's suggestions on board at this stage would require that its publication be delayed while it was subject to a further round of consultation and the re-opening of the examination in public. Work on a full review of the Plan has already begun and it is more effective to consider the Assembly's suggestions as part of this process.

*Waste – Assembly comments*

- 3.74 *This Assembly welcomes bringing forward the target date for managing all of London's waste within London. However, we are concerned that the waste management policies will make this nearly impossible without relying on new and replacement incineration facilities, which would crowd out recycling and the development of the secondary materials economy. We note with concern that the threshold set for the new carbon intensity floor would allow such facilities to be given planning permission.*

*Waste – Assembly S.60 proposal*

- 3.75 *The recycling targets must be increased in order to realistically achieve the target of managing all of London's waste within London. London has too much incineration capacity for its future waste arising and therefore incineration capacity should be reduced as older facilities go offline. The carbon intensity floor threshold must be decreased now to rule out all new and/or replacement incineration facilities under this London Plan. There is already too much incineration capacity in the capital; for example, Defra figures show that 42% of municipal waste was incinerated in 2013-14, while para 5.70 of the FALP states that 85 per cent of household waste is recyclable.*

*Waste – officer comments*

- 3.76 The Assembly's support for bringing forward the target date for managing London's waste within its boundaries is welcomed. In response to the Assembly's concerns over incineration, it should be noted that Policy 5.17 introduces the carbon intensity floor, and in the supporting text to Policy 5.17 at paragraph 5.85A the Plan explicitly states "This would, for example, rule out mass burn incineration facilities of mixed waste..." London has a shortage of waste management capacity, and setting the threshold at a level that prevents waste facilities coming forward does nothing to address capacity shortfalls. Working through the London Waste and Recycling Board (LWaRB) I am already looking to address issue of increasing household recycling rates.
- 3.77 The current proportion of 42% municipal waste to EfW (energy from waste) is not inconsistent with London Plan targets of zero waste direct to landfill and 60% to recycling. The Mayor intends that energy is recovered from the remainder. The indications remain that by 2031 London will have sufficient EfW capacity to manage the 40% household and the 30% commercial and industrial waste we have not projected to be recycled. This will enable London to be waste self-sufficient, to achieve its planned recycling rates and to deliver zero waste direct to landfill.

*Lifetime homes – Assembly comments*

- 3.78 *This Assembly notes the alterations relating to Londoners who require accessible or adapted housing, and celebrates the commitment in the London Plan under successive Mayors in ensuring that London is a beacon of best practice across the UK in building new homes to Lifetime Home Standards or to be wheelchair accessible or adaptable.*
- 3.79 *This Assembly is concerned that the Deregulation Bill may strip the Mayor and boroughs of the power to include lifetime home requirements without additional evidence of need, and may remove*

*the power of the Mayor and boroughs to require private developers to include wheelchair accessible properties.*

*Lifetime homes – Assembly S.60 proposal*

- 3.80 *Lobby the Government to remove from the Deregulation Bill provisions that may strip the Mayor and boroughs of the power to include lifetime home requirements without additional evidence of need, and/or remove the power of the Mayor and boroughs to require private developers to include wheelchair accessible properties.”*

*Lifetime home – officer comments*

- 3.81 Officers have been working closely with Government for some time to ensure that that its Housing Standards Review take into account my established standards for lifetime homes and wheelchair accessible homes. Government’s last consultation paper suggested that we have had considerable success in this, with London Plan standards now being proposed as an option for authorities across the country to adopt where justified. While this will require their assessment through the statutory plan making process it is considered that the resultant standards will be more authoritative and consistent across the whole of London, and it is planned shortly to publish a minor Alteration to the Plan in this context.
- 3.82 Incorporating the analysis given above, the text of a proposed reply from the Mayor to the Head of Committee and Member Services is attached for approval as Annex C2. The Mayor is recommended to approve the text of this reply, and agree recommendation 4, that he

**4. approves his reply to the letter of 6 February 2015 from the Head of Committee and Member Services as set out in Annex C2**

- 3.83 **As the London Assembly’s motion of 6 February 2015 did not seek to reject FALP under section 42B of the Act, it is considered that these provisions have been met and the Mayor is now able to publish the alterations.**

Further representations on FALP

- 3.84 Section 337 (2) (d) of the GLA Act requires the Mayor to take into account ‘any other material considerations’ before publishing the alterations. Any correspondence relating to FALP received by the Mayor since he last considered the alterations on 12 December 2014 falls into this category, so it is important that any such representations are considered in this decision form.
- 2.85 Officers confirm that, apart from the Assembly’s motion contained in the letter from the Head of Committee and Member Services discussed above for the Mayor’s consideration, the only correspondence on FALP that has been received is a letter of 18 February 2015 from Roger Evans AM, Chairman of the London Assembly to Sir Edward Lister, Chief of Staff and Deputy Mayor for Planning.
- 2.86 The Mayor is invited to consider recommendation 5, namely that he:

**5. considers any representations made since the Mayor last considered FALP on 12 December 2014**

- 3.87 The first page of the letter of 18 February is attached as Annex A3 to this form (there is also a 30 page attachment to this letter consisting of a draft transcript of the Assembly’s 6 February Plenary Meeting. Responding to the draft transcript does not need to be subject to Mayoral decision and will dealt with separately).

3.88 The letter refers to three matters discussed at the Plenary Meeting, and asks the Deputy Mayor to:

- provide an update on the status of the successful ‘mini Holland’ bids
- consider a review of the proposals in the London Plan in relation to incineration
- request from London boroughs the provision of data to identify how many non-ground floor family properties were being built

3.89 It is proposed that the Deputy Mayor will reply to this letter in the usual fashion as a Mayoral decision is not required. To assist the Deputy Mayor:

- an update on the progress of successful ‘mini Holland’ bids will be sought from TfL
- as indicated in paragraphs 3.76 and 3.77 above, the Mayor’s view is that London Plan policy 5.17 Waste Capacity is working well in respect of incineration, and the carbon floor approach to evaluating incineration/waste from energy proposals was endorsed by the FALP EiP Inspector. However, the Plan’s overall approach to waste will be reviewed for effectiveness as part of the full plan review
- to date it has not been possible to obtain data on non-ground floor residential family homes as this is not collected by boroughs – however, it will be investigated further

3.90 **Apart from the letters from the Head of Assembly and Committee Services and from the Chairman of the London Assembly considered above, and there being received no further representations on FALP since the Mayor last considered the alterations on 12 December 2014, 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.**

#### FALP Impact Assessment and Sustainability Statement

3.91 The Mayor has legal duties to consider the following:

- Economic development and wealth creation (GLA Act 1999, as amended);
- Social development (GLA Act 1999, as amended);
- Protection and improvement of the environment (European Directive 201/42/EC on Strategic Environmental Assessment, The Environmental Assessment of Plans and Programmes Regulations 2004, GLA Act 1999, as amended);
- Health inequality and promoting Londoners’ health (GLA Act 1999, as amended);
- Community safety (Crime and Disorder Act 1998, Police and Justice Act 2006); and
- Equality of opportunity, elimination of discrimination and the promotion of good community relations (GLA Act 1999, as amended, Equality Act 2010).

#### *Integrated Impact Assessment*

3.92 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 FALP by independent consultants AMEC. The IIA conforms 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 IIA also includes a specific Equalities Impact Assessment.

3.93 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. An HRA for FALP was carried out by AMEC who assessed that the alterations were not likely to have any significant environmental effects on the network of Natura 2000 protected sites, subject to the cross-referencing of some additional policies to the existing biodiversity policy (London Plan Policy 7.19).

- 3.94 Detailed advice was given to the Mayor in MD1295 on the impact of the IIA and HRA recommendations on the development of FALP policy ahead of public consultation. The IIA and the HRA were published on 15 January 2014 together with the consultation draft FALP.
- 3.95 Careful consideration was given to the suggested and further suggested changes brought forward before and 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.
- 3.96 The FALP EiP Inspector states that the IIA's "depth and coverage is proportionate to the extent to which the further alterations change the aims and objectives of the London Plan and seems to me to be a fair and thorough assessment of the proposed alternatives. I am, therefore, satisfied that the IIA complies with the regulations" (FALP Inspector's report paragraph 16). With respect to the HRA, the Inspection concluded that its "conclusions are not meaningfully challenged and I have neither heard nor read anything to suggest that they are not robust." (paragraph 17).
- 3.97 In arriving at his decision to approve the 'intend to publish' FALP for submission to the Secretary of State and thence to the London Assembly, advice was given to the Mayor in MD1423 on both the implications of the Inspector's recommendations and the Mayor's response to them. Officers concluded that the proposed changes to FALP arising from accepting the Inspector's recommendations did not require further assessment.
- 3.98 The proposed factual changes to the FALP Overview and Introduction chapter were similarly assessed. As reported in section 2 of this MD, officers concluded that no further assessment was required.

#### *Sustainability Statement*

- 3.99 Set out in Annex D is the FALP Sustainability Statement. Also known as a post adoption statement for the purposes of the Environmental Assessment of Plans and Programmes (EAPP) Regulations 2004, this statement outlines the sustainability considerations that have been integrated into the FALP prior to their publication, the reasons for choosing the preferred policies and measures for monitoring the FALP as part of the overall London Plan. It also sets out the specific environmental aspects considered during the development of FALP, as required by the European Directive on SEA and EAPP Regulations 2004., 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.
- 3.100 The Sustainability Statement will be published alongside the FALP and comprises the final step of the assessment process as part of the implementation, monitoring and formal publication process of the FALP.
- 3.101 The Mayor is invited to give this statement careful consideration and take its findings into account in arriving at the decision to publish the FALP, and to agree recommendation 6, namely that he:

#### **6. takes account of the Sustainability Statement on the preparation of the FALP (Annex D) which will be published together with the FALP**

#### 4. Publishing FALP

4.1 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 FALP's preparation.

4.2 Insofar that he has:

- approved pre-publication factual changes to the FALP (recommendation 1);
- considered the Minister of State for Housing and Planning's response to the intend to publish FALP (recommendation 2);
- considered both the outcome of and the motion agreed at the London Assembly's FALP meeting ,(recommendation 3), and approved his reply to the Assembly's motion (recommendation 4);
- considered representations made since he last considered FALP (recommendation 5); and
- taken account of the Sustainability Statement (recommendation 6);

it is considered that the FALP can now be published.

4.3 The text of a publication-ready FALP, incorporating the factual changes agreed in section 2 of this form, is set out as Annex E. The Mayor is invited to consider the FALP for publication and agree recommendation 7, that he:

**7. approves the FALP, as amended by the changes approved under decision 1, for publication as his spatial development strategy, as set out in Annex E**

4.4 It is proposed that FALP will be published on Tuesday 10 March 2015. From this date FALP 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.

4.5 The Mayor is invited to note that by decision (viii) of MD1423 he authorised expenditure of up to £25,000 for printing the FALP.

4.6 Under the 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 MD1423 he also authorised expenditure of up to £2,500 for placing statutory notices.

4.7 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 FALP is made available for inspection during normal office hours at City Hall.

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

4.9 The Mayor is invited to approve recommendation 8 of this form, namely that he:

**8. approves publication of the statutory notices of publication, the publication of the schedule of his response to the FALP EiP inspector's recommendations, the giving of the required notice to local authorities, the Secretary of State and others, and the**

## **arrangements for making the FALP and associated documentation available for public inspection.**

### **5. Equality comments**

- 5.1 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.’
- 5.2 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.
- 5.3 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.
- 5.4 These duties apply to the Mayor’s decision to approve publish FALP as alterations to the London Plan.
- 5.5 In light of these duties GLA officers have reviewed what is proposed in the FALP for publication (Annexe D2 to this MD), and the Sustainability Statement (Annex C to this MD), and advise that there is nothing raised by such which has not been already addressed as part of the statutory process.
- 5.6 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.

### **6. Other considerations**

#### *Key Risks and issues*

- 6.1 Detailed advice to the Mayor on the risks inherent in the FALP’s specific interpretation of national planning policy as it applies in the unique circumstances of London was presented in MD1295 (approval of the draft FALP for public consultation), which the Mayor signed on 18 December 2013.

- 6.2 Advice to the Mayor in MD1423 (FALP next stages, signed 12 December 2104) pointed out that in recommending the FALP be adopted subject to his recommendations being included, it was evident that the EiP Inspector was content with the FALP's approach to national planning policy. As he put it in paragraph 55 of his report, "Despite my reservations ... I conclude that, subject to a commitment to an immediate review, the FALP should be adopted as not to do so would perpetuate the existing under delivery [of housing] by not requiring boroughs to increase supply".
- 6.3 The main risk associated with the final stages of FALP's preparation were 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 FALP. To minimise this risk, officers held informal meetings with officials from the Department for Communities and Local Government. As outlined in paragraphs 3.29 to 3.37 of this form, the Secretary of State did not direct.
- 6.4 The London Assembly's power to reject a Mayoral strategy posed an additional risk. In the event, as set out in paragraphs 3.38 to 3.83, the Assembly did not seek to exercise this power.
- 6.5 There remains the risk of statutory challenge following the publication/adoption of FALP.
- 6.6 Legal advice (including advice from Leading Counsel) has been taken throughout the process for the adoption of the FALP in order to minimise these risks and to ensure that the reasons for accepting the Inspector's recommendations were clear and sufficient.
- 6.7 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*

- 6.8 The FALP proposes 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 and consultations*

- 6.9 The impact assessment of FALP through the IIA process is considered in paragraphs 3.91 to 3.101 above.
- 6.10 Public consultation on the draft FALP is considered in paragraphs 3.8 to 3.23 above. There is no further requirement for public consultation. The GLA Act and the Regulations set out the requirements for public engagement in preparation or alteration of the London Plan. Under this legislation, public consultation was undertaken in January to April 2014 and the FALP was laid before the London Assembly in February 2015.

## **7 Financial comments**

- 7.1 No new financial implications arise from the decisions in this form.
- 7.2 In respect of actions referred to in this MD, decision (viii) of MD1423 authorised the necessary expenditure of up to £2,500 to place the statutory notices and up to £25,000 for printing the FALP, to be funded from the 2014-15 London Plan budget.

## 8 Legal comments

- 8.1 This section deals with legal issues not covered elsewhere in this decision form.
- 8.2 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.
- 8.3 The Mayor has a duty under Section 340 of the GLA Act to keep this strategy under review and can under section 341(1) (a) of that GLA Act at any time prepare and publish alterations of the strategy. As such in November 2011, the Mayor announced his intention to make early minor alterations to the London Plan (which became revised early minor alterations to the London Plan: REMA). The history is as set out in section 1 of this Decision Form.
- 8.4 Sections 337 and 341 of the GLA Act sets out the procedure to be followed for the preparation and publication of alterations to the London Plan and this has been rigorously followed.

### Examination in Public

- 8.5 The Mayor was required under Section 338 of the GLA Act to cause an Examination in Public to be held by persons appointed by the Secretary of State for the purpose and as such this was duly held at City Hall between 1 and 18 September 2014. The EiP Inspector's report was received on 18 November 2014. Under the SDS Regulations the Mayor must publish the EiP Inspector's report, within eight weeks of its receipt. On 12 December 2014 the Mayor approved the report's publication within eight weeks of receipt, and the EiP Inspector's report was duly published on 15 December 2014.

### Secretary of State Direction

- 8.6 On 12 December 2014 the Mayor approved the sending to the Secretary of State of a statement of his intention to publish alterations to the London Plan (FALP), a copy of the text of FALP in the form he intended to publish, a schedule setting out his response to the Inspector's recommendations, and a letter setting out his reasons for accepting them. These documents were sent to the Secretary of State on 15 December 2014.
- 8.7 The Secretary of State had six weeks to consider FALP 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 version before it is 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,
- 8.8 A response from the Minister of State for Housing and Planning was received on 27 January 2014 confirming that no such Direction had been given by the Secretary of State.

### London Assembly power to reject

- 8.9 On 28 January 2015 the Mayor caused a copy of the 'intend to publish' text of FALP to be laid before the Assembly in accordance with section 42B of the GLA Act. The Assembly met to consider the alterations on 6 February 2015 and did not resolve to reject the alterations under section 42B.

Publication

- 8.10 Accordingly, the Mayor may now proceed to publish FALP which shall become operative on the date on which it is so published. On publication, FALP 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 provisions

- 8.11 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) Natural England,
  - (h) the Environment Agency,
  - (i) the Historic Buildings and Monuments Commission for England,
  - (j) any other body or person whom the Mayor considered it appropriate to consult.
- 8.12 The Mayor must also make FALP and the schedule giving his response to the recommendations contained in the EiP Inspector's report available for public inspection. Copies of the FALP 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.
- 8.13 The Mayor must also send to the Secretary of State and to the Council for each London borough a copy of FALP, 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

- 8.14 Under section 342 of the GLA Act, when considering making alterations to the London Plan, the Mayor must have regard to any regional planning guidance issued by the Secretary of State so far as relating to an area which includes or adjoins Greater London and such other matters as the Secretary of State may prescribe.
- 8.15 Under section 41 of the GLA Act he must also have regard to the need to ensure that it is consistent with national policies, other statutory strategies, the resources available for the implementation of the 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. He has included in FALP such of the available policies and proposals as considers are best calculated to promote improvements in the health of persons in Greater London, to promote the reduction in health inequalities between such persons, to contribute towards the achievement of sustainable development in the UK and to contribute towards the mitigation of or adaptation to climate change, and the consequences of climate change in the UK.

- 8.16 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.
- 8.17 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 as well as the effect which the proposed replacement would have on the health of persons in Greater London; and the achievement of sustainable development in the United Kingdom. This can be evidenced as above.

#### *Public Sector Equality Duty*

- 8.18 The Mayor and GLA are subject to the public sector equality duty, as set out in Section 149 of the Equality Act 2010. This replaces duties under other domestic discrimination legislation, including those under section 404 of the GLA Act. The 2010 Act included a new single public sector equality duty (“the Duty”) which brings together the previous race, disability and gender duties and extends coverage to include 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.’ The 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.
- 8.19 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.
- 8.20 In light of these duties GLA officers have reviewed what is proposed in FALP and the Equalities Impact assessment included in the Integrated Impact Assessment and advise that there is nothing raised by such which has not been already addressed as part of the statutory process.
- 8.21 These duties apply to the proposed FALP and the Mayor’s decision whether to publish them as alterations to the London Plan.
- 8.22 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.

#### Sustainability Statement

- 8.23 The Sustainability Statement, also known as post adoption statement for the purposes of the Environmental Assessment of Plans and Programmes Regulations 2004, describes statutory assessments which were undertaken through the Integrated Impact Assessment (IIA) of the FALP. The IIA 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 Habitats Regulations. It also included an Equalities Impact Assessment. The IIA report is 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 FALP. This view was endorsed by the EiP Inspector’s Report. Accordingly, the Mayor is asked to give particular attention to these reports.

## **9 Investment & Performance Board**

- 9.1 Not applicable – proposed decisions on the London Plan and alterations to it are considered by the Chief of Staff and Deputy Mayor for Planning at his Regular Planning Meetings and decisions are taken by the Mayor through Mayoral Decision Forms which are considered in full with his advisers and signed by the Mayor at his Planning and Spatial Development Strategy Meetings.

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

- 10.1 Contingent on this MD being signed off by the Mayor on Thursday 26 February 2015, the remaining steps to the publication/adoption of FALP are as follows:

Friday 27 February	<ul style="list-style-type: none"> <li>• commission statutory notices to be placed in London Gazette and London Evening Standard</li> <li>• FALP to the printers</li> </ul>
Friday 6 March	<ul style="list-style-type: none"> <li>• FALP back from the printers</li> </ul>
Tues 10 March <b>publish/adopt FALP</b>	<ul style="list-style-type: none"> <li>• notice in the London Gazette and first notice in the London Evening Standard</li> <li>• publish FALP on the GLA’s website</li> <li>• send copies to and serve notices on statutory parties</li> <li>• make the FALP available for public inspection</li> <li>• send copies of FALP and notices to the Secretary of State and to the London boroughs</li> <li>• email stakeholders</li> </ul>
Weds 18 March	<ul style="list-style-type: none"> <li>• second notice in the London Evening Standard</li> </ul>

## **APPENDICES AND SUPPORTING PAPERS:**

### **Annex A: Factual changes to the FALP Overview and Introduction chapter**

### **Annex B: response from the Secretary of State for Communities and Local Government**

- B1: letter 15 December 2014 from the Mayor to Eric Pickles MP Secretary of State for Communities and Local Government
- B2: schedule giving Mayor's response to the FALP EiP Inspector's recommendations
- B3: letter 27 January 2015 to the Mayor from Brandon Lewis MP Minister of State for Housing and Planning

### **Annex C: representations received after the publication of the FALP EiP Inspector's report**

- C1: letter 6 February 2015 to the Mayor from Ed Williams Head of Committee and Member Services
- C2: proposed response from the Mayor to the Head of Committee and Member Services
- C3: letter 18 February 2015 from Roger Evans AM, Chairman of the London Assembly

### **Annex D: FALP Sustainability Statement** for publication March 2015

### **Annex E: Further Alterations to the London Plan** for publication March 2015

**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. J. Allen*

Date

*25.2.15*

**CHIEF OF STAFF:**

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

Signature

*Edward Lister*

Date

*25.02.2015.*