

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD1587

Title: Minor Alterations to the London Plan (MALP housing standards and parking standards) – response to inspector's report and intend to publish

Executive Summary:

This Mayoral Decision seeks the Mayor's agreement to the next statutory steps in the process for the approval of the Housing Standards and Parking Standards Minor Alterations to the London Plan (MALP) – responding to the EiP inspector's recommendations and agreeing 'intend to publish' versions for submission to the Secretary of State CLG and to the London Assembly. Looking ahead to publication, this MD also seeks financial approval for statutory press notices and for printing an updated version of the London Plan.

Decision:

That the Mayor

- (i) considers the report of the Inspector for the Examination in Public into the Housing Standards Minor Alterations to the London Plan (MALP) and the Parking Standards MALP (Annex A)
- (ii) approves his response to the EiP Inspector's recommendations (Annex B)
- (iii) agrees arrangements for publication of the EiP Inspector's report
- (iv) notes the Integrated Impact Assessment Reports for the Housing Standards MALP (Annex C) and the Parking Standards MALP (Annex D), and the Habitats Regulations Assessment Screening Report for the Parking Standards MALP (Annex E) and opinion of legal counsel on the compatibility of the MALP Parking Standards with air quality law (Annex E1);
- (v) approves the 'intend to publish' versions of the Housing Standards MALP (Annexes F and G) and the Parking Standards MALP (Annexes H and I)
- (vi) notifies 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 (Annex B) together with copies of the 'intend to publish' Minor Alterations (Annexes F, G, H and I)
- (vii) lays the 'intend to publish' Housing Standards and Parking Standards MALPs before the London Assembly
- (viii) authorises 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

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:

16 December 2015

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**Decision required – supporting report****1 Introduction, background and summary**

- 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. 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. 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. Mr Hogger submitted his Inspector's report to the Mayor on 15 December 2015.
- 1.3 This MD addresses the next statutory steps in the finalisation of MALPs and seeks the Mayor's agreement to his response to the EiP Inspector's findings and recommendations. Publication of the Inspector's report is the responsibility of the Mayor, and this MD proposes that the Inspector's report be published as soon as possible.
- 1.4 In arriving at his decision to approve 'intend to publish' versions of the MALPs – following due consideration of the Inspector's recommendations – this MD asks the Mayor to note the formal assessments which were published together with the consultation MALPs (Integrated Impact Assessments for both MALPs and a Habitats Regulations Assessment for the Parking Standards MALP). It is not considered that there is a need to update these assessments as a result of the intend to publish versions of the MALPs, and as such the Mayor's approval is sought to send the MALPs as he intends to publish them to the Secretary of State and to the London Assembly for their consideration.
- 1.5 Once the 'intend to publish' versions of the MALPs have been considered by the Secretary of State and by the London Assembly, and assuming the Secretary of State does not direct the Mayor not to publish and the London Assembly does not reject the MALPs, officers will prepare a further MD seeking the Mayor's approval to publish the Housing Standards and Parking Standards MALPs as formal alterations to the London Plan.
- 1.6 Approval was obtained under MD1482 for expenditure of up to £40,000 for EiP Inspector fees/expenses and for up to £35,000 for the appointment of an EiP Secretary. This MD seeks approval for 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 version of the London Plan consolidated with the Housing Standards and Parking Standards MALPs.

2 The MALPs EiP Inspector's report

- 2.1 Mr Hogger, the MALPs EiP Inspector, submitted his report to the Mayor on 15 December 2015. Overall, provided the Suggested and Further Suggested Changes are incorporated, and the Mayor accepts his recommendations, Mr Hogger concludes that the London Plan, as changed by the Minor Alterations, provides an 'appropriate basis for the strategic planning of Greater London' – that is to say, he finds the MALPs to be sound and that they should be published (adopted). His report to the Mayor is attached in full as **Annex A** to this MD.

2.2 In his report on the Housing Standards MALPs, the Inspector:

- concludes that the evidence on which the Housing Standards MALP are based is proportionate and sufficiently robust (paragraph 14)
- concludes that the requirements established in national advice, for example in relation to design, climate change and viability, are satisfactorily reflected in the Housing Standards MALP (paragraph 17)
- recommends amendments to Policy 3.5 that clarify that dwellings delivered as a result of a conversion or change of use are not generally required to meet Part M of the Building Regulations, but that in all other respects, Policy 3.5 applies to all new dwellings, including conversions and change of use (paragraph 18)
- concludes that the Mayor has achieved an appropriate balance between precision and flexibility in the MALP (paragraph 19)
- considers the Mayor's approach to ceiling heights to be to be appropriately aspirational and justified (paragraph 20)
- advises that the adaptation and retention of wheelchair housing should be monitored in order to ensure that the Mayor's accessibility objectives in this regard are being achieved (paragraph 24)
- highlights the concerns raised by some over the requirement for step free access, but states that no substantive evidence was submitted that would lead him to conclude that there would be a significant risk to development as a result of this requirement (paragraph 25)
- suggests further clarification is required regarding viability and service charges and the requirement for a lift in developments of four storeys or less (paragraph 25)
- concludes that the proposed housing standards are adequately justified (paragraph 26)
- states that in terms of affordability no evidence was submitted to satisfactorily demonstrate that the consequences of the MALP (Housing Standards) would have a significant detrimental impact on the affordability of properties in the capital (paragraph 27)
- is satisfied that there is little cogent evidence to show that there would be significant adverse implications for the private rented sector or for the provision of starter homes (paragraph 27)
- is satisfied that there is sufficient flexibility in the Mayor's approach to ensure that there would be little risk to the delivery of housing and that consequently the requirement to meet objectively assessed housing need in London would not be threatened (paragraph 27)
- sees no reason to doubt that the Mayor (and the London Boroughs) will continue to require appropriate high quality design, in accordance with the NPPF and thus does not agree with concerns raised that the emphasis on step free access could be at the expense of achieving high quality urban design (paragraph 28)
- finds the Mayor's approach to transition, monitoring and review sound (paragraph 29)

2.3 In his report on the Parking Standards MALPs, the Inspector:

- concludes that a pragmatic and proportionate approach has been taken towards the gathering, up-dating and analysis of evidence presented in the IIA (paragraph 34) and that it is sufficiently robust and proportionate (paragraph 35)
- accepts the HRA's findings that the Alterations would have no likely significant effect on protected nature conservation sites (paragraph 36)
- is satisfied that appropriate account has been taken of national policy (paragraph 40)
- is satisfied that an appropriate balance will be achieved between the national objectives of car parking provision and the promotion of sustainable means of movement, particularly as the opportunity to increase parking provision will mainly only be available in areas of comparatively poor public transport provision (paragraph 42)
- agrees that PTALs should continue to form the basis of the Mayor's approach (paragraph 43)

- in terms of the specific wording of policy 6.13, is satisfied that the use of the word 'generally' in front of PTALs 0-1 is justified, and considers the description of a PTAL level of 0-1 being 'low' to be appropriate in the circumstances (paragraph 44)
- considers the reference in paragraph 6.42j to 'a more flexible approach' being acceptable in some limited parts of PTAL2 to be justified because it will enable the relevant Borough to take into account the particular circumstances of a particular proposal (paragraph 45)
- does not consider the potential loss of dwellings to additional parking spaces to be a significant threat to the need to significantly boost housing supply or to meeting objectively assessed need (paragraph 46)
- finds no evidence to demonstrate that the MALP would result in a material deterioration in the quality of urban design (paragraph 47)
- considers the issue of air quality to be of great significance (paragraph 48); notes existing London Plan Policy (paragraph 49) and EU Directive (paragraph 50); does not consider the predicted decrease in air quality of 0.5% to be unduly significant, notes that any relaxation in parking standards would not be mandatory and in any event a local planning authority would be obliged to have regard to national policy in the decision-making process, and considers the opportunity to improve air quality through mitigation measures to be a reasonable way forward because the consequent cumulative improvement could be substantial (paragraph 51);
- in weighing up the conflicting views on the impact of the proposals on air quality is mindful that the overarching objective is to improve air quality but there is no reason to conclude that mitigation measures would not contribute significantly to achieving that objective; that provided it can be clearly demonstrated, through appropriate modelling and monitoring mechanisms, that mitigation measures outweigh the predicted 0.5% decrease in air quality, considers that the way forward espoused by the Mayor is reasonable, noting that 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 (paragraph 52)
- recommends that in order to strengthen the requirement to include the consideration of air quality when a decision is being taken on whether or not more generous parking standards should be applied, and to ensure that appropriate weight is attached to the issue of air quality, a specific reference to the matter is included in MALP paragraph 6.42k (recommendation IRC P1) (paragraph 53).
- finds that it is likely that the small increase in the number of car journeys will result in a small reduction in journeys undertaken on foot, by bike or on public transport, but this has to be balanced against the fact that increased mobility by car may have benefits in terms of social inclusion; and notes that if it could be demonstrated that a proposal would have significant implications in terms of activity levels, this would be a material consideration in determining planning applications (paragraph 54)
- taking into account the high number of uncertainties in any calculations, is satisfied that the consequences of the MALP for inner London Boroughs could be satisfactorily assimilated; and should circumstances change there is no reason to doubt that this would be identified through monitoring and if necessary the Mayor would take appropriate action (paragraph 55)
- is satisfied that the proposed parking standards would not result in any significant adverse implications that could not be appropriately addressed, and that Mayor's approach is justified (paragraph 56)

2.4 The Mayor's attention is drawn to recommendation (i) of this MD – that he:

- (i) **considers the report of the Inspector for the Examination in Public into the Housing Standards Minor Alterations to the London Plan (MALP) and the Parking Standards MALP (Annex A)**

The Mayor's response to the Inspector's report

- 2.5 Each of the Inspector's recommendations is considered in turn below and advice is given to the Mayor on how he might wish to respond. The Mayor should note that the Inspector's recommendations are not binding on him – however, he should give 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.

Housing Standards MALP – Inspector's recommendation IRC H1 (amend Table 3.3 title and add footnote), IRC H3 (add footnote to Policy 3.8Bc and 3.8Bd) and IRC H4 (amend paragraph 3.48).

- 2.6 Accessible housing standards are now covered by Part M of the Building Regulations – with the optional technical standards set out in Approved Document Part M. Part M of the Building Regulations generally only applies to new build dwellings due to the limits of the application of the Building Regulations¹. This means that new homes delivered as a result of a conversion or material change of use can no longer be required to meet accessibility standards. The nationally described space standards and the remainder of Policy 3.5 apply to all new dwellings; new build, conversions and change of use.
- 2.7 The Inspector recommends amending the title of Table 3.3 and adding a footnote which makes it clear that Table 3.3 (the space standards) will apply to all new dwellings (including new build, conversions and change of use). He also recommends making it clear in Policy 3.8Bc and 3.8Bd that Part M of the building regulations do not generally apply to dwellings which are a result of conversions and change of use. Similar recommendations are suggested for Paragraph 3.48.
- 2.8 The changes proposed by the Inspector are identical as the ones suggested by the Mayor in response to the inspector's post EIP 'homework' requests (Further Suggested Changes HFSC4, HFSC6 and HFSC7). Officers advise that recommendations IRC H1, IRC H3 and IRC H4 should be accepted.

Housing Standards MALP – Inspector's recommendation IRC H2 (amend note 1 to Table 3.3)

- 2.9 Table 3.3 and the nationally described space standards refer to one person dwellings rather than studio dwellings. For consistency the Inspector has recommended that this terminology should also be used in the notes to the table. This change was also suggested by the Mayor (Further Suggested Changes HFSC5), officers therefore advise that this recommendation should be accepted.

Housing Standards MALP – Inspector's recommendation IRC H5 (amend paragraph 3.48A)

- 2.10 The adoption of optional space standards M4(2): Accessible and adaptable dwellings and M4(3): Wheelchair user dwellings require step free access. For dwellings accessed above or below the entrance storey, this will generally require a lift. Previously lifts were only required in developments of five storeys or more. The Inspector is clear that no substantive evidence was submitted that would lead him to conclude that there would be a significant risk to development as a result of this requirement and he recognises that 3.48A makes it clear that the 'requirement' may be subject to viability assessments and consideration of on-going maintenance costs, which provides sufficient flexibility to enable any unforeseen circumstances to be addressed. However, the Inspector suggests that further clarification regarding viability and service charges is required and recommends IRC H5 accordingly.
- 2.11 The changes proposed by the Inspector are identical to the ones suggested by the Mayor in response to the Inspector's post EIP 'homework' request to draft wording that would provide this clarity (see Further Suggested Change HFSC8). Officers therefore advise that this recommendation should be accepted.

¹ The Building Regulations, 2010

Housing Standards MALP – Inspector's recommendation IRC H6 (amend paragraph 7.5)

- 2.12 The government's housing standards review and the moving of access standards to Building Regulations means Lifetime Homes standard has been superseded. One reference to Lifetime Homes remained in the MALP in the context of applying the inclusive design principles embedded in Lifetime Homes to lifetime neighbourhoods. The Inspector suggests this should be deleted. This change was also suggested by the Mayor in his Further Suggested Changes HFSC9. Officers therefore suggest that this recommendation should be accepted.

Parking Standards MALP – Inspector's recommendation IRC P1 (amend paragraph 6.42k)

- 2.13 When planning authorities in outer London are deciding whether or not to apply more generous residential car parking standards in areas of low public transport accessibility, paragraph 6.42k of the parking Standards MALP lists the factors that should be taken into account – for example the extent of future public transport, and the impact on on-street parking measures.
- 2.14 In this recommendation the Inspector suggests adding the consideration of air quality implications to this list of factors. This proposed change is identical to Further Suggested Change PFSC1, submitted to the Inspector on 28 October 2015 in response to his post EIP inquiries. Consequently, officers advise that the Mayor should accept the Inspector's recommendation IRC P1.
- 2.15 In accepting the Inspector's recommendation the Mayor's attention is drawn to paragraphs 5.2 and 5.3 of his report concerning air quality implications which are summarised in the paragraph 2.3 above (10th and 11th bullet points). Officers obtained legal advice (Annex E1) that confirmed the MALP Parking Standards were compatible with European air quality law and relevant Directive (2008/ 50/ EC). Officers also submitted a paper concerning available mitigation measures that could be deployed to reduce or mitigate any increased levels of air pollution that might arise as a result of adoption by boroughs of the relaxed parking standards in those Outer London PTAL areas where permitted in accordance with the MALP Parking Standards changes. It is recognised in line with the Inspector's own conclusion that the Mayor and those Outer London Boroughs wishing to implement the changes to their local plans that the MALP Parking Standards enable will work together to undertake the necessary mitigation measures, including monitoring and review, to ensure that the overarching objective to improve air quality and compliance with nitrogen dioxide limit values under the Directive is achieved as soon as possible.
- 2.16 Officers have assessed the implications of accepting all the changes recommended by the Inspector, taking account of potential Integrated Impact Assessment and consultation requirements. It is considered that accepting the recommendations will not require any additional assessments or consultation.
- 2.17 **Annex B** sets out in schedule form a proposed Mayoral response to the EIP Inspector's recommendations – that each of them should be accepted. The Mayor's attention is drawn to recommendation (ii) of this MD – that he:

(ii) approves his response to the EIP Inspector's recommendations (Annex B)

Publishing the Inspector's report

- 2.18 Under Regulation 8(9) of the Town and Country Planning (London Spatial Development Strategy) Regulations 2000 (the 'SDS Regulations'), the Mayor must publish the MALPs Inspector's report within eight weeks of receiving it – ie before 9 February 2016. 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. A copy will also be placed on the GLA's website.

- 2.19 It is proposed that the Inspector's report is published as soon as practically possible – on or before Monday 4 January 2016.
- 2.20 The Mayor is recommended to agree these arrangements for publishing the MALP Inspector's report, and his attention is drawn to recommendation (iii) of this MD – that he:
- (iii) agrees arrangements for publication of the EIP Inspector's report**

3 The 'intend to publish' MALPs

Process and next steps

- 3.1 Having agreed his response to the Inspector's report in section 2 of this MD, the next step is for the Mayor to agree any consequential changes to the Housing Standards and Parking Standards MALPs. These versions of the MALPs are known as the 'intend to publish' MALPs. In arriving at his decision to approve these the Mayor must pay due regard to the formal assessments carried out on the MALPs – the Integrated Impact Assessment Reports (IIA) and the Habitats Regulations Assessment Screening Report (HRA), including any further assessment resulting from the Inspector's report.
- 3.2 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.
- 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.
- 3.3 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 MALPs 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. The Mayor cannot adopt/publish the MALPs within the 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 to reject the MALPs. The Assembly may not amend or modify them – they can only reject them. A motion to reject requires agreement of at least two thirds of the Assembly members voting (absentees and abstentions not counted) at a meeting of the whole Assembly.
- 3.4 With previous London Plan alterations, the Mayor waited until the six weeks procedure with the Secretary of State had been concluded before laying the "intend to publish" alterations before the Assembly. However, the two processes could be run concurrently, with the proviso that if the Secretary of State directed modifications, the Mayor cannot publish without them and would have to withdraw the version he laid before the Assembly; he would have to re-lay the modified version, after which the Assembly process would begin again. If the Assembly rejected the Strategy, then he would have to withdraw the version he sent to the Secretary of State anyway. It is proposed that the Mayor lays his intend to publish version of the MALPs before the Assembly shortly before the six week period within which the Secretary of State can direct modifications expires – see the timetable in section 9 below.

3.5 Assuming modifications to the MALPs are not directed by the Secretary of State, and the MALPs are not rejected by the Assembly, the MALPs can then be officially published. On publication, the MALPs will formally constitute part of the Mayor's Spatial Development Strategy (the London Plan), and will form part of the development plan for Greater London.

3.6 Section 9 of this MD sets out a detailed timetable to publication.

MALPs statutory assessment

3.7 In taking his decision to approve the 'intend to publish' MALPs, the Mayor should pay due regard to the statutory assessments which were published on 11 May 2015 alongside the consultation draft MALPs. These are the:

- Housing Standards MALP Integrated Impact Assessment Report (Annex C to this MD)
- Parking Standards MALP Integrated Impact Assessment Report (Annex D)
- Parking Standards MALP Habitats Regulations Assessment Screening Report (Annex E)

3.8 At the time of their preparation and publication earlier this year, officers evaluated each proposed Suggested and Further Suggested Change and confirmed that no further formal assessment nor consultation was required. Officers have also evaluated the changes proposed by the EiP Inspector and have concluded that neither further assessment nor consultation is required.

3.9 The Mayor's attention is drawn to **recommendation (iv) of this MD** – that he:

- (iv) notes the Integrated Impact Assessment Reports for the Housing Standards MALP (Annex C) and the Parking Standards MALP (Annex D), and the Habitats Regulations Assessment Screening Report for the Parking Standards MALP (Annex E) and opinion of legal counsel on the compatibility of the MALP Parking Standards with air quality law (Annex E1);**

Approving the 'Intend to publish' MALPs

3.10 The 'intend to publish' Housing Standards MALP comprises the following:

- the consultation draft Housing Standards MALP, published on 11 May 2015
- amended by Suggested Changes published on 21 August 2015 and Further Suggested Changes published on 29 September and 28 October 2105
- including the changes listed by the EiP Inspector in his recommendations, as agreed in this MD and is presented in this MD as:

- Annex F – a 'clean' version of the 'intend to publish' Housing Standards MALP, showing how it would look at final publication stage
- Annex G – a version of the 'intend to publish' Housing Standards MALP showing the alterations

3.11 In Annex G, the alterations and changes to the Housing Standards MALP are shown as follows:

- new or altered text carried forward from the 11 May 2015 consultation draft MALP is shown in **purple bold** with deleted text shown in ~~purple strikethrough~~
- new or altered text arising from the 21 August 2015 Suggested Changes is shown in **green bold** with deleted text shown in ~~green strikethrough~~
- new or altered text arising from the 29 September 2015 Further Suggested Changes is shown in **blue bold** with deleted text shown in ~~blue strikethrough~~
- new or altered text arising from the 28 October 2015 Further Suggested Changes is shown in **orange bold** with deleted text shown in ~~orange strikethrough~~
- changes listed by the MALP EiP Inspector in his recommendations, and accepted by the Mayor, are shown in **orange with yellow highlight**

3.12 The 'intend to publish' Parking Standards MALP comprises the following:

- the consultation draft Parking Standards MALP, published on 11 May 2015
- amended by Suggested Changes published on 21 August 2015 and the Further Suggested Change published on 28 October 2015
- including the change listed by the EiP Inspector in his recommendations, as agreed in this MD and is presented in this MD as:
- Annex H – a 'clean' version of the 'intend to publish' Parking Standards MALP, showing how it would look at final publication stage
- Annex I – a version of the 'intend to publish' Parking Standards MALP showing the alterations

3.13 In Annex I, the alterations and changes to the Parking Standards MALP are shown as follows:

- new or altered text carried forward from the 11 May 2015 consultation draft MALP is shown in **red bold** with deleted text shown in ~~red strikethrough~~
- new or altered text arising from the 21 August 2015 Suggested Changes is shown in **green bold** with deleted text shown in ~~green strikethrough~~
- new or altered text from the 28 October Further Suggested Change is shown in **blue bold** with deleted text shown in ~~blue strikethrough~~
- changes listed by the MALP EiP Inspector in his recommendations, and accepted by the Mayor, are shown in **blue with yellow highlight**

3.14 The Mayor is recommended to approve the 'intend to publish' MALPs for submission to the Secretary of State and the London Assembly, and his attention is drawn to recommendation (v) – that he:

- (v) approves the 'intend to publish' versions of the Housing Standards MALP (Annexes F and G) and the Parking Standards MALP (Annexes H and I)**

Submitting the 'intend to publish' MALPs to the Secretary of State

3.15 Paragraph 3.2 above sets out the process for submitting the MALPs to the Secretary of State. The Mayor should write to the Secretary of State for Communities and Local Government stating his intention to publish the Housing Standards and Parking Standards Minor Alterations to the London Plan, enclosing his response to the EiP Inspector's recommendations (Annex B) and copies of the Minor Alterations as he proposes to publish them (Annexes F, G, H and I).

3.16 Accordingly, the Mayor's attention is drawn to recommendation (vi) – that he:

- (vi) notifies 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 (Annex B) together with copies of the 'intend to publish' Minor Alterations as he proposes to publish them (Annexes F, G, H and I)**

Submitting the 'intend to publish' MALPs to the London Assembly

3.17 Paragraphs 3.3 and 3.4 above explain the process for submitting the MALPs to the London Assembly. The Mayor is recommended to agree that the Minor Alterations should be laid the London Assembly.

3.18 Accordingly, the Mayor's attention is drawn to recommendation (vii) – that he:

(vii) lays the 'Intend to publish' Housing Standards and Parking Standards MALPs before the London Assembly

Publishing/adopting the MALPs

- 3.19 Following the consideration of the MALPs by the Secretary of State and the London Assembly, further approval will be sought from the Mayor to publish the MALPs – initially as standalone documents, and then incorporated into an updated version of the London Plan consolidated with all alterations since 2011 (REMA, FALP and MALPs).

Financial approvals

- 3.20 The Mayor is responsible for the cost of the Examination in Public. Approval was obtained under MD1482 for expenditure of up to £40,000 for EiP Inspector fees/expenses and for up to £35,000 for the appointment of an EiP Secretary. This MD seeks approval for 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 version of the London Plan consolidated with the Housing Standards and Parking Standards MALPs.

- 3.21 The Mayor's attention is therefore drawn to recommendation (viii) – that he:

(viii) authorises 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

4 Equality comments

- 4.1 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.'
- 4.2 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.
- 4.3 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.

- 4.4 These duties apply to the Mayor's decision whether to approve the 'intend to publish' Housing Standards and Parking Standards MALP for the purposes of formal submission to the Secretary of State CLG and the London Assembly, and at the next stage, to publish them as alterations to the London Plan.
- 4.5 In light of these duties GLA officers have reviewed what is proposed in the 'intend to publish' Housing Standards and parking Standards MALP (Annexes F, G, H and I to this MD), and the Equalities Impact assessment included in the Integrated Impact Assessments (Annexes C and D to this MD), and advise that there is nothing raised by such which has not been already addressed as part of the statutory process.
- 4.6 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.

5 Other considerations

Key Risks and issues

- 5.1 In paragraph 52 of his report to the Mayor, the Inspector 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% decrease in air quality that may arise from the implementation of the MALP (Parking Standards), the way forward being espoused by the Mayor is reasonable. Whilst officers are 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 be open to challenge.
- 5.2 There is also some risk that after considering paragraph 20 of the Inspector's report some readers may argue that the whole of Table 3.3 (the detailed space standards) does not have full policy weight rather than only the footnote to it. This will be clarified in SPG.
- 5.3 A risk associated with this final stage in the preparation of the MALPs is that the Secretary of State may not agree with the Mayor accepting the Inspector's recommendations, and may direct the Mayor to make further changes to the MALPs. To minimise this risk, officers are in informal dialogue with officials from the Department for Communities and Local Government. Following submission of the MALPs to the Secretary of State, these discussions will continue, to ensure that, as far as possible, the risk that the Secretary of State will exercise his powers to direct changes is minimised. In addition, the London Assembly's power to reject Mayoral strategies poses a further risk. There is also the risk of statutory challenge following the publication/adoption of the Housing Standards and Parking Standards MALP.
- 5.4 Legal advice (including advice from Leading Counsel) has been taken throughout the process for the adoption of 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.
- 5.5 Alterations to the London Plan have 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

- 5.6 The Housing Standards and Parking Standards MALP 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

- 5.7 In preparing or altering the London Plan, the Mayor has legal duties to consider the following under the Greater London Authority Act 1999 ("GLA Act 1999", as amended) and other r:
- Economic development and wealth creation (GLA Act 1999);
 - Social development (GLA Act 1999);
 - 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);
 - Health inequality and promoting Londoners' health (GLA Act 1999);
 - 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, Equality Act 2010).
- 5.8 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.
- 5.9 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.
- 5.10 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 2105 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.
- 5.11 The MALP EiP Inspector considers the approach of the Housing Standards IIA to be "proportionate and relevant to the alterations being considered" (Inspector's report paragraph 9); concludes that a pragmatic and proportionate approach has been taken towards the gathering, up-dating and analysis of evidence presented in the parking Standards IIA (paragraph 34) and that it is sufficiently

robust and proportionate (paragraph 35); and accepts the HRA's findings that the Alterations would have no likely significant effect on protected nature conservation sites (paragraph 36).

- 5.12 Careful consideration has been given to the effect of the Inspector's recommendations and the Mayor's proposed response to them outlined in this report and in Annex B. Officers conclude that the proposed changes to MALP arising from accepting the Inspector's recommendations do not require further assessment. This will be considered again in the light of any further changes that are made as a result of this approval process, or arising from a ministerial direction.
- 5.13 There is no further requirement for public consultation. The GLA Act 1999 and associated 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 will be laid before the London Assembly at the appropriate time.

6 Financial comments

- 6.1 The expenditure of up to £51,000 to place statutory notice and print the revised version of the London Plan will be funded from the existing 2015-16 London Plan budget. Any changes to these proposals, including budgetary implications will be subject to further approval via the Authority's decision-making process. All appropriate budget adjustments will be made.

7 Legal comments

- 7.1 The Mayor is required to prepare and publish a spatial development strategy (known as the London Plan) under section 334 of the GLA Act 1999. 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.
- 7.2 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. 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.
- 7.3 The Mayor was required under Section 338 of the GLA Act 1999 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 from 21 to 22 October 2015. The Inspector's report was received on 15 December 2015. Under the Regulations the Mayor must publish the Inspector's report, within eight weeks of its receipt, make it available for public examination and send a copy to each London borough. This report therefore seeks approval to publish the Inspector's report.
- 7.4 The next stage is for the Mayor to send to the Secretary of State a statement of his intention to publish the Housing Standards and Parking Standards Minor Alterations to the London Plan (MALP), a copy of the text of the MALP which he intends to publish, and where he proposes not to accept any recommendation contained in the Inspector's report, a statement of his reasons for not accepting that recommendation. This MD therefore seeks approval to send the copies of the MALPs he intends to publish, with the other documents, to the Secretary of State.

Direction

- 7.5 The Secretary of State then has 6 weeks, or such longer period as he may require, in order to consider the MALPs. He may at any time before the Mayor publishes the MALPs give the Mayor a Direction under Section 337(7) of the GLA Act 1999 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,

- 7.6 If such a Direction is given, the Mayor must not publish the MALPs unless he has satisfied the Secretary of State that he has made the modifications necessary to conform with the Direction, or the Direction is withdrawn.

Assembly's power to reject alterations

- 7.7 The Mayor must also lay the MALPs he is ready to publish before the Assembly in order for it to consider whether or not to reject them within the 21 day period allowed. The Alterations that the Mayor lays for this purpose may be those he sent to the Secretary of State or those which include changes in accordance with any Direction.
- 7.8 If no successful London Assembly resolution to reject the MALPs is passed, the Mayor may proceed to publish them. The MALPs shall then become operative on the date on which they are so published. They will then formally constitute part of the Mayor's Spatial Development Strategy and of the development plan for Greater London. Further details concerning publication will be provided later in the process. Approval to proceed to this stage will be sought in due course.

Matters to which the Mayor should have regard

- 7.9 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.
- 7.10 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.
- 7.11 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.

- 7.12 The Mayor and GLA are also subject to the public sector equality duty, as set out in Section 149 of the Equality Act 2010. This duty is addressed in section 4 of this MD above.
- 7.13 These duties apply to the proposed MALPs and the Mayor's decision to approve the 'intend to publish' MALPs for submission to the Secretary of State and to the London Assembly.
- 7.14 IIAs for the Housing Standards MALP and the Parking Standards MALP and an HRA of the Parking Standards MALP were undertaken as detailed above in section 5 of this MD. These 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. Equalities Impact Assessments were included within the IIAs. 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 intended to publish versions of the MALPs. Officers do not consider the changes made during the EiP process required further formal assessment. Accordingly, the Mayor is asked to give particular attention to the reports. Officers do not consider that the Inspector's report raises any issue not addressed by the IIA or HRA.
- 7.15 Final Sustainability Statements will be published alongside the published MALPs.

8 Investment & Performance Board

- 8.1 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.

9. Planned delivery approach and next steps

- 9.1 Contingent on this MD being signed off by the Mayor before Thursday 24 December 2015, the remaining steps to the publication/adoption of the MALPs are as follows (if the MD is signed before this date, the timetable will be brought forward accordingly):

Monday 4 January 2016	<ul style="list-style-type: none"> publish the EiP Inspector's report submit the 'intend to publish' MALPs to the Secretary of State CLG
Thursday 11 February 2016	<ul style="list-style-type: none"> submit the 'intend to publish' MALPs to the London Assembly
Tuesday 16 February 2016	<ul style="list-style-type: none"> end of six week period within which the Secretary of State may direct the Mayor not to publish the MALPs
Wednesday 2 March 2016	<ul style="list-style-type: none"> London Assembly Plenary considers the MALPs
Friday 4 March 2016	<ul style="list-style-type: none"> end of three week period within which the Assembly can meet to consider the MALPs
week beginning Monday 7 March 2016	<ul style="list-style-type: none"> Mayor receives MD to agree MALPs publication/adoption commission statutory press notices FALP to the printers
by Friday	<ul style="list-style-type: none"> publish/adopt the MALPs

18 March 2016

Monday • pre-election period for GLA elections May 2016 commences
21 March 2016

Appendices and supporting papers:

Annex A	Report of the Inspector for the Examination in Public into the Minor Alterations to the London Plan – examination hearings held on 21 st and 22 nd October 2015
Annex B	Mayor's response to the MALP EiP Inspector's recommendations
Annex C	Housing Standards MALP Integrated Impact Assessment Report
Annex D	Parking Standards MALP Integrated Impact Assessment Report
Annex E	Parking Standards MALP Habitats Regulations Assessment Screening Report
Annex E1	opinion of legal counsel on the compatibility of the MALP Parking Standards with air quality law
Annex F	Intend to publish Housing Standards MALP ('clean' version, showing how it would look at final publication stage)
Annex G	Intend to publish Housing Standards MALP (showing the alterations)
Annex H	Intend to publish Parking Standards MALP ('clean' version, showing how it would look at final publication stage)
Annex I	Intend to publish Parking Standards MALP (showing the alterations)

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? 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 – 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. L. L.

Date

16.12.15

CHIEF OF STAFF:

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

Signature

Edward Lister

Date

16:12:2015

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT
 5301 S. DICKINSON DRIVE
 CHICAGO, ILL. 60637

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