



City of Westminster

## Cabinet Committee Report

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Date: **26 April 2006**

Classification: **For general release (except Appendix 3)\***

Title of Report: **Further Modifications to the RUDP Affordable Housing Policies following public deposit period**

Report of: **Director of Planning and City Development and  
Director of Legal and Administrative Services**

Wards involved: **All**

Policy context: **Performance Plan aims “ to promote a more sustainable environment – through review of the Unitary Development Plan”**

Financial summary: **There are no financial implications arising from this report**

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\* Appendix 3 is confidential by virtue of paragraph 425 of Schedule 12A to the Local Government Act 1972 because it contains ~~details of action to be taken in connection with legal proceedings by the Council~~ information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

## 1. Summary

- 1.1 On the 12 December 2005, in response to a Direction issued by the Secretary of State, Cabinet agreed modifications to the affordable housing policies. The proposed revised policies were then placed on deposit between 6 January 2006 and 24 February 2006. In response to comments made during the deposit period, officers have made some further minor changes to policy H 4. These changes are highlighted in **Appendix 1**. This report asks Cabinet to consider the representations made during the deposit period and to approve officers' responses as set out in **Appendix 2**, and seeks approval of the modified affordable housing policies STRA 14 and H 4 (attached as **Appendix 1**) in order that the Replacement UDP can proceed to adoption. If Cabinet agrees the revised modified policies, the City Council will then write to GoL inviting them to withdraw the Direction issued by the First Secretary of State.
- 1.2 The recommended changes to paragraph 3.42(a) of the policy application of Policy H 4 are designed better to reflect the reality of registered social landlords' (RSLs) funding regimes which can mean that 100% affordable housing developments are not always possible. The changes have been suggested in response to concerns raised by three RSLs. No other changes to the affordable housing policies are proposed in response to representations received during the deposit period, though some minor non-material changes to the supporting text are recommended to clarify certain matters at the request of the Council's Housing Department – see Section 5 of this report.
- 1.3 In accordance with Section 16(1A) of the Town and Country Planning Act 1990, the Council must consider whether to hold a further public inquiry into the objections to the proposed modifications to the affordable housing policies. For the reasons given in Section 6 of this report, it is not considered necessary or appropriate to hold a further public inquiry.

## 2. Recommendations

- 2.1 That Cabinet approves the officers' responses to representations received during the deposit period in respect of the proposed modifications to the affordable housing policies, as set out in **Appendix 2**.
- 2.2 That Cabinet approves the further revisions to the modified affordable housing policies set out in paragraphs 4.5, 5.1 and 5.3 of this report and in Appendix 1, as amendments to the RUDP policies STRA 14 and H 4 as approved by full Council on 13 December 2004, to be used for development control purposes and taken forward to adoption, together with the consequential editorial changes set out in paragraph 5.2 of this report.

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- 2.3 That, in view of the content of the representations received in response to the modifications to the affordable housing policies as placed on deposit in January 2006, it be agreed that it is not necessary or appropriate to hold a further public inquiry.
- 2.4 That the amounts set out in Policy H4 and its supporting text for payments in lieu of on-site affordable housing be amended in accordance with paragraphs 5.1 and 5.2 of this report, including consequential changes in Chapters 1 and 2.

### 3. Background Information

#### Preparation of the Replacement UDP

- 3.1 The Replacement Unitary Development Plan (RUDP) will, once adopted, be the up to date statutory land use plan for Westminster. Under Section 38 (6) of the Planning and Compensation Act 2004, planning decisions must be made in accordance with the adopted Plan unless material considerations indicate otherwise. All policies contained within the Plan are therefore fundamental for development control purposes.
- 3.2 The pre-inquiry version of the replacement Plan was approved by Cabinet on 26 August 2002. The public inquiry into objections to the UDP opened on the 15 October 2002 and closed on 28 March 2003. The Inspector's report was published on 5 January 2004. Modifications were drafted in response to the Inspector's recommendations, the most significant of which were replacement policies for the control of entertainment uses, policies TACE 8, 9 and 10. The modifications were approved by the Cabinet Member for Customer Services on 11<sup>th</sup> May. The proposed modifications were placed on deposit for 6 weeks from 14<sup>th</sup> May until 25<sup>th</sup> June 2004.
- 3.3 Cabinet on 20 September 2004 approved officers' responses to the objections and representations in relation to the proposed modifications and agreed that further non-material modifications be made to the Plan prior to its submission to full Council with a recommendation for adoption. On 3 November 2004 Full Council approved the wording of the UDP for the purpose of serving Notice of Intention to Adopt in accordance with the Regulations. Notice of Intention to Adopt was issued on 12 November 2004.
- 3.4 On the 9 December 2004, the Council received a direction from the Government Office for London (Secretary of State) pursuant to s17 of the Town and Country Planning Act 1990, requiring it to modify its policies relating to Affordable Housing so that outside the Central Activities Zone there would be a 50% requirement for affordable housing on any schemes which include residential accommodation, and so that the threshold for the policy's application in all areas should be lowered from 15 to 10 additional residential units.

- 3.5 13 December 2004, Cabinet resolved to defer the adoption of the UDP pending further consideration of the Direction from the Secretary of State (and representations from Sainsbury Supermarkets in relation to a separate matter, policy TRANS 18).
- 3.6 In order to safeguard the Council's ability to challenge the Direction in the event of the negotiations failing, or indeed in the event of a negative response to the revised policy at the deposit stage, a judicial review application was lodged in the High Court. The Court has agreed a stay of the proceedings while the negotiations with GoL are concluded, the stay being currently until July 2006, but being capable of extension if necessary.
- 3.7 In response to the Direction two revised policies, STRA 14 and H 4 were drafted. These new policies reflect informal discussions held with Government Office for London (GoL), during which the Council supplied information to GoL to justify the approach taken in the evolving revised policy, and also concerns expressed by the Mayor.
- 3.8 On the 12 December 2005, Cabinet agreed these revised affordable housing policies to be placed 'on deposit' for a period of six weeks. The 12 December Cabinet Report explains the background and reasoning behind the modified draft policies. This report is attached as **Appendix 4**. Revised STRA 14 and H 4 are a 'material consideration' under the Planning Acts and have been applied for development control purposes since 6 January 2006 – the first day of the deposit period.
- 3.9 During the deposit period the City Council received 11 duly made responses to the modified draft policies (and the accompanying Sustainability Appraisal). A summary of the representations, and officers responses to them, is contained in the Schedule attached to this report as **Appendix 2**. Further explanation of the issues raised and officer responses is provided in paragraphs 4.1 – 4.5. below. One additional response dated 2 March 2006 was received after the deposit period had ended, but it raised similar points to those made by two of the duly made responses - see para 4.4 vi) below. Cabinet must now consider the representations made during the deposit period and decide whether to approve the officers' responses as set out in **Appendix 2**.
- 3.10 Agreement of the modified affordable housing policies is a formal procedural step towards the adoption of the RUDP as a statutory development plan. If these policies are agreed, until formal adoption of the RUDP, they constitute a 'material consideration' under the Planning Acts, and will be applied for development control purposes from the date of agreement.

#### 4. Responses Received

- 4.1 The schedule attached to this report as Appendix 2 sets out the representations received and officers' responses to them. Eleven duly made

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submissions were received, 10 by letter and one by email. The full set of 11 responses (plus one late response) can be viewed as background papers.

- 4.2 Representations were received from the GLA, 4 from the landowner/development sector, 2 from registered social landlords (RSLs), 2 from registered amenity societies, and 2 from English Heritage and the Countryside Agency. There was general support for the policies (save from one developer) as offering the best compromise to the Direction, by maximising affordable homes without compromising overall residential development in the City. Five of the respondents did have objections to some aspects of the policies.
- 4.3 The GLA did not object, but did have concerns regarding the proposed 'staircasing'. However it concluded that the City Council's commitment to monitoring and review of the policy largely overcame its concern. The GLA stated that "These modifications resolve the outstanding general conformity issues, thus bringing the draft plan into general conformity with the London Plan."
- 4.4 Nine objections/concerns were raised by 6 respondents regarding:
- i) The convoluted nature of the staircasing (**the GLA**);
  - ii) Sites with extant planning permissions purchased at a price not reflecting the new affordable housing policies - the policy should allow for these (**Taylor Woodrow Development Ltd**);
  - iii) Sites with existing planning permission for residential use – policy should only apply to 'uplift' in later schemes (**Taylor Woodrow Development Ltd**);
  - iv) The proportion of affordable housing should merely be an indicative target (**Fairview New Homes Ltd**);
  - v) Threshold should be 15 not 10 as per Circular 6/98 (**Fairview New Homes Ltd**);
  - vi) The assumption that RSL developments will consist of 100% affordable housing – market housing is often needed to cross subsidise the affordable element (**Threshold Housing, Octavia Housing and Care**);  
The same point was also made by **Genesis Housing Group** in their late submission;
  - vii) The low proportion of key worker housing (**St Marylebone Society**);
  - viii) Maintenance costs of affordable housing (**St Marylebone Society**);  
and
  - ix) The lack of clarity in the Sustainability Appraisal (**St Marylebone Society**).

Officers' responses to these concerns can be seen in the Schedule attached as **Appendix 2**. Changes to the supporting text of policy H 4 are recommended in response to objection/concern vi) above.

#### **Recommended changes to supporting text of policy H 4 as a result of the submissions**

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- 4.5 In response to the representations received during the deposit period, officers recommend changes be made to the H 4 Policy Application at para. 3.42 (a) and the annotation in Figure 3.4, in order to allay concerns expressed by the RSLs that a rigid policy demanding that 100% of their developments should be affordable was inequitable and would constrain their ability to develop affordable housing. The new wording is more flexible and recognises RSLs' wider strategy for investment by stating:

3.42 a) Where housing proposals are brought forward by a registered social landlord, 100% of the units should be affordable, except where it is necessary for a proportion of the units to be for sale or rent on the open market to subsidise affordable housing on the same site, or on other affordable sites in Westminster being developed by the registered social landlord at the same time. The advice of the Housing Department will be sought whenever schemes involving such arrangements are proposed<sup>1</sup>.

Annotation in Figure 3.4:

Sites to be developed by RSL's: generally up to 100% (see para. 3.42 (a)).

- 4.6 For the reasons set out in the officer responses in Appendix 2, officers do not consider that any other representations warrant making other changes. No other changes to policies STRA 14 or H 4 are recommended as a result of the representations received.
- 4.7 The issues raised in the representations, and the officers' responses to them, were either discussed at the first Public Inquiry in 2004, and/or are already dealt with in the policy, and/or are of such a nature that they do not warrant a further inquiry. In view of this it is not considered that a further public inquiry is needed. This matter is discussed in more detail in section 6 of this report.

## 5. Other proposed changes to supporting text of policy H 4 (to better reflect Housing Corporation procedures)

### Suggested update to paragraphs 3.49, 3.52, and Appendix 3.2 regarding Total Cost Indicators (TCI)

- 5.1 Payments in lieu of on-site affordable housing are based on a formula which has been updated annually, with the revised figures applicable from 1<sup>st</sup> April. This Cabinet report is therefore an appropriate opportunity to incorporate an updated figure for 2006/7 in the finalised policy. In addition, the formula has until now been calculated using the Housing Corporation's published TCIs which have been updated annually. Because the Housing Corporation no longer intend to use or publish TCIs, a new formula for calculating payments in lieu therefore needs to be devised. Until research on a new formula is carried out, it is suggested that for 2006/2007 the amounts set out in policy H4 are increased by 7% to include land price inflation that has occurred in 2005/6. This percentage is based on advice from the City Council's valuation

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consultants. Paragraphs 3.49, 3.52 and Appendix 3.2 therefore need to be amended as follows

3.49 Where a partner RSL is to be involved in producing the required affordable housing units, the developer has the option of transferring the necessary land at nil value. Alternatively, the developer may wish to build the units and sell them to the RSL at a price that reflects the discounted land value. However, developments by RSLs must comply with the ~~Total Cost Indicators (TCI) produced by the Housing Corporation funding regime~~ and the cost to the RSL of the affordable housing units must reflect this constraint. Where an RSL is not used, the developer together with any associated partners will be expected to bear the entire cost of the affordable housing and ensure it remains affordable for successive occupiers (see paragraph 3.56). New funding opportunities may ~~also arise through changes to the rules relating to social housing grant allocations, thereby allowing~~ allow developers of larger sites to apply for grants themselves instead of through RSLs.

(3.50 – Para unchanged)

#### **Financial contributions**

(3.51 Para unchanged)

(A) The per unit sum:

3.52 ~~This amount will be calculated from t~~ This amount will be calculated from the Housing Corporation's Total Cost Indicator (TCI) for 2005/06, which gives the cost of land in Inner London as £125,000 per 75-80 square metre unit. ~~For 2006/07 the figure is £134,000 which reflects the 7% rise in land values which has occurred since April 2005. This figure will be updated annually by the Council from 1<sup>st</sup> April each year thereafter in line with changes in land prices.~~ The unit size of 75-80 square metres is represents the average size of unit ~~most frequently~~ required by the City Council to meet its housing needs. ~~The TCI figures are revised every year and are published in August to come into effect the following April: this figure is likely, therefore, to change every financial year.~~

#### **Appendix 3.2**

##### **Examples of financial contributions to affordable housing.**

In all examples, the ~~£125,000~~ £134,000 in the final line is the land cost element relevant proportion of the Housing Corporation TCI valid for ~~2005/6~~ 2006/7, which will be reviewed annually (see para 3.52).

(Each of the six examples in Appendix 3.2 will also need to be revised to reflect the amended land value figure of £134,000.)

#### **Consequential editorial amendments**

5.2 The Housing Corporation's TCIs, and the land cost element of £125,000, are also referred to in Chapters 1 and 2 of the RUDP. In both chapters, the

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references are in the paragraphs that explain the formula to be applied where the Council accepts that an increase in office or commercial floorspace is to be balanced by the payment of a financial contribution to the Council's affordable housing fund. These paragraphs, nos. 1.67, 1.68 and 2.33, will therefore need to be updated to be consistent with the revised policy H 4.

#### **Suggested update to paragraph 3.47 re. size and mix of affordable housing units**

5.3 RSLs depend on Housing Corporation funding. It is therefore important that developers are aware, at an early stage, of the Housing Corporation funding regime, guidelines, and standards, so that housing produced is fit for purpose. In recognition that social housing units less than 75 sq m may sometimes be appropriate in specific circumstances, it is proposed that para 3.47 should be clarified to refer to a gross internal floorspace with an average of 'about' 75 sq. m. rather than 'at least' 75 sq. m.. This would also reflect Housing Corporation guidelines which allow 2 bedroom affordable flats to start from around 60 sq.m. (depending on how many people they were designed for). Para. 3.47 would then read as follows:

3.47 The affordable housing element should provide suitable accommodation for its likely occupants. Such housing is likely to comprise mainly two and three bedroom units, with a The average gross internal floorspace of affordable units will be at least about 75 square metres. One bedroom dwellings may be suitable for some key workers, but accommodation smaller than two bedrooms is not likely to be suitable for residents in housing need. The layout of the affordable housing units should comply with Scheme Design Standards as specified by the Housing Corporation. Policy H5 requires a range of accommodation sizes and this will be applied to the development as a whole. The Housing Department produces an Annual Supply and Allocations Report, which indicates the City Council's current affordable housing need. It is essential that affordable housing issues be discussed with officers and potential RSL partners at the earliest stage (prior to the submission of a planning application) in order to agree the number and size of affordable units required, tenure split; and design standards.

## **6. Consideration of the need for a further public inquiry**

6.1 Case law and Government guidance suggest that, in deciding whether or not to hold a further inquiry, the Council should have regard to the following considerations (which are set out more fully in the Legal Implications section of this report):

- (a) Whether an inquiry would materially add to its understanding of the facts and opinions relevant to the proposed modifications.
- (b) Whether a decision not to hold an inquiry would be unfair to objectors to the proposed modifications or to counter-objectors, i.e. those for whose sake the Council had published the modifications. In both cases the question to be asked is whether their arguments have already been sufficiently aired at the 2004 public inquiry.
- (c) The delay occasioned by holding a further inquiry and the desirability of securing an up-to-date development plan.

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- (d) To what extent the representations made during the deposit period raise new matters which were not in issue at the time of the 2004 inquiry.

6.2 Council officers have considered all the representations received in relation to the proposed modifications and the suggested responses to those representations, and are of the opinion that a further public inquiry is not necessary or desirable. This is because the issues raised in the representations were either discussed at the first public inquiry in 2004, and/or are already dealt with in the policy, and/or are of a nature not considered to warrant a further public inquiry. The matters considered in reaching this view are set out in the following paragraphs:

- i) Five respondents raised objections to 7 separate matters. Of these 7 matters (which are discussed in more detail in paras. 6.2 – 6.4 below):
- the two raised by Taylor Woodrow are already covered by the policy, and would therefore not benefit from further discussion;
  - the use of a site requirement rather than a target (raised by Fairview Homes) was discussed at the 2004 UDP public inquiry and was accepted by the Inspector. It was also requested by the Secretary of State in the Direction given to the Council on 9<sup>th</sup> December 2004;
  - the modification (also objected to by Fairview Homes), introducing a 10 unit, 3 hectare threshold, was specifically requested by the Secretary of State in his Direction (and in similar Directions made to other London authorities);
  - the objection concerning the 100% affordable housing presumption on sites brought forward by RSLs has been addressed by incorporating further flexibility into the policy. Furthermore, neither the objection nor the proposed change to the policy application officers propose in response to the objection are considered to raise issues on which others are likely to want to be heard at a fresh inquiry;
  - the point concerning the 5% keyworker housing (raised by the St Marylebone Society) was discussed at the 2004 UDP Inquiry and was accepted by the Inspector; and
  - the objection concerning maintenance costs of social housing raises an issue outside the scope of the affordable housing policy.

Thus it is not considered that the representations received during the deposit period raise new issues or issues which were not adequately aired at the 2004 public inquiry or are not covered in the policy itself. Accordingly officers are of the opinion that a decision not to hold a further inquiry would do no injustice to those who made representations.

- ii) the GLA has stated that it considers the modified policies are now in conformity with the London Plan;
- iii) the decision not to hold a further public inquiry is unlikely to be considered unfair by the objectors or by other parties; and finally;

- iv) Council officers are of the view that a further public inquiry would not be of any material benefit to the decision making process, and would merely lead to a further delay in the adoption of the Replacement UDP. Given that 2 years have already elapsed since the 2004 public inquiry, a further delay is considered highly undesirable.
- v) The RUDP will be valid only for 3 years after it is adopted, after which it will be replaced by the new Local Development Framework. Thus the Council's affordable housing policies will be subject to review fairly soon.

Brief comments on the main objections are set out below.

6.3 Taylor Woodrow Development Ltd raised two main points:

- i) the new policy fails to recognise the situation where a site with low existing use value has already had its value increased by an extant planning permission.
- ii) unfairness in applying the new policy to sites with existing planning consents; they suggest new policy should only apply to additional units proposed in subsequent applications.

The Council acknowledges that existing permissions may have an impact on financial viability, and the revised policy and its reasoned justification do indeed take into account these matters by including an acknowledgement of the need to take account of practical and financial reality, and any other material considerations raised by an applicant.

Policy H4 (C) states that, in assessing the amount of affordable housing to be sought, the City Council will take into account whether:

- there will be particular costs associated with the development of the site
- the provision of affordable housing would make it difficult to meet other planning objectives that need to be given priority in developing the site.

The first point would include the costs of purchasing the site, based on a valid permission issued under the previous affordable housing policy. The second point includes the Council's high priority to maximise residential development.

For the reasons set out in the officer response to Taylor Woodrow in Appendix 2, it is considered that the present wording of the policies already cater for the situations described by Taylor Woodrow. No amendment to the policy or its 'policy application' is therefore considered necessary, and no issues are raised by the objection that would justify the holding of a further public inquiry.

6.4 Fairview New Homes Ltd considered policy H 4 contrary to Circular 6/98, and that the proportion of affordable housing required should be an indicative target, and the threshold for the policy should be 15 units not 10.

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A 'site requirement' and the 10 unit threshold were both specified by the Secretary of State in his Direction to Westminster (and the 10 unit threshold was also specified in Directions to other London boroughs). The approach of having site requirements rather than targets was discussed at the UDP Inquiry and was accepted by the Inspector, and is considered to be consistent with both Circular 6/98 and draft PPS 3 as well as guidance by the Mayor in his Supplementary Planning Guidance on Housing (November 2005). In view of these matters, it is not considered that the issues raised by this objection would justify the holding of a further public inquiry.

- 6.5 There is a case for allowing the objection of Fairview New Homes Ltd to be adjudicated upon by an independent Inspector. However in view of the terms of the Direction issued by the Secretary of State, it is considered highly unlikely that Fairview's arguments would prevail. Therefore it is not considered appropriate to hold a public inquiry for Fairview's objection.
- 6.6 Threshold Housing and Octavia Housing and Care both expressed concern about the 100% affordable housing presumption on sites brought forward by RSLs. They thought it was not fair or equitable that different requirements should be placed on RSLs compared with other developers, when RSL funding often means that a proportion of market housing is often necessary to subsidise affordable housing on the same, or other sites.
- 6.7 The City Council is of the view that a distinction can still be made between RSL developments (which, given the broad context of an RSL's purpose, will be driven by the desire to provide the affordable housing) and development by private house builders. However, the revisions to paragraph 3.42(a) set out in para. 4.5 above, make it clear that the City Council acknowledges that this type of cross-subsidy of affordable housing may need to apply to other sites being developed by the RSL at the same time, in addition to applying within a development site. Neither the objection nor officers' proposed consequential amendments are considered likely to lead to any counter-objection, and it is therefore not considered that the issues raised by this objection would justify the holding of a further public inquiry.
- 6.8 In summary, officers are of the view that a further public inquiry would not be of any material benefit to the decision making process, and would purely lead to a further delay in the adoption of the Replacement UDP. Only in relation to Fairview's objection is it considered that a case could be made for holding a further inquiry but, for the reasons given in paragraph 6.3 this is not considered appropriate.

## **7. Next steps towards adoption of the RUDP**

- 7.1 If the revised modified affordable housing policies are agreed it is hoped that they will be sufficient to enable the Secretary of State to lift the Direction.

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- 7.2 GoL indicated in their 'without prejudice' letter of 10 November 2005 that the policies placed on deposit would be sufficient to enable them to recommend to the Secretary of State that he lifts his Direction. They advised that a final decision would not, however, be made until the modifications were closer to adoption.
- 7.3 Given that the GLA has expressed support for the modified policies and now considers them to be in conformity with the London Plan, and that the number and scale of the objections received was limited, it is hoped that the Secretary of State will withdraw the Direction. If Cabinet agrees the revised modified policies, the City Council will write to GoL inviting them to withdraw the Direction in order that the RUDP can proceed to adoption.
- 7.4 Adoption of the RUDP is also dependent on a satisfactory conclusion to the TRANS 18 issue, relating to road widening in Edgware Road. Officers are still considering the conclusions of the Secretary of State in his decision letter on the recent planning appeal concerning the West End Green Properties site and will be reporting their recommendations shortly to the Cabinet Member for Planning and Customer Service. Any further modifications to Policy TRANS 18 will need to be placed on deposit for the statutory 6 week period for representations to be made by members of the public.
- 7.5 In order to safeguard the Council's ability to challenge the Direction in the event of the negotiations failing, or indeed in the event of a negative response to the revised policy at the deposit stage, a judicial review application was lodged in the High Court. The Court has agreed a stay of the proceedings while the negotiations with GoL are concluded, the stay being currently until July 2006, but being capable of extension if necessary.

## **8. Financial Implications**

- 8.1 In the event that the Direction is not lifted, the cost of pursuing a Judicial Review is as set out in paragraph 2.2 of the confidential appendix (No 3) on legal issues.
- 8.2 It is intended that the cost of a Judicial review, should it occur, would be met within existing budgets with the assistance of Planning Delivery Grant (PDG). Such costs are within the scope of expenditure covered by the PDG. However, covering the costs, if they do arise, will involve careful management of current and potential future years' PDG income.

## **9. Legal Implications**

- 9.1 The legal implications are set out in the confidential appendix on legal issues (attached to this report as Appendix 3) which is an update of the confidential appendix to the 12 December 2005 report.

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## **10. Staffing Implications**

10.1 There are no immediate staffing implications as a result of this report.

## **11. Outstanding Issues**

None

## **12. Performance Plan Implications**

12.1 The Department of Planning and City Development Business Plan 2005/6 notes that the Council have agreed the adoption of the UDP but that it cannot be adopted following intervention by GoL on affordable housing policies. It then cites as a Key Priority to 'Achieve the adoption of the Unitary Development Plan and dependent Supplementary Planning Guidance, Conservation Area Audits and other supporting documentation'.

## **13. Consultation**

13.1 The modified policies have been subject to a 6 week statutory deposit period, in accordance with Regulation 28 of the Town and Country Planning (Development Plan) (England) Regulations 1999.

## **14. Crime and Disorder Act**

No implications.

## **15. Health and Safety Issues**

15.1 There are no direct health benefits (or disbenefits) arising from this report. However, if agreed, the proposed affordable housing policy will provide housing for some of those who cannot afford market housing in Westminster. Those households who are beneficiaries of the policy will generally experience an improvement in health and well-being as a consequence of improved housing conditions.

## **16. Co-operation with Health Authorities**

No implications

## **17. Human Rights Act 1998**

No implications

## **18. Equality Implications**

None

## **19. Conclusions and Reasons for the Proposed Decision**

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- 19.1 The City Council has received 11 duly made representations to the revised affordable housing policies placed on deposit from 6 January to 24 February 2006.
- 19.2 The schedule in **Appendix 2** sets out details of the representations, and the officers' views on the appropriate responses to them. It is recommended that only one aspect of the policy be amended – namely, that the reference to Registered Social Landlords developing schemes that are 100% affordable housing should be revised to clarify its meaning, and to allow for flexibility where appropriate to ensure RSL schemes can progress. This amendment is set out in para 4.5 above.
- 19.3 For the reasons set out in the Schedule in **Appendix 2**, it is not considered that any of the other representations justify further amendments to the draft policies.
- 19.4 It is recommended that the opportunity is taken to make certain minor editorial clarifications and updates, as set out in section 5 of this report.
- 19.5 This report recommends that the Cabinet agrees the revised UDP Affordable Housing policies (STRA 14 and H 4) attached to this report as **Appendix 1** as an amendment to the RUDP policies STRA 14 and H4 as agreed by full Council on 13 December 2004, to be used for development control purposes and to be taken forward to adoption.
- 19.6 It is not considered necessary or appropriate to hold a further public inquiry, given that most of the issues raised in the objections received during the deposit period have already been discussed at the UDP Inquiry, or are already addressed in the policy or are of such a nature that they do not warrant a further inquiry. The objection by the RSLs, and the proposed change to the policy application in response, are not considered to raise issues which in the interests of fairness need to be considered at a further inquiry, or which are likely to raise counter objections from other parties. Officers are of the view that a further public inquiry would not be of any material benefit to the decision making process, and would purely lead to a further delay in the adoption of the Replacement UDP.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT MARGARET HANDOVSKY ON 020 7641 1818; EMAIL ADDRESS mhandovsky@westminster.gov.uk; FAX NUMBER 020 7641 3050

#### LIST OF APPENDICES

1. Proposed Post-deposit revised policies STRA 14 and H4. ~~(Figure 3.4 supplied as a separate document, to be inserted as Page 16 of H4).~~
2. Schedule of Responses and officer responses to revised affordable Housing policies, as placed on deposit.

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3. Confidential appendix on legal issues

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~~4. Report to Cabinet 12 December 2005, including revised policies STRA 14 and H 4 as proposed for deposit~~

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~~5. Sustainability Appraisal of Revised policies STRA 14 and H 4 as proposed for deposit 12 December 05~~

**BACKGROUND PAPERS**

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The documents used or referred to in compiling this report were: -

1. Responses received to the modified affordable housing policies during the January/February 2006 deposit period (total 11 plus one late submission)
2. Report to Cabinet 13 December 2004.
3. Replacement Unitary Development Plan as agreed by Full Council 13 December 2004.
4. Direction, by the Secretary of State dated 9 December 2004.

~~5. Report to Cabinet 12 December 2005, including revised policies STRA 14 and H 4 as proposed for deposit~~

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~~6. Sustainability Appraisal of Revised policies STRA 14 and H 4 as proposed for deposit 12 December 05~~

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~~CITY OF WESTMINSTER~~

~~REPORT SUBMISSION FORM FOR USE BY ALL REPORT AUTHORS~~

~~TITLE OF REPORT : The City of Westminster Draft Open Space Strategy~~

~~CABINET MEETING DATE (if appropriate) 20 March 2006~~

~~I confirm that in drafting the attached report consideration has been given to the following:-~~

~~Financial implications yes/ Officer Mark Green....~~

~~Legal implications yes/ Officer Peter Large....~~

~~Implications in respect of /no\* Officer consulted~~

~~.....  
Duty of partnership  
under Sections 26 & 27  
of the Health Act 1999~~

~~Implications in respect of /no\* Officer consulted~~

~~.....  
Section 17 of the Crime  
and Disorder Act 1998~~

~~Human Rights Act 1998 /no\* Officer consulted~~

~~.....  
Implications~~

~~Health and Safety/welfare /no\* Officer consulted~~

~~.....  
implications~~

~~Personnel implications no Officer~~

~~consulted.....  
(if there are staffing issues  
involved)~~

~~Information Technology /no\* Officer consulted~~

~~.....  
Implications~~

~~Property Implications /no\* Officer consulted~~

~~.....~~

~~Performance Plan implications /no\* Officer consulted .....~~

~~Ward Members' comments /no\* Ward Member(s)~~

~~consulted .....~~

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~~Lead Members comments /no\* Lead Member(s) consulted~~

~~Overview & Scrutiny /no\* Committee Views~~

~~Area Forum Comments /no \* Name of Area Forum~~

~~Police Authority Comments /no\*~~

~~Health Authority Comments /no\*~~

~~Other Government Department /no\* Or Agency Comments~~

~~"key decision"? yes/ Included in yes/ Forward Plan?~~

~~Covered by any of yes/no\* the 10 plans forming (which?) part of the "policy framework"~~

~~Consistent with budget yes and policy framework?~~

~~If this report is for decision by an individual Cabinet Member, has the individual Cabinet Member been consulted on it at draft stage? n/a~~

~~Signed~~

~~Department~~

~~Date~~

~~\*delete as appropriate~~

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