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# Independent Examination of the North London Waste Plan to 2035 Matters, Issues and Questions

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Inspector appointed by the Secretary of State

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## Introduction

Following the initial examination of the North London Waste Plan to 2035 (the Plan) and the supporting material set out below are the Matters (topics) and Issues (points for consideration) that will form the basis for discussions during the Hearing sessions. Matters and Issues may change as the examination progresses, although participants will be given an opportunity to comment on any new issues that may arise.

In this note questions of the Boroughs that potentially go to matters of soundness or which concern representations have been made. The advice provided in the National Planning Policy Framework (February 2019) (NPPF) and the National Planning Policy for Waste (October 2014) (NPPW) will apply for the purposes of the Examination of the Plan.

In framing the Matters, Issues and Questions (MIQ's) consideration has been given not only to the definition of soundness at paragraph 35 the Framework but also the principles for Local Plans set out in paragraph 16. The Framework establishes that policies should be clearly written and unambiguous, so that it is evident how a decision maker should react to a development proposal. The Plan should therefore set out clear policies on what will or will not be permitted.

Below are general and detailed comments and questions which should be addressed in hearing statements. Answers should be supported by reasons and section(s) of the supporting documents and evidence base should be referred to as appropriate. A separate document should be submitted in response to each Matter. **The Boroughs and all other participants should submit hearing statements to the Programme Officer by Monday 28<sup>th</sup> October 2019.**

## A LEGAL COMPLIANCE

### **Main Matter 1 – Duty to Co-operate and Legal Issues**

#### **Duty to Co-operate**

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1. Have the Boroughs engaged constructively, actively and on an ongoing basis with all relevant organisations on strategic matters of relevance to the plan's preparation, as required by the Duty to Co-operate (under s 20(5)(c) and 33A)? On which issues has co-operation taken place? How was co-operation carried out and with what results? Has this been documented? Are there any outstanding issues?
  2. How has the Duty to Co-operate been met with regard to the spatial plans of:
    - a) all the relevant prescribed bodies in London, including constituent Greater London Authority, City and London Borough Councils and neighbouring Councils?
    - b) all relevant local authorities and prescribed bodies outside London on strategic and cross boundary matters in the wider South East?

**Planning and Compulsory Purchase Act 2004, Section 19 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)**

3. Has the Plan been prepared in accordance with the Local Development Scheme including content and timescale?
4. Has the Plan been prepared in compliance with the adopted Statement of Community Involvement (SCI), allowing for effective engagement of all interested parties and meeting the minimum consultation requirements set out in the regulations?
5. Have the Boroughs carried out a Sustainability Appraisal (SA) and prepared a report on the findings of the appraisal? Is there clear evidence to indicate why, having considered reasonable alternatives, the strategy in the Plan is an appropriate response? Does the methodology conform to that in the National Planning Policy Framework (NPPF), National Planning Policy for Waste (NPPW) and Planning Policy Guidance (PPG)?
6. Is the Plan consistent with national policy, including the NPPF, NPPW and PPG? Are there any significant departures from national policy? If so, have they been justified?
7. Does the Plan comply with the 2004 Act and the 2012 Regulations in terms of publishing and making available the prescribed documents?
8. Is it clear how the Plan secures development that contributes to the mitigation of, and adaptation to, climate change?
9. How have issues of equality been addressed in the Plan? In particular, how will the Plan help to advance equality of opportunity between people who share a "protected characteristic" as defined in the Equality Act 2010<sup>1</sup> and those that do not share it and further the other two aims of the Act?

**Conservation of Habitats and Species Regulations 2017**

10. Does the Plan meet the requirements of the Conservation of Habitats and Species Regulations 2017, including any relevant case law [in particular the ruling of 12 April 2018 by the Court of Justice of the European Union (CJEU) *People over Wind, Peter Sweetman v Coillte Teoranta*, Case 323/17] to

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<sup>1</sup> "Protected characteristics" are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

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consider the likely significant effects of projects or plans on European protected sites, individually or in-combination? In particular, have Appropriate Assessments been undertaken under the Habitats Directive? If not, has a screening exercise shown that there is no need for such assessments?

### **Flood Risk**

11. Is the Strategic Flood Risk Appraisal (SFRA) adequate, up to date and compliant with paragraph 157 of the NPPF?

## **B SOUNDNESS**

### **Main Matter 2 – Aim and objectives for Waste Development**

**Issue:** Whether the Aim and Strategic Objectives of the Plan are the most appropriate, are soundly based and provide an appropriate basis for meeting the future waste management needs sustainably.

12. Does the Plan adequately reflect future patterns of growth in plan area?
13. Does the Plan cover everything necessary, as set out in the Framework, NPPW and PPG?
14. Explain how the outcomes of the Sustainability Appraisal (SA) have informed the Aim and Strategic Objectives of the Plan to reflect the principles of sustainable development with particular regard to the mitigation of, and adaptation to, climate change and sustainable transport.
15. Does the Plan demonstrate that adequate consideration has been given to cross-boundary issues and strategic priorities? In particular, is the aim correct as some of the North London Boroughs will be partially reliant on areas beyond the plan area for the management of waste by landfill?
16. Is the aspiration for net self-sufficiency an appropriate strategy for all waste types, excluding excavation waste, and does the aim make it clear that this excludes excavation waste or should excavation waste be referred to in the aim/objectives?
17. Is it clear when the aim of net self-sufficiency for the waste streams identified is to be achieved and is this aim of the Plan adequately reflected in the Monitoring and Implementation section? In particular, paragraph 5.6 identifies that North London is a net exporter of waste. Therefore, how does the Plan, and over what period, move the management of waste from a position of net exporter to net self-sufficiency and how is this to be monitored?
18. Should the aim and objectives refer to waste imports and/or seek any reduction in waste imports taking into account the needs of neighbouring Councils?
19. Is it clear which version of the London Plan is referred to in the strategic objectives and throughout the Plan?
20. Is there a need to refer to conformity or otherwise with the emerging new London Plan as, this plan refers to a target of 2026 for net self-sufficiency in all waste streams excluding excavation waste?
21. How does S07 contribute to the sustainable transport of imported waste?
22. How do the objectives consider co-locational benefits?

### **Main Matter 3 – Spatial Framework for Waste**

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**Issue:** Whether the Spatial Framework for waste management is appropriate and is soundly based.

23. Does the Spatial Framework adequately reflect the aim and objectives for waste development?
24. Is the methodology/assessments used to calculate capacity gaps, amount of waste to be managed and land take requirements robust and clear and does it adequately take into account any potential future dampening factors on growth and forecasts in waste arisings?
25. Should any reference be made to the waste forecasts and methodology used in the emerging new London Plan?
26. Does the methodology/assessments utilise the latest data and could there be any 'over-inflation' in the outputs from the methodology? In particular, if Table 3 and paragraph 5.6 identify surplus capacity, and the same paragraph also refers to North London as being a net exporter, could there be an argument that the proposals for future waste facilities would result in over provision? If not, should there be more detailed explanation as to why this is not the case?
27. Should the Plan provide more data on waste imports and consider/identify the effect of imports on the aspiration of net self-sufficiency?
28. How does the Plan reflect the proximity principle in relation to sustainable waste transport movements?
29. Does/should the Plan consider opportunities for replacement capacity outside of the plan area?
30. In paragraph 4.11 is the phrase "Green Belt in the north, will be largely out of bounds" appropriate and overly constraining? Does this appropriately take into account the fact that a very special circumstance would be necessary to support waste development proposals in the Green Belt?
31. Should paragraphs 4.18 and 4.19 make any reference to the impact of decentralised heat and energy opportunities on climate change? Should any reference be made to the carbon dioxide emission objectives in the emerging new London Plan?
32. As the plan period is to 2035, should Table 3 also provide capacity to the end of the plan period as oppose to 2029 and therefore provide consistency with Table 6?
33. Is figure 6 'user friendly' in terms of achieving a clear and coherent geographical representation? Paragraph 4.7 of the Plan refers to the fact that figure 6, which isn't titled as such on the figure, shows existing waste sites. Although these are shown in the key, they are not shown on the map and neither is the area for Decentralised Energy Opportunity.
34. Is paragraph 5.13 clear as to why the Circular Economy Package recycling target of 65% for municipal waste (LACW and C&I) by 2030 has only been applied to C&I waste in the Plan? Is the effect of this target clearly identified in the Plan, or reasons as to why it has no effect clear? Does this target have any effect on the data contained within tables 6 to 9?
35. Paragraph 5.27 indicates that exports in LACW/C&I waste have been steadily declining in recent years. However, Table 4 shows a significant increase in

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- waste exported for these waste streams between 2014 and 2016. Therefore, is paragraph 5.27 correct and should some explanation be provided as to why such increase occurred? Moreover, the increase in exports for this waste stream over the period 2014 to 2016 (against a steady decrease from 2011 to 2014) would appear to undermine the aspiration for net self-sufficiency unless there is some explanation identified for this or that there is planned response to reduce this exported tonnage.
36. In Table 4 should C&D waste be shown separately from Excavation (E) waste, particularly as C&D waste is subject to self-sufficiency aspirations and E waste is not?
  37. Paragraph 5.22 indicates that 53,420 tonnes of hazardous waste was produced in 2016. The same paragraph indicates that 53,107 tonnes (99.4%) of this waste was exported out of North London for management. However, Table 4 shows that 10,352 tonnes of hazardous waste was exported in 2016. How is discrepancy explained and is the Plan robust in its approach to the future management of hazardous waste to achieve self-sufficiency?
  38. Are the land take requirements in Table 7 robust and should the Plan seek to provide opportunity to intensify capacity at existing sites by seeking more efficient use of land?
  39. Does the text of paragraph 7.18 conflict with the tonnages shown in Table 9? In particular, this paragraph indicates an anticipated decline in landfilling of North London's waste over the plan period. However, Table 9 shows that the total projected exports to landfill from North London increases in each of the identified years to 2035. How is this conflict to be reconciled and evidenced? Is the statement in paragraph 7.18 that there are sufficient landfill sites available to take North London's waste based on an anticipated decline in tonnage or does this cater for the increase in tonnage identified in Table 9?
  40. Does the Plan adequately take into account the fact that existing landfill capacity outside of North London may also be taken up by other local authorities waste?
  41. Should C&D predicted waste arisings be related to construction activities as oppose to employment growth?
  42. Should the 95% target for beneficial use, as set out in the draft new London Plan be incorporated in the Plan?
  43. Is it clear that the Spatial Framework appropriately reflects the relationship between existing population and population growth and future infrastructure provision in relation to likely future waste generation and the need for new facilities?
  44. Does the Plan appropriately take into account future development allocations and strategies in Local Plans with regard to the future need, provision and location of waste facilities?
  45. Is paragraph 5.18 correct as the Environment Strategy (2108) is understood to aim for zero biodegradable waste to landfill by 2026 and not 2030?
  46. Is the last sentence of paragraph 5.21 correct as the recycling target only applies to C&D waste and not excavation waste?
  47. Should paragraph 5.26 be updated in the light of representations made by Thames Water?

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48. Does Table 8 sum correctly or is there some explanation that needs to be provided in relation to this matter?

#### **Main Matter 4 – Future Waste Management Requirements**

**Issue:** Whether the future waste management requirements are justified by the evidence based.

49. Is the site and area search and selection process (methodology) clear, robust and justified?
50. Are facilities, existing and proposed, appropriately located in close proximity to waste sources, particularly as the Sustainability Appraisal identifies that some Boroughs are better equipped to deliver suitable waste sites than others?
51. Does the Plan provide sufficient guidance for the Boroughs to consider the implications of existing and future waste management facilities with regard to land use planning allocations and policy formulation within their Local Plans?
52. Does the Plan identify existing and future areas of focus to enable the waste industry to deliver the facilities that are needed over the plan period relevant to the types of waste streams that need to be managed and the operational requirements of the respective waste management facilities?
53. How does the Plan encourage co-locational waste management?

#### **Main Matter 5 – Policies**

**Issue:** Whether the policies strike an appropriate balance between making appropriate provision for waste management over the plan period and protecting people and the environment.

##### **Policy 1**

54. Is there a conflict between the requirements of Policy 1 and supporting paragraph 9.7 and paragraph 8.11? In particular, Policy 1 and paragraph 9.7 requires that compensatory capacity will be delivered on a suitable replacement site within North London. However, paragraph 8.11 identifies that some replacement capacity will be replaced outside of North London. Whilst clarification of this matter is required, how can replacement capacity outside North London be achieved beyond the administrative boundaries of the plan area and how does this effect the aspiration for net self-sufficiency?
55. How is 'close proximity' to be defined for the purpose of development proposals? Is it more appropriate to just consider development that may prevent or prejudice the use of waste sites irrespective of proximity?
56. Should Policy 1 identify that safeguarded sites can be lost without compensatory replacement capacity if it can be demonstrated that sufficient capacity exists within North London or London as a whole for the management of the lost waste stream facility?
57. Is 'to the satisfaction of the relevant borough' necessary?
58. In the final paragraph of the policy should compensatory provision also need to 'at least meet, and, if possible exceed, the maximum achievable throughput of the site that would to be lost'?

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59. Should paragraph 9.10 explain that the 'Agent of Change' applies to other impacts and not just noise? Should this reflect the guidance set out in emerging Policy D12 of the draft new London Plan?

## **Policy 2**

60. Should the Policy refer to the additional land area requirements identified in Table 7?

61. Is the methodology for identifying Schedule 2 and 3 Areas robust?

62. Is the identification of the 'waste facility type' in Table 11 appropriate or should this matter be left to the development management process? If the waste facility type is proposed to remain, should Table 13 be introduced earlier or as part of Table 11 to explain what facility types A-E are?

63. Should the Friern Barnet Sewage Works/Pinkham Way (A22-HR) site be removed from Table 11? How does the Plan reconcile the compatibility of the site for waste management uses with the designation of part of the site as a Site of Importance for Nature Conservation (SINC)? Does the fact that this site is not a Strategic Industrial Location (SIL) or a Locally Safeguarded Industrial Site (LSIS) preclude its use for waste management purposes? Is its proposed use for waste management purposes consistent with the Haringey Local Plan? If the site were to be deleted, what effect would this have on the overall spatial framework or other policies in the Plan with regard to the aspiration for net self-sufficiency?

64. Should the Temple Mill Lane site (LLDC3-WF) and the Bartrip Street site (LLDC1-HC) be removed from Table 12? If so, are there any impacts of their removal on the other policies in the Plan or the aspiration for net self-sufficiency?

65. Should the P B Donoghue Site (BAR3), WRG Hendon Rail Transfer Station, (BAR4) and Brent Terrace Sites (BAR6 and BAR7) be removed from Table 17? If so, are there any impacts of their removal on the other policies in the Plan or the aspiration for net self-sufficiency?

66. Should the Estate Way site (WAF4) be deleted from Table 17 and replaced by the Gibbs Road, Enfield site?

67. Should the 175 Willoughby Lane site be deleted from the Plan? If so, are there any impacts of its removal on the other policies in the Plan or the aspiration for net self-sufficiency?

68. With regard to Flood Risk, should the Sequential Test be re-applied to the Bartrip Street Site (LLDC1-HC), Brantwood Road (A19-HR), Chapman Road (LLDC2-HC), Friern Barnet Sewage Works/Pinkham Way (A22-HR), Argall Avenue (A24-WF) and Temple Mill Lane (LLDC3-WF)?

69. Should the Park View RRC, Haringey and Bywaters RRC, Waltham Forest sites, which may no longer be operational, be deleted from the Plan?

70. Have archaeological issues been appropriately considered in respect of site inclusion of sites Millfields LSIS (A15-HC), Eley's Estate (A12-EN0, Connaught Business Centre (A05-BA), North East Tottenham (A21-HR), Argall Avenue (A24-WF) and Temple Mill Lane (A24-WF)?

## **Policy 3**

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71. Part a of the Policy refers to the 'Spatial Principles'. Is the Policy clear as to what these 'principles' are? How do these principles relate to the Spatial Framework which is referred to in part c?

#### **Policy 4**

72. Are the locations for Re-use and Recycling Centres appropriate and sufficient to move waste management up the hierarchy?

73. Taking into account the content of Policy 3, is this Policy 4 necessary or does it imply that the opportunities for windfall sites for waste development, as set out in Policy 3, do not apply to Re-use & Recycling Centres?

74. Is the Plan clear as to where an "area of identified need for new facilities in Barnet or Enfield" is located in geographical terms or could part a of the Policy be interpreted to mean anywhere in these Boroughs? Irrespective of this, could the Policy be interpreted to mean that any proposal for a Re-use and Recycling Centre that improves coverage would be acceptable anywhere in North London – if so, is reference to Barnet or Enfield necessary?

75. How does the Policy, or the Plan in general, deliver the aspiration for 95% of residents to live within two miles of a facility?

#### **Policy 5**

76. Should part a refer to best available techniques?

77. Is part f, and the supporting text in paragraph 9.37, compliant the requirements of the Framework in relation to proposals affecting heritage assets and the consideration of potential impacts?

78. In part i, how is the 'fullest contribution' to be demonstrated and evaluated?

79. Are parts m, p and q relevant land use planning considerations? In particular, could planning permission be reasonably refused if a proposal did not meet the requirements of these parts of the policy?

#### **Policy 6**

80. Is this Policy clear, coherent and justified?

#### **Policy 7**

81. In the second bullet of the Policy is a requirement to 'meet the environmental standards set by the Environment Agency', and hence a separate regulatory regime, relevant to land use planning? Moreover, at the 'proposal' stage how can it be known if a proposed development meets such standards and does this imply that an environment permit would have to have been granted before planning permission was granted to define what such 'standards' may be?

#### **Policy 8**

82. Is the 'Control of Inert Waste' the correct title in Plan that seeks to sustainably manage waste? Indeed, is the word 'control' necessary and appropriate?

83. Should the policy refer to the need to demonstrate that recycling and re-use of inert waste should be considered first before waste is removed off site for either

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landfilling or spreading, particularly as paragraph 9.69 specifically refers to this matter?

84. Should the Policy and/or the supporting text recognise that inert waste can be an important resource?

### **Main Matter 6 – Monitoring and Implementation**

**Issue:** Whether the monitoring and implementation arrangements will be effective.

85. Is the approach to monitoring in the Plan robust and practicable?
86. Does the monitoring process provide for co-operation and participation and are appropriate participants involved?
87. How do the monitoring and implementation arrangements ensure that the Boroughs engage constructively, actively and on an ongoing basis with all relevant organisations on strategic matters of relevance to the Plan's preparation and implementation, as required by the Duty to Co-operate?
88. How do the monitoring arrangements provide for a demonstration that waste is being transported sustainably? Should the concept of 'waste miles' be considered and any targets set/monitored for waste transport other than by road?
89. Is it clear how the monitoring arrangements demonstrate that the Plan takes a pro-active approach to mitigating and adapting to climate change?

*Stephen Normington*

INSPECTOR