

REPORT FOR: OVERVIEW AND SCRUTINY COMMITTEE

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| Date of Meeting: | 14 April 2015 |
| Subject: | West London Waste Plan Adoption |
| Responsible Officer: | Caroline Bruce, Corporate Director Environment and Enterprise |
| Scrutiny Lead Member area: | Cllr Ferry, Portfolio Holder for Business, Planning and Regeneration |
| Exempt: | No |
| Wards affected: | All |
| Enclosures: | West London Waste Plan Inspector's Report of the West London Waste Plan |

Section 1 – Summary and Recommendations

This report documents the outcome of the Public Examination of the joint West London Waste Plan. Officers have requested Cabinet Members to recommend the adoption of the West London Waste Plan by Full Council.

Recommendations:

O&S is requested to:

1. Note the outcome of the independent Examination in Public of the West London Waste Plan;
2. Advise that the Portfolio Holder for Business, Planning and Regeneration be notified as soon as practicable when the post-adoption statutory requirements for the West London Waste Plan have been complied with.

Reason: (For recommendation)

In accordance with its terms of reference and in particular paragraph 6.02(iii) the Overview and Scrutiny Committee can review policies and decisions developed by others. The West London Waste Plan has been developed alongside six other London boroughs and following an Examination in Public the findings are being reported to O&S. It is envisaged that Full Council will be asked to adopt the West London Waste Plan in accordance with the current Local Development Scheme, to ensure that an up-to-date Development Plan for the Borough is in place and to comply with regulatory requirements.

Section 2 – Report

Introduction

1. The purpose of the West London Waste Plan (WLWP) can be summarised as follows: to set out a planning strategy to 2031 for sustainable waste management; contribute to the delivery of national and regional targets for waste recycling, composting and recovery; and the provision of sufficient waste management capacity to manage waste arisings across the six west London boroughs. Planning applications for any new waste management facilities will be considered in the light of the WLWP policies, and they will also be assessed against the Borough's Local Plan and any other material considerations.

Preparation of the West London Waste Plan

1. Drafting of the WLWP has taken into account relevant planning legislation, national planning policy, on-going advice from the Greater London Authority (GLA) and the Planning Inspectorate, and also lessons learnt from professional planning bodies and agencies. Key public consultation stages have comprised the following:

- Issues and Options (February 2009)
- Proposed Sites and Policies (February 2011)
- Draft Pre-Submission Version of the WLWP (February 2014)

2. The Pre-Submission Version of the WLWP was reported to Cabinet at its meeting on 13 February 2014, where Cabinet approved its publication for a six week period in order to receive representations on the Plan's soundness and legality and, subject to representations, Cabinet also approved the submission to the Secretary of State for Public Examination. Cabinet noted changes made to the draft West London Waste Plan, following an officer's report on the draft in June 2012.

Public Examination

3. The representations received on the Pre-Submission Version of the WLWP, and the plan, were then submitted to the Secretary of State who appointed Planning Inspector Mr Andrew Freeman BSc (Hons) DipTP DipEM FRTPI FCIHT MIEnvSc to examine the plan for its soundness and legality. The boroughs wrote to the Inspector on 1 September 2014 requesting that, as part of the Examination process, and pursuant to section 20(7C) of the Planning and Compulsory Purchase Act (2004) (as amended), the Inspector recommend modifications to be made to the WLWP to ensure it satisfied the requirements in subsection (5)(a) of the Act and is sound.

4. Between 7 October and 10 October 2014, the Inspector held public hearings on aspects of the WLWP as part of the plan's Public Examination. During the hearings the Inspector indicated that, in order for the Plan to be sound, the boroughs should modify the Plan in a number of areas. Proposed Main Modifications to the Plan were published for representations on their "soundness" and "legal compliance" during a six week consultation period running from 7 November to 19 December 2014.

5. On 16th March 2015, the Inspector issued his Report to the boroughs and, subject to the inclusion of the main modifications mentioned above, he has concluded that the Plan is legally compliant and sound. The Inspector's Report is attached as an enclosure to this report. The Inspector's Report includes an appendix which sets out the Main Modifications to the Plan and the Inspector's reasoning for these modifications is set out in his Report.

6. The boroughs have published the Inspector's Report in accordance with Regulation 25 of the Town and Country Planning (Local Planning) (England) Regulations 2012. This means that the Report is available to view via the Council's website and in hard copy at the Borough's offices.

7. Members of the five other partner Boroughs, (Brent, Ealing, Hillingdon, Hounslow and Richmond upon Thames, as well as the Old Oak and Park Royal Development Corporation, will also consider whether to adopt the Plan at meetings between April and July 2015.

Options considered

8. This report recommends the adoption of the WLWP incorporating the modifications as agreed and as appended to the Inspector's Report. The modifications have been made in light of the discussion of the main issues between the Council's officers, other partner Borough Council officers and other participants at the public examination hearing sessions and the Inspector's comments throughout the process. They have been the subject of public consultation and, in making the modifications, the Planning Inspector has taken into account the responses received.

9. The only alternative to adoption that can be considered as an option is withdrawal of the WLWP. This would be at odds with the Council's adopted Local Development Scheme and, as related local waste policies were deleted by the Secretary of State on 28th September 2007 and upon the adoption of the Harrow Development Management Policies DPD on 4th July 2013, it would leave Harrow without a full suite of policies for determining planning applications for waste related development. Given the National Planning Policy Framework's (NPPF) presumption in favour of sustainable development that applies where boroughs do not have an up to date development plan, a decision not to adopt would leave the Council with little local policy control over the determination of applications for developments associated with the management of waste, relying solely on the Core Strategy and Development Management Policies Local Plan. It would also be a barrier to implementing the objectives of the Core Strategy and securing the infrastructure necessary to meet the demands of growth in the Borough. However, there are no grounds currently that would warrant Council's consideration of this option.

Purpose and Outcome of Examination in Public

10. Section 20 of the Planning and Compulsory Purchase Act requires every local development plan document to be submitted to the Secretary of State for independent examination. The purpose of the Examination is to determine that the plan has been prepared in accordance with legal requirements and that it is 'sound'.

11. Legal compliance means that the plan has been prepared:
 - in accordance with the Council's Local Development Scheme and Statement of Community Involvement;
 - has been the subject of sustainability appraisal;
 - has regard to national policy;
 - conforms generally to the regional spatial strategy; and
 - has regard to the sustainable community strategy for the area.
12. The National Planning Policy Framework amplifies what is meant by 'sound' in relation to Local Plan Documents. To be sound, a DPD must be:
 - justified (in relation to the evidence base and reasonable alternatives);
 - effective (deliverable, flexible, and capable of being monitored);
 - positively prepared (does not stifle development); and
 - consistent with national policy.
13. As noted at paragraph 5 above, the Planning Inspector's Report confirms that the policies of the WLWP are legally compliant and 'sound'.

Main Issues and Inspector's Modifications

14. Following the Examination in Public hearing sessions, the Planning Inspector's Report into the WLWP addresses six key issues in order to make the Plan sound. These are:
 - Whether the Plan sets out a positive and collective vision for the sustainable management of waste within the area
 - Whether sufficient new waste management capacity of the right type would be provided in the right place and at the right time
 - Whether there are clear and effective policies that will help secure the appropriate and timely provision of waste management facilities in line with the London Plan (2011) and national policy and guidance
 - Whether the site selection process has led to the identification of sites that would meet appropriately the need for new waste management capacity in West London
 - Whether the allocated sites are acceptable in environmental terms and in other respects; whether the locations are deliverable; and whether the Plan provides an appropriate context for the successful development of waste management facilities
 - Whether there are clear arrangements for monitoring the Plan and reporting the results as part of a delivery strategy with clear targets and measurable outcomes
15. Consideration of these issues led to the modifications to the Plan. The Inspector summarises the principal main modifications in his report as follows:

- adding reference to superseded policies;
- recognising updated national policy (National Planning Policy for Waste);
- aligning the Vision and Strategic Objectives with national policy;
- encouraging appropriate provision for construction, demolition and excavation waste and hazardous waste;
- adding a policy on the provision of new waste management capacity;
- ensuring the effectiveness of policies on safeguarding, the location of development, high quality development, decentralised energy and sustainable site waste management;
- correcting details regarding allocated sites (including Forward Drive Council Depot);
- adding site descriptions and relevant considerations; and
- introducing monitoring triggers.

16. One of these modifications concerned a change to the boundary of the Forward Drive site allocation in Harrow. This modification was put forward to ensure that the boundary of the allocation in the Waste Plan reflected that in Site Allocation AAP21 of the adopted Harrow Area Action Plan.

17. It should be noted that some additional, or minor, modifications to the plan have also been made. These are minor changes to the plan that have been made to provide clarity, improve grammar, spelling corrections and factual changes where needed.

Sustainability Appraisal and Habitats Assessment

18. Section 19 of the Planning and Compulsory Purchase Act (2004) and the Environmental Assessment of Plans and Programmes Regulations (2004) require local planning authorities to carry out sustainability appraisal of Local Plan documents and to prepare a report of the findings of the appraisal. The Regulations prescribe the requirements for Environmental Assessment pursuant to relevant European Union directives. However as a matter of national policy, the UK Government requires sustainability appraisal to also assess economic and social effects, as well as those in relation to the environment.

19. At all stages of preparation of the WLWP the partner boroughs have undertaken sustainability appraisal of the document, in accordance with requirements and proportionate to the level of detail contained within the documents at the stage reached. This includes the public consultations on modifications made throughout the Public Examination process, as described above. The Sustainability Appraisal Report has been made available alongside the WLWP at each stage of public consultation including on the Main Modifications. The final Sustainability Appraisal Report will be permanently available for inspection alongside the WLWP.

20. The Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) requires local planning authorities to make an 'appropriate assessment' of the implications for designated 'European' sites of a plan that they intend to bring into effect. The Habitats Regulations prescribe

the requirements for Habitats Assessment pursuant to relevant European Union directives.

21. The partner boroughs undertook an assessment in accordance with the Habitats Regulations, and in consultation with Natural England, of the impact of the WLWP on all European sites within 10 kilometres of the Plan area. The assessment was first carried out in December 2010 and an update was completed in 2014. As with the Sustainability Appraisal, the Habitats Assessment has also been made available alongside the WLWP for public consultation. The final Assessment will be permanently available for inspection on the Council's website.

Procedure upon Adoption

22. Section 23 of the Planning and Compulsory Purchase Act (2004) gives power to a local authority to adopt a local development plan document following compliance with any modifications recommended by the Inspector who carried out the independent examination of the document. Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012 as amended requires the local planning authority to fulfil the following obligations as soon as reasonably practicable after the adoption of a local development plan document. They are to:

- make available for inspection, at the same locations as the pre-submission document, the adopted document, an adoption statement and the sustainability appraisal report;
- publish the adoption statement on the authority's website;
- advertise the availability of the adoption statement and the adopted local development plan document;
- send the adoption statement to any person who has requested to be notified of the adoption of the local development plan document; and
- send the local development plan and the adoption statement to the Secretary of State.

23. Following decisions by this Council, all the partner Boroughs, and the Old Oak and Park Royal Development Corporation, to adopt the WLWP an adoption statement will prepared and officers will ensure compliance with the post adoption requirements. Officers will notify the Portfolio Holder for Planning and Regeneration once all of the post adoption requirements of the local planning authority have been discharged.

24. Prior to final publication, the WLWP may be subject to desktop publishing to improve its legibility. Any such re-design will not change the content, but would be focused on improving the "look and feel" of the Plan to future users.

Legal Comments

25. In the event that the Council adopts of the WLWP it will form part of the development plan for the Borough. In determining planning applications, the decision must be made in accordance with the policies set out in the WLWP (where applicable) as well as the Borough's adopted Local Plans and Core Strategy unless material considerations indicate otherwise.

26. Following adoption of the WLWP, any person aggrieved by the adoption of the documents may challenge the validity of the documents by making an application to the High Court under Section 113 of the Planning and Compulsory Purchase Act (2004). Any such application must be made within six weeks of the date of adoption of the WLWP.

Equalities Impact

27. An equalities impact assessment has been undertaken for the WLWP. This confirms that the policies of the WLWP will have a positive impact on target groups. The EqlA is available to view on the West London Waste Plan website which can be accessed via the Local Plan pages of the Council's website. This assessment was circulated to the E&E Directorate Equalities Group for review and sign-off as stated in the Cabinet report regarding the Pre-Submission Plan dated 13 February 2014.

Financial Implications

28. The cost of complying with the post adoption requirements and publishing the adopted Local Plans is contained within the existing planning budget.

Performance Issues

29. The WLWP will deal with municipal waste and commercial & industrial waste in accordance with the London Plan. It includes a chapter on monitoring and implementation. This sets out indicators, with triggers, that will be measured to monitor the implementation of the Plan. Monitoring of the Plan against these indicators will be reported in the Authorities Monitoring Report (AMR).

30. It will help WLWA and the six councils reduce the amount of waste sent to landfill and improve the amount of waste reused, recycled and composted by ensuring provision is made for a range of new waste management facilities that are required to treat waste generated within west London higher up the waste hierarchy (reduce-reuse-recycle-recovery and as a final option, landfill)

31. Since 2007/08 the amount of municipal waste generated in Harrow has decreased year upon year from 113,669 tonnes to 93,327 tonnes in 2013/14. This is well below the London Plan projection of 129,000 tonnes per annum. Harrow has increased the amount it recycles and composts significantly in recent years, achieving 49.2% in 2013/14, which is above the 40% target set for recycling and composting in the West London Municipal Waste Strategy but on track to meet the Local Plan target of 50% by 2020. The remaining waste continues to go to landfill sites outside the borough.

32. As set out in the latest Annual Monitoring Report, there have been no new waste management facilities provided in the Borough since monitoring commenced in 2004. Unfortunately, this seems to be a common theme across most west London boroughs. Without the WLWP, and allocating sites for waste management provision, it is difficult to see how Harrow and the other five boroughs will be able to substantially improve their performance against any of the above targets.

Environmental Impact

Does the proposal comply with all relevant environmental legislation? Yes

33. The WLWP has been the subject of a comprehensive Sustainability Appraisal, incorporating the requirements of Strategic Environmental Assessment, in compliance with the regulatory requirements for preparing development plan documents as set out at paragraphs 18 – 21 above.

Risk Management Implications

Risk included on Directorate risk register? Yes

Separate risk register in place? Yes

| Potential Risks | Commentary | Mitigation Measures |
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| Compliance with legislation | To meet the test of 'soundness' of Local Plans are required to comply with the legal requirements for preparing and consulting on Local Plans under the Planning and Compulsory Purchase Act. | Officers ensured compliance with the relevant legislative requirements, including the undertaking of Sustainability Appraisal, Equalities Impact Assessment and requirements for consultation. A log was maintained that chronicles legal compliance as the WLWP progresses towards adoption. |
| Robust evidence | In preparing the WLWP, the boroughs have sought to apply a robust methodology to the assessment of existing and potential waste sites. However, there is a degree of professional judgment required, both in the assessment and in the interpretation of the outcomes that may give rise to potential 'soundness' concerns. In addition, the assessments represent a snapshot in time, and therefore the conclusions drawn now may not stand for the full life of the Plan. | The WLWP includes monitoring requirements that would necessarily trigger an analysis and potential review of the Plan should the monitoring indicate an undersupply of sites or capacity. |
| Politically sensitivity | Waste management is typically a sensitive topic, given its has a high profile with residents as being a key function of Council's, and one that can result in adverse environmental and amenity issues. Waste management facilities are perceived by most to be a 'bad neighbour' and therefore proposals, or even the allocation of sites for waste management, can draw significant resistance. | Officers have worked with Members to educate residents and other key stakeholders about the need for the Council to take a pro-active and positive approach to the management of Harrow's waste arisings. In particular, the implications of the EU Landfill Directive which requires waste to be diverted from landfill. Failure to do so will result in significant financial penalties for the Council. There |

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| | | is also a social and environmental requirement that waste be managed in the area in which it is generated (ie self-sufficiency), which is driving the change in London that we treat London's waste in London rather than transfer it out of London for disposal. |
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34. The WLWP is being prepared jointly. A memorandum of understanding was signed by six West London boroughs, which details the working arrangements. Adoption of the Plan will satisfy the MOU undertakings.

Corporate Priorities

25. The completion of the WLWP will enable the Council to better manage waste in the Borough and avoid costs associated with the current practice of exporting the majority of our waste for disposal to landfill. It will therefore assist in the delivery of the corporate objective making a difference for businesses and the community.

Section 3 - Statutory Officer Clearance

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| Name: Jessie Man Date: 24 March 2015 | <input checked="" type="checkbox"/> | on behalf of the* Chief Financial Officer |
| Name: Katherine Hamilton Date: 30 March 2015 | <input checked="" type="checkbox"/> | on behalf of the* Monitoring Officer |

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| Ward Councillors notified: | No. |
| EqIA carried out: | No |
| EqIA cleared by: | EQIA was carried out prior to the Plans Submission – see paragraph 27. |

Section 6 - Contact Details and Background Papers

Contact: Philip Crowther, Planning Officer, x6188

Background Papers:

Planning Inspector's Report into the West London Waste Plan, 16 March 2015

West London Waste Plan Pre Submission Version, February 2014

NB: All of the above background papers are available via the west London waste plan website www.wlwp.net

**Call-In Waived by the
Chairman of Overview
and Scrutiny
Committee**

NOT APPLICABLE*