

Meeting:	Cabinet
Date:	15th March 2007
Subject:	Local Development Framework – Preparation of a Joint Waste Development Plan Document (DPD)(Joint Waste DPD)
Key Decision:	Yes
Responsible Officer:	Graham Jones – Director of Planning
Portfolio Holder:	Marilyn Ashton – Planning, Development and Enterprise
Exempt:	No
Enclosures:	Report to LDF Panel 26 th February 2007

SECTION 1 – SUMMARY AND RECOMMENDATIONS

The report sets out the latest position in West London on the production of a Joint Waste Development Plan Document (Joint Waste DPD). The constituent boroughs are reporting to their respective Executives/Full Councils on formal agreement to produce a Joint Waste DPD, and the Memorandum of Understanding underlying the process, including financial commitments.

RECOMMENDATION: Cabinet is requested to recommend to the Full Council that:-

- 1) the Council participates in the production of a Joint Waste DPD for West London,
- 2) the timetable for production of the Joint Waste DPD be included in the updated Local Development Scheme,
- 3) membership of the Steering Group be delegated to the Director of Planning (or his nominated representative).
- 4) the Director of Planning be authorised to enter into the service level agreement to be agreed., and
- 5) the Portfolio-holder for Planning, Development and Enterprise be nominated to represent the Council.

REASON:

The West London boroughs have progressed their joint working to a stage whereby formal agreement is required.

SECTION 2 - REPORT

The Local Development Framework Panel at its meeting on 26th February 2007 considered a report on the production of a Joint Waste Development Plan Document (Joint Waste DPD) (see attached LDFP report). The Panel recommended to Cabinet that 1) The Council participates in the production of a Joint Waste DPD for West London, and 2) the timetable for production of the Joint Waste DPD be included in the updated Local Development Scheme. This report elaborates further on the report submitted to the Panel.

Background

The Local Development Framework comprises a number of planning documents which will provide a vision of Harrow's future, and appropriate development to secure that vision. Reflecting national and regional priorities, the production of a waste document is urgently required. Cabinet at its meeting on 16th March 2006 noted the progress being made with regard to the preferred approach to joint working on Waste planning, and confirmed its commitment to the production of a joint Waste DPD for West London. The main aim as agreed by the West London Local Authorities is to produce a 'sound' Joint Waste Development Plan Document that establishes a framework of policies, including development control policies, and site identification for all waste streams in order to meet future waste capacity needs in West London during the period 2010–2021. Securing an optimum distribution of facilities is important for the economic health of the sub-region, and contributes to achieving more sustainable communities. Of particular importance is the provision of facilities to secure effective implementation of the Joint Municipal Waste Management Strategy, rather than just the identification of possible sites, in the light of possible Landfill Directive (LATS) penalties (see section on Site Identification below).

On funding, the report stated that, based on the cost of producing joint documents elsewhere, it was suggested that an annual sum of £35,000 per annum for the next three years be provisionally allocated to this work. This approach was supported in the light of limited available expertise in the boroughs, together with a preliminary consideration of the available methods for producing the joint Waste DPD. Consultants would be used to support the process.

Current situation

In order to provide greater certainty on the approach to production of their waste DPDs within their respective Local Development Schemes (LDS), boroughs have been strongly encouraged by the Government Office for London to bring forward programmes. The importance of the need for joint working has been emphasised in national guidance and through practical experience in metropolitan areas. The West London waste planning officers working group in October 2006 agreed that, in order to maintain and to secure progress on production of a Joint Waste DPD, the next stages would involve securing agreement to a Memorandum of Understanding (MOU), including financial commitment. Recent work has thus focused on finalising the MOU to reflect circumstances in West London. The other West London boroughs are also

submitting similar reports to the February/March cycles of their Executives/Full Councils.

Detailed considerations

Legal Framework/Implications

The Planning and Compulsory Purchase Act 2004 (the Act) and the Town and Country Planning (Local Development) (England) Regulations 2004 (the Regulations) provide the statutory framework for the preparation and adoption of a Development Plan Document (DPD).

Sections 28 and 72 of the Act (and guidance set out in PPS 12) encourage joint working between local planning authorities on local development documents (this includes a DPD). The procedures for the preparation of a joint DPD are the same as for the preparation of an individual authority's DPD.

Where authorities agree to prepare a joint DPD, as in this instance, government guidance is that each authority must be able to demonstrate that the procedures set out in the Act and the Regulations have been complied with and that the joint DPD is produced on a robust, credible evidence base. The DPD will, otherwise, not meet the test of "soundness" at the independent examination stage.

Whilst a Memorandum of Understanding (MOU) between the West London Waste Local Authorities is encouraged, it should be noted that the document has no binding legal/ contractual force, although the document will be persuasive authority in a court of law should a dispute arise between the parties.

The Council also needs to ensure that any arrangements made under the MOU do not conflict with its Contract Procedure Rules.

Financial Costs and Monitoring –The meeting of West London Waste Planning Officers on 7th February 2007 suggested that the MOU to be agreed would cap annual expenditure at £36K per authority, and furthermore, further cost savings would be sought wherever possible. In pursuing a modular approach to producing the Joint Waste DPD document, costs will be closely scrutinized, again with the aim of minimising costs. It should be noted, however, that some of the additional costs associated with the production of Waste DPDs relate to newly-arising requirements, such as Strategic Flood Risk Assessments, – it is hoped that these will be minimal in future. In practice, the likely expenditure pattern throughout the three years is likely to have peaks and troughs. Expenditure is likely to be lower in 2007/8, with the costs associated with the examination resulting in a significant increase during the latter stages of the process. The costs of contributing to the production of a Joint Waste DPD will be contained within the approved Planning Services Budgets.

Value for Money

As has been recognised throughout the process, production of a Joint Waste DPD represents by far the best value for money, and is also more likely to result in the production of a 'sound' document (see section on risk assessment below).

Site Identification

It has been commonly recognised for some time that the most important outcome of the Waste DPD process is to identify sites for waste management use so that:- (a) WestWaste can address these for municipal waste purposes., and (b) the private sector can try and obtain them for commercial/industrial waste purposes. It is suggested that this position should effectively be reached at the Preferred Options stage (currently envisaged as June 2008). For a variety of reasons it is essential to reach this stage as quickly as possible.

It is therefore likely that one of the first tasks will be to up-date work that was done previously on site availability, (including that commissioned by the Group), with a view to coming up with an up-to-date and more definitive list of potential sites. This would then offer the opportunity for the consultation on Issues and Options to include a range of potential sites and what the options for these might be, as well as waste management use. In order that evaluation of a range of waste technologies could be included in this process, it would be preferable for this site work to be done independently by consultants with appropriate expertise. Work on the Sustainability Appraisal should also be done by consultants. The provisional timetable thus envisages key community engagement in December 2007 (Issues and Options), and June 2008 (Preferred Options).

Overall Timetable

The provisional timetable for producing the DPD contains the following milestones:-

- Pre-submission consultation Waste DPD Issues & Options December 2007
- Pre-submission participation Waste DPD Preferred Options June 2008
- Submission West London Waste DPD March/April 2009
- Public Examination October 2009
- Formal adoption (by Harrow) April 2010

General consensus envisages approximately 3 years for production of the Joint Waste DPD. The provisional timetable above has attempted to reduce this by approximately 6 months, partially reflecting work that the group has already undertaken, or is in progress. The WestWaste Board is committed to supporting the Joint Waste DPD process as the most effective means of assisting delivery of the Joint Municipal Waste Management Strategy. To this end, it would be helpful to try to produce the DPD in a shorter timescale, and accordingly scope for achieving this is being examined. Joint working amongst West London Planners and Municipal Waste policy officers has developed considerably in recent years, and the latest joint initiative involves the work being undertaken on Organic Waste facilities (DEFRA funded work being undertaken by ERM).

Quality of document

Production of the Joint Waste DPD will result in a comprehensive and holistic document that achieves the optimal distribution of facilities and sites in the sub-region, and economies of scale. It will secure a variety of facilities to handle the various waste streams (of which only the municipal waste stream is under Council control). WestWaste's continued involvement in the process will ensure that maximum synergy is obtained between the production of the Waste DPD and effective implementation of the Joint Waste Municipal Strategy.

Risk assessment

The overwhelming weight of opinion is that production of a sound Waste DPD is most likely to be achieved through production of a Joint Waste DPD. It is highly likely an individual borough's Waste DPD would be subject to challenge by both the GOL and the Mayor. Should a borough, for whatever reason, decide in the future to withdraw from the joint working arrangements, it is generally considered that this would not unduly prejudice the continued production of a Joint Waste DPD, or its soundness. It is also important to point out that authorities failing to produce waste documents would be likely to face: 1) Reduced Planning Delivery Grant, 2) Landfill Directive (LATS) penalties, and 3) European penalties in relation to Waste Framework Directive Article 7. If the Council pursued any option other than joint working, it is highly likely that the delays involved would be likely to expose the Council to disproportionately higher penalties.

Steering Group and Service Level Agreement

It is suggested that membership of the Steering Group consist of one representative from each of the participating Local Authorities. Reflecting existing working arrangements, it is proposed that this responsibility be delegated to the Director of Planning (or his nominated representative). It is further suggested that the Director of Planning be authorised to enter into the service level agreement to be agreed.

The draft Memorandum of Understanding includes a provision that, in the event that consensus cannot be reached by the Steering Group, or a way forward cannot be agreed, the dispute will be resolved through an extra-ordinary meeting convened with Members from the participating Local Authorities. For this purpose, it is proposed that the Portfolio-holder for Planning, Development and Enterprise be nominated to represent the Council. The Memorandum of Understanding is a well advanced draft which may still be subject to some minor amendments.

Consultation

(see attached LDF Panel report)

Statutory Requirements

(see attached LDF Panel report)

Other considerations

(see attached LDF Panel report)

SECTION 3 – FURTHER INFORMATION

The Local Development Scheme for Harrow will need to be amended to reflect the arrangements and timetable outlined in this report. Future updates will be included in the Annual Monitoring Reports prepared, which contain comment on performance against key milestones in document production. Any other changed circumstances requiring a report to Cabinet will be prepared as a matter of course.

SECTION 4 - STATUTORY OFFICER CLEARANCE

Chief Finance Officer	<input type="checkbox"/>	Name: ...Sheela Thakhar
		Date: 2nd March 2007
Monitoring Officer	<input type="checkbox"/>	Name: Jessica Farmer
		Date: 5th March 2007

SECTION 5 - CONTACT DETAILS AND BACKGROUND PAPERS

Contact: Dennis Varcoe – Service Manager – Policy and Research, Tel: 020 8736 6082

Background Papers: Report to Cabinet on Production of a Joint Waste DPD - 16th March 2006.

IF APPROPRIATE, does the report include the following considerations?

1.	Consultation	YES
2.	Corporate Priorities	YES
3.	Manifesto Pledge Reference Number	A2, D1