



Executive
12th March 2007

**Report from the Director of
Environment and Culture**

For Action

Wards Affected:
ALL

**Local Development Framework – Joint Waste Development
Plan Document**

Forward Plan Ref.: E&C-06/07-037

1.0 Summary

1.1 This report presents a draft Memorandum of Understanding (MOU) and seeks authority to sign it. The MOU will commit the Council to joint working with other West London Boroughs (Harrow, Hillingdon, Richmond, Hounslow and Ealing) on the preparation of a Development Plan Document for Waste.

2.0 Recommendations

2.1 That Executive agrees that the Memorandum of Understanding (appended) be signed on behalf of the Council.

2.2 That any further minor alterations to the MOU be agreed by the Borough Solicitor before it is signed.

3.0 Detail

Background

3.1 Brent has three distinct roles in relation to waste. Firstly, the Council is a waste collection authority. Secondly, the Council is a member of West London Waste Authority, a waste disposal authority. Finally, the Council is a waste planning authority with a responsibility to prepare a Development Plan Document (DPD) as part of the Local Development Framework (LDF) preparation process which deals with the land use issues and identifies sites for managing and processing all types of waste.

- 3.2 In the second capacity, as part of the West London Waste Authority, Brent has participated in producing a Joint Municipal Waste Management Strategy (JMWMS). Brent is also working as a waste planning authority together with the same boroughs towards the preparation of a joint DPD for Waste. This report is concerned with progress in producing this document.
- 3.3 On March 13th 2006 Executive agreed in principle to work jointly with other west London boroughs, including a commitment to sign a Memorandum of Understanding and, ultimately, to appoint consultants with expertise in planning for Waste to assist in the preparation of the document . Little progress has been made since then, partly because proposed Alterations to the London's Plan, by which boroughs would be required to deal with a particular proportion of London's waste, had not been finalised, and partly because there was a need to get agreement of all 6 boroughs as to the costs of progressing it. As well as being close to resolving the issues about the total amount of waste that that west London will have to deal with, it is also anticipated that agreement can be reached between the 6 boroughs about the timetabling and, consequently, the costs to the boroughs of producing the document.
- 3.4 Executive is therefore asked to authorise the Director of Environment & Culture to sign the Memorandum of Understanding (draft attached as Appendix 1) on behalf of the Council.

Summary of Key Points in the Memorandum

- 3.5 The following are the key points to note in the Memorandum:
- The main aim is to produce a Joint Waste Development Plan Document that establishes a framework of policies and site allocations to meet future waste capacity needs in West London
 - The project management of the production of the Joint Waste DPD will be provided through a lead authority. The lead authority is to be Hillingdon
 - There is to be a Steering Group with 1 representative from each Borough
 - A meeting of Members from each constituent borough will be convened if a consensus cannot be reached on the Steering Group
 - The costs of the Steering Group, including that of the Project Manager and producing the Joint Waste DPD, will be shared equally between the participating boroughs. This is estimated to be an average of £36,000 per annum over 3 years.
 - If a borough wishes to withdraw they are to give 6 months notice

4.0 Financial Implications

- 4.1 Estimates suggest that the individual borough costs will be approximately £36,000 per annum for three years, i.e. £108,000 in total. (In March 2006 it was agreed by Executive that Brent should participate in the process at a cost of about £35,000 per annum) In practice, expenditure throughout the

three years is likely to have peaks and troughs, being lower in the early stages and increasing when approaching the examination and latter stages of the process.

- 4.2 Initially funding will be from next year's budget for the Planning Service, (including from Planning Delivery Grant). If Brent were not to participate in the preparation of the joint DPD then it would have to prepare one itself. Clearly there are economies of scale in boroughs joining together to engage consultants. If Brent had to fund the preparation of a Waste DPD on its own then this is likely to cost significantly more than £36,000 per annum.

5.0 Legal Implications

- 5.1 The new development plan system introduced by the 2004 Planning and Compulsory Purchase Act allows for the preparation of joint Development Plan Documents (DPDs) with other local planning authorities (section 28). It is considered that such collaboration is appropriate for the boroughs which comprise the West London Waste Authority. However, each stage of the DPD preparation process will require the approval of each individual borough. The Executive can agree the form of the proposed DPD for public consultation but it will need to be adopted (in its final form) by Full Council. The Memorandum of Understanding is a statement of intent rather than a binding agreement. There is a risk that the 6 boroughs may not agree to the final document but it is considered that this risk is outweighed by the benefits associated with a sub regional approach.
- 5.2 Although the MOU itself is not a binding agreement, a formal contract (referred to as a service level agreement in the MOU) may need to be entered into between the 6 boroughs in respect of the arrangements referred to in section 4.0 of the MOU.
- 5.3 Standing Order 85(d) requires the Director of Finance and Corporate Resources and the Borough Solicitor to give their written agreement to Hillingdon's contract standing orders being followed in respect of the collaborative procurement of consultants referred to in the MOU, instead of the Council's.

6.0 Diversity Implications

- 6.1 In preparing a development plan document for waste management, including identification of sites for managing waste across west London, extensive consultation will be carried out, with particular emphasis on the need to consult with different groups within the community.

Background Papers

- Planning Policy Statement 12, Local Development Frameworks (and Companion Guide)

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Appendix 1 Memorandum of Understanding

West London Joint Waste Development Plan Document (Joint Waste DPD) Draft Memorandum of Understanding

1.0 Introduction

- 1.1 This Memorandum of Understanding is an agreement between the West London Waste Planning Local Authorities to co-ordinate the production of a West London Joint Waste Development Planning Document (Joint Waste DPD).
- 1.2 The West London Waste Planning Local Authorities are the London Boroughs of Brent, Ealing, Harrow, Hillingdon, Hounslow and Richmond upon Thames. These Local Authorities also form the West London Waste Authority, which is the Authority responsible for the Joint West London Municipal Waste Strategy.
- 1.3 The Memorandum of Understanding applies to the working arrangements during the lifetime of the production of the Joint Waste DPD.
- 1.4 The Memorandum of Understanding sets out the arrangements and roles and responsibilities for the:-
- Lead Authority
 - Steering Group
 - Project Manager
 - Consultants appointed to assist production of the document
 - Project Management arrangements
 - Financial arrangements.
- 1.5 This Memorandum of Understanding will run from 1st March 2007 following agreement by all participating Local Authorities.

2.0 Aim and Objectives

- 2.1 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 to meet future waste capacity needs in West London during the period 2010–2021. This project will be undertaken in modular stages, with participating local authorities gaining agreement at every stage.
- 2.2 The West London Local Authorities agree to the following objectives:
- To co-ordinate the production of a Joint Waste DPD for adoption in 2010
 - To promote sustainable waste management
 - To work closely with the West London Waste Authority
 - To ensure that the Joint Waste DPD is in line with national guidance and is in general conformity with the London Plan

- To appoint consultants who will undertake the preparation of specific agreed modular stages towards the development of the Waste DPD.

2.3 The initial stage would be for a background technical report and the preparation of an 'issues and options' document. Other stages may include a Strategic Flood Risk Assessment, Appropriate Assessment, Sustainability Appraisal, a site identification process and the development of a preferred options document. The Steering Group will determine the most appropriate way of undertaking these latter stages.

3.0 Project Management

3.1 The project management of the production of the Joint Waste DPD will be provided through the establishment of a Lead Authority. This Authority will be responsible for:

- Co-ordinating the Steering Group,
- Providing secretariat services to the Steering Group,
- The procurement and day-to-day supervision of consultants, and
- Managing the financial commitments of West London Waste Planning Authorities
- The appointment of a Project Manager.

3.2 It is anticipated that consultants appointed by the Steering Group will undertake the initial stages in the production of the Joint Waste DPD. The Project Manager will co-ordinate the day-to-day administration for the Steering Group and liaises closely with consultants.

3.3 The Lead Authority will oversee the procurement of contracts with consultants and finalise the contractual arrangements between the consultants and the West London Local Authorities in consultation with the Steering Group.

3.4 The timetable for production of the Joint Waste DPD will be set out in each Local Authority's approved Local Development Scheme.

a) Lead Local Authority

3.5 The London Borough of Hillingdon shall act as the Lead Local Authority and legal entity for the West London Local Authorities and shall enter into all contracts with third parties on behalf of the West London Waste Planning Local Authorities.

3.6 The London Borough of Hillingdon will act in accordance with the policies and project management arrangements, which are set out in this memorandum of understanding.

3.7 For the purposes of production of this Joint Waste DPD, and in accordance with good practice, the procurement policy of the Lead Local Authority will be adopted in the process for selecting any consultants appointed.

3.8 When the Project Manager has been appointed an officer of the Lead Local Authority will act as line manager, in consultation with the Chair of the Steering Group.

3.9 The Lead Authority, through the Project Manager will provide regular updates, including financial commitments to the Steering Group.

b) Steering Group

- 3.10 The Steering Group will undertake the following functions:
- Act as a liaison mechanism between the participating Local Authorities;
 - Ensure the appropriate decision making processes are carried out;
 - Examine, agree upon and make recommendations upon the stages required for the content and process of the production of the Joint Waste DPD; and
 - Agree the specification for procurement of consultancy services.
- 3.11 Membership of the Steering Group will consist of one representative from each of the participating Local Authorities. In discharging its functions, the Steering Group will make every attempt will be make recommendations and/or reach decisions through consensus.
- 3.12 If a decision is needed, and a consensus cannot be reached, or a way forward cannot be agreed, the dispute will be resolved through an extraordinary meeting convened with Members from the participating Local Authorities. This meeting will discuss and consider a way forward.
- 3.13 It is recognised that participating Local Authorities may provide separate or additional information to their appropriate decision making bodies and/or Members.
- 3.14 West London Waste Authority will also be represented on the Steering Group. The Authority will fulfil an advisory technical role and would not have decision-making rights.
- 3.15 The Steering Group will meet a minimum of quarterly, and for the first six months, monthly or more often when considered necessary by the group. The Chair of the Group will rotate every six months, rotating alphabetically. It will be the responsibility of the Chair to co-ordinate and distribute the agenda at least 5 working days before a scheduled meeting.
- 3.16 The Steering Group will remain in existence until the formal adoption of the Joint Waste DPD. The Terms of Reference for the Steering Group are set out in Appendix A.

c) Project Manager

- 3.17 The Project Manager will be appointed to project manage the production of the West London Joint Waste DPD. The appointee will be responsible to the Lead Local Authority. The Project Manager will also be accountable to and guided by the decisions of the Steering Group.
- 3.18 The Project Manager will attend all Steering Group meetings and provide regular feedback (including financial) to the group on the progress of the Joint Waste DPD. The Project Manager will provide the main contact for the consultants and be the central co-ordinator for all activities and tasks of the Steering Group and consultants.

d) Consultants

3.19 Following the agreement, the Steering Group will agree a specification for the initial stage. This tender document will include information held by local authorities that may assist with the production of the initial stage of the Joint Waste DPD. It will be clear non-publicly available information will remain confidential amongst partners. Thereafter, following stages may be agreed as per paragraph 2.2

4.0 Financial Implications

4.1 The costs of the Steering Group, including that of the Project Manager and producing the Joint Waste DPD will be shared equally between the participating Local Authorities. Each of the other Local Authorities indicates its willingness to work together through this Memorandum of Understanding, and as such to fund an equal share of all costs relating to each stage in producing the Joint Waste DPD that they participate in.

4.2 A service level agreement between the Lead Local Authority and the other participating Local Authorities of West London will provide a platform of commitment and surety of funding. This will include the costs of procuring consultants to carry out production of agreed stages of the West London Joint Waste DPD.

4.3 Payments to consultants will be at the delivery of particular agreed stages in the project. The Lead Authority will invoice each of the other Local Authorities at these points to allow payment to be made as per the service level agreement for each stage.

4.4 Using experiences from other Local Authorities in London who have prepared a Joint Waste DPD, the maximum cost for each Local Authority has been in the region of £108,000 spread over three years (average £36,000 per annum). These costs reflect the use of consultants for every stage in the DPD process. By taking a modular approach to the production of this document, the West London Local Authorities can minimise and control the costs involved. This approach offers potential opportunities to access other funds not normally available to this process and so reduce the cost for each participating Authority.

4.5 Agreement from participating authorities is required at each stage. Participating authorities must indicate their willingness to participate in each agreed stages prior to the publication of the specification for tender. Once the tender specification is published, authorities are committed, and are unable to withdraw or join the development of that particular stage. They will however be able to decide about their level of participation for the next stage.

4.6 It is anticipated that the first stage will be the site identification process and the development of an 'Issues and Options' document.

APPENDIX A

Terms of Reference

Steering Group

1. The Steering Group will be made up of a representative officer from each of the local authorities: Brent, Ealing, Harrow, Hillingdon, Hounslow and Richmond upon Thames.
2. West London Waste Authority (West London Waste Authority) will also sit on the Steering Group in an advisory technical capacity only. They will not have any voting rights.
3. The purpose of the group is to make and decide recommendations in relation to the production of the West London Waste Development Plan Document (Joint Waste DPD)
4. If a decision is needed, and a consensus cannot be reached, or a way forward cannot be agreed, the dispute will be resolved through an extraordinary meeting convened with Members from the participating Local Authorities. This meeting will discuss and consider a way forward.
5. The Chair of the Steering Group will be rotated amongst the Local Authorities every 6 months in the following alphabetical order Brent, Ealing, Harrow, Hillingdon, Hounslow and Richmond upon Thames. The representative from the next Local Authority to be chairman will act as vice chairman and stand in, in the absence of the chairman. The role of minute taker will be the Project Manager
6. It will be the responsibility of the Chair to co-ordinate and distribute the agenda normally 1 week prior to the meeting and minutes within 2 weeks of the meeting amongst the Local Authorities, Councillors and West London Waste Authority as appropriate.
7. In the first 6 months (September 2006 – March 2007) the Steering Group will be meeting every month. This will be reviewed early 2007 with the aim to meet a minimum of quarterly.

Project Manager

1. For the Steering Group the project manager will provide secretariat support for the group. The Project Manager will attend all Steering Group meetings and provide regular feedback (including financial) to the group on the progress of the Joint Waste DPD. The Project Manager will provide the main contact for the consultants and be the central co-ordinator for all activities and tasks of the Steering Group and consultants.