

ELJWLP MIQs

Matter 5: The soundness and general conformity of the Plan's policies

Ref.	Question
Issue (i)	Does the Plan seek to achieve well-designed places in a manner that is justified, effective and consistent with national policy?
5(i).1	<i>Would suggested modification (see attached Schedule) SM4 be necessary to ensure that Policy JWP2 is consistent with the Framework insofar as it expects planning policies to ensure that developments secure a high standard of amenity for existing and future users of places, and would it do so in a justified way?</i>
	<p>Yes. SM4 is justified because it makes explicit that the amenity considerations in Policy JWP2 apply to both existing and future users of places, thereby aligning the policy more closely with the Framework. The term 'undue impact' is proposed to be replaced by 'Unacceptable impact' which is also more in keeping with the NPPF.</p> <p>The modification is proposed in light of representations from the East London Waste Authority and is referenced in the Statement of Common Ground with ELWA (SD30).</p>
5(i).2	<i>Are the sustainable construction aspects of Policy JWP4 in general conformity with Policy SI 2 of the London Plan in terms of offsetting?</i>
	<p>Yes. The sustainable construction aspects of Policy JWP4 are in general conformity with London Plan Policy SI 2. In particular, the policy requires greenhouse gas emissions to be minimised by working towards net zero where practicable and, where on site achievement is not practicable, provides for an appropriate contribution to the relevant Borough carbon offset fund consistent with Clause C of Policy SI 2. It is noted that Policy SI 2 also allows for shortfalls in meeting the zero carbon target to be met 'off-site provided that an alternative proposal is identified and delivery is certain.' and while the Boroughs' prefer shortfalls to be met via a carbon offset fund the policy does not prevent such an approach being taken. Nevertheless, it may be considered appropriate to amend the policy to make it clear that off-site carbon off-set provision may also be a suitable method of securing net zero.</p>
5(i).3	<i>Is Policy JWP4 (A)(3) clear and would it be evident to a decision-maker how to react to development proposals?</i>
	<p>Yes. Policy JWP4(A)(3) is intended to secure the enclosure of waste and wastewater activities within buildings unless an equivalent level of environmental and amenity protection can be demonstrated. It is considered a decision-maker could apply the provision, particularly when read alongside paragraph 6.94. To make the policy clearer, the supporting text could be amended to note that external operations may be accepted only where protection equivalent to operations occurring in a building is demonstrated.</p>
5(i).4	<i>Is Policy JWP4(A)(7) consistent with national policy relating to the conservation of the historic environment (in particular paragraphs 212 to 218 of the Framework)?</i>
	<p>Yes. The intention of Policy JWP4(A)(7) is to draw attention to the need for the historic environment to be protected when waste management and wastewater</p>

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	treatment development is proposed. Detailed policy on protection of the historic environment is included in the adopted Borough Local Plans (SD32, SD33, SD34, SD35) and this would equally apply to such proposals. Paragraph 1.8 explains that all the policies of the Development Plan will be taken into account.
5(i).5	<p><i>Is Policy JWP4's requirement relating to 'Secure by Design' principles justified given that the 'Secured by Design' document is not part of the adopted development plan?</i></p> <p><i>Does the wording given in 6.87 provide the basis for a main modification for any soundness deficiencies in these regards?</i></p>
	<p>Waste and wastewater facilities can raise legitimate security and design issues, and paragraph 6.87 explains why 'Secured by Design' principles are relevant. The 'Secured by Design' principles are referenced in the London Plan which forms part of the Development Plan. It is noted that 'Secured by Design' is guidance rather than development plan policy, and so a modification could be made by referring to Secured by Design principles 'or equivalent measures' and/or add "secure against unauthorised access and possible acts of vandalism evidencing regard to Secured by Design guidance" and delete specific reference to "in accordance with...". The issue of security was raised by the Metropolitan Police during the consultation on the Draft (Regulation 18) ELJWP (SD01) and text referencing the Secured by Design initiative was added in response to that comment (See CD07).</p>
5(i).6	<p><i>Is the Plan clear as to the types of development that would need to provide the biodiversity enhancements set out in paragraph 6.97?</i></p>
	<p>Yes. Paragraph 6.97 expects biodiversity enhancements to be integrated into 'new buildings'. This does not mean that other aspects of development do not need enhancement (or should be enhanced). The preceding paragraph notes the need for biodiversity net gain more generally.</p> <p>This text was inserted in light of a comment received from the Swifts Local Network: Swifts & Planning Group during the consultation on the Draft (Regulation 18) ELJWP (SD01) (See CD07).</p> <p>If the intention of the paragraph is still considered unclear, a minor modification could be made to confirm that the types of development that would need to provide the biodiversity enhancements would be 'new buildings <u>and structures related to waste management development</u>'</p>
5(i).7	<p><i>What soundness deficiency is suggested modification (see attached Schedule) SM6 intended to address?</i></p>
	<p>Suggested modification SM6 is justified as it addresses a genuine omission as both waste and wastewater proposals can affect utility assets and infrastructure networks, yet that matter is not addressed expressly in the submitted policy wording. The modification therefore improves the plan's effectiveness by drawing attention to a relevant planning consideration which is not otherwise set out in the policy and is necessary to help achieve Strategic Objective 3.</p> <p>This modification is proposed in response to a representation received from NGET (see CD08, (comment ref. 17/002)).</p>

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5(i).8	<i>What soundness deficiencies relating to the design of SuDS is suggested modification (see attached Schedule) SM7 intended to address? Would it result in an effective and justified policy position on this matter?</i>
	Suggested modification SM7 provides greater specificity to the Plan's treatment of SuDS and groundwater protection and so helps ensure the Plan is effective in achieving Strategic Objective 4. The submitted Plan already addresses water and climate resilience in general terms, but the proposed modification is justified on the basis that it responds directly to an Environment Agency concern (See CD08, comment ref. 35/012) that the policy should deal more clearly with infiltration SuDS, groundwater risk and protection of sensitive receptors such as Source Protection Zone 1. This addresses a matter that could be otherwise raised by the Environment Agency at application stage.
Issue (ii)	Does the Plan promote sustainable transport in a manner consistent with national policy and in general conformity with the London Plan?
5(ii).1	<i>Do the policies provide an effective basis for delivering the Plan's Strategic Objective 7 which seeks to minimize transportation and establish alternative infrastructure?</i>
	Yes. Strategic Objective 7 is implemented by the Plan's locational and transport policies, in particular: <ul style="list-style-type: none"> • Policy JWP2 (D) (4.) gives preference to sites with good access to railheads and wharves, • Policy JWP4 (A) (11&12) addresses transport impacts and supporting information, and • Policy JWP5 (4.) applies the proximity principle for energy from waste proposals.
5(ii).2	<i>What soundness deficiencies do the transport aspects of suggested modification (see attached Schedule) SM7 seek to address and would they do this in a justified and effective way?</i>
	The transport elements of SM7 are justified because they make the Plan more clearly aligned with London transport policy. In particular, references to staff and visitor accessibility, Healthy Streets, early engagement with transport bodies, and clearer treatment of freight and vehicle standards help improve the implementation, and so the effectiveness of the policy. The modification is proposed in response to representations received from Port of London Authority (CD08, comment ref. 26/005) and London Cycling Campaign (CD08, comment ref. 39/001).
Issue (iii)	Would the Plan's policies be clear and unambiguous so it is evident how a decision-maker should react to proposals for development, and are their associated information or other requirements justified?
5(iii).1	<i>Paragraph 21 of the Framework expects plans to make explicit which policies are strategic policies - would suggested modification SM1 (see attached Schedule) achieve this?</i>
	Yes. Suggested modification SM1 is intended to achieve what paragraph 21 of the Framework requires by making explicit that all the policies of the ELJWP are

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	strategic. This modification was proposed to address an issue identified by the Planning Inspectorate as part of the pre-examination checklist process.
5(iii).2	<i>Is it justified for the Plan to require a demonstration that any new development (of any scale) is necessary (per paragraphs 6.8, 6.12 and Policy JWP1(B)), and is this consistent with national policy (in particular 'Making effective use of land')?</i>
	<p>Yes. Policy JWP1 looks to preserve and repurpose existing structures where practical and appropriate. It may be demonstrated that it is not appropriate to preserve and repurpose existing structures because this would result in a less efficient use of land as envisaged by national policy and the Development Plan as a whole.</p> <p>Some refinement may be needed in terms of the threshold of the scale of development that Policy JWP1(B) should apply to.</p>
5(iii).3	<i>Paragraph 6.4 includes a number of types non-waste use that facilitate the circular economy, and at paragraph 6.5 indicates that support would be provided for such uses should specific decisions be needed. Is the Plan clear and unambiguous so that it is evident how a decision-maker should react to proposals for such uses? Would a more explicit link to Policy JWP1 (A) provide any necessary clarity?</i>
	Paragraphs 6.4 and 6.5 identify certain uses that facilitate the circular economy that may not be classed as a waste use per se, while Policy JWP1(A) is the principal policy mechanism for supporting such development regardless of this. A minor modification inserting a direct cross-reference to Policy JWP1(A) in paragraph 6.5 would make the relationship clearer and would assist decision-makers without changing the substance of the policy approach.
5(iii).4	<i>References to supporting information and documents are included throughout the Plan, both in its policies and their reasoned justification. Are these included in the Boroughs' lists of local information requirements (per paragraph 45 of the Framework) and is the requested information relevant, necessary and material to the applications in question?</i>
	The information requirements identified throughout the Plan are relevant and material to waste and wastewater development, but they should be applied proportionately and are not intended to be read as a universal validation list for every proposal. To the extent that particular items are intended to be validation requirements, they will be reflected through the individual Boroughs' local validation lists (and reflected in pre-application advice) which will be updated following adoption of the Plan.
5(iii).5	<i>Following on from the question above: a) Are paragraph 6.8's requirements for proposals to be accompanied by an assessment that shows why the service, e.g., housing provided by the development, is genuinely needed and cannot be met in a way that does not involve the demolition of new buildings and/or the construction of new ones justified?</i>

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	<p><i>And is the scale of proposals that this requirement would be relevant to clear?</i></p> <p><i>b) Is Policy JWP1's requirement for all proposals to provide a site waste management plan incorporating, as appropriate a pre-demolition audit justified?</i></p> <p><i>c) Is the requirement for new development (not including minor household applications) to provide a Recycling and Waste Management Strategy justified?</i> <i>How are 'minor household applications' defined and is this approach effective?</i></p> <p><i>d) Is the requirement for an Odour Impact Assessment as set out in paragraph 6.79 of the Plan justified, and is it clear what type of developments this would apply to?</i></p> <p><i>e) What is the justification for a Waste Hierarchy Statement to accompany Energy from Waste, and non-inert landfill proposals?</i></p>
	<p>a) A requirement to prove that development which would not involve the demolition of existing development unless it is 'genuinely needed' and the need cannot be met so as to avoid this is justified on the basis that demolition (and the associated replacement construction) can lead to the production of large quantities of waste, result in the degradation of important resources such as soil and is not in keeping with the circular economy principles that the Plan and national government is seeking to implement. Some refinement may be needed in terms of the threshold of the scale of development that this should apply to.</p> <p>b) A site waste management plan, including a pre-demolition audit where relevant, is justified provided the requirement is applied proportionately. Some refinement may therefore be needed in terms of the threshold of the scale of development that this should apply to.</p> <p>c) A Recycling and Waste Management Strategy is justified for all non-minor householder development, and the definition of 'minor household applications' should follow the Boroughs' established application categories. Poor management of waste associated with the construction and occupation of new development (even that which is small scale) causes adverse impacts, including those on the local amenity, it is therefore important that this is properly taken into account at the application stage.</p> <p>d) Yes, an Odour Impact Assessment is justified in the case of proposed development identified by paragraph 6.79 i.e. development proposed within 250m of an existing wastewater treatment facility which has a higher risk of having local amenity impacted by it due to the nature of its operations (unless it is fully enclosed). An Odour Impact Assessment will ensure developers take account of the potential for odour and the need to mitigate adverse odour impacts at the application stage.</p>

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	<p>e) Waste Hierarchy Statements are justified for energy from waste and non-inert landfill proposals because those uses sit lower in the hierarchy and require clear justification to avoid waste being managed at such facilities which can, and should, be managed at higher levels of the waste hierarchy, in particular recycling.</p>
5(iii).6	<p><i>What is the justification for the development threshold for the production of a Circular Economy Statement, which is lower than that set out in the London Plan?</i></p>
	<p>The London Plan threshold is directed at referable applications only, whereas the ELJWP is intended to influence circular economy performance more widely across the four Boroughs. A lower threshold is not inconsistent with the London Plan that states at Policy SI 7 C: “Development Plans that apply circular economy principles and set local lower thresholds for the application of Circular Economy Statements for development proposals are supported”</p>
5(iii).7	<p><i>Is Policy JWP1 and its reasoned justification consistent with the adopted development plans for the Boroughs in terms of the size thresholds for “development requiring certain arrangements for waste management” (per paragraph 6.16)? Is the Plan clear and unambiguous in these terms?</i></p>
	<p>The Boroughs have chosen to adopt a uniform requirement for the submission of a Recycling and Waste Management Strategy and it is recognised that this will supersede requirements in Borough Local Plans. To avoid ambiguity paragraph 6.16 could be modified so this point is clear "Thresholds for sizes of development requiring certain arrangements for waste management included in Local Plans should be followed. "</p>
5(iii).8	<p><i>Would it be clear and unambiguous to a decision-maker which elements of the documentation provided with planning applications would include the information requested in paragraphs 6.17 and 6.18 of the Plan?</i></p>
	<p>Generally, it is considered that the Plan is clear in what is required with respect to paragraphs 6.17 and 6.18, in particular paragraph 6.16 sets what is expected with regard to: “the types of waste that will be produced during the occupation and use of the development and how this will be managed”.</p> <p>However, it is recognised that details regarding construction and demolition waste associated with the construction of a development are unrelated to the reuse and recycling of (household) waste generated during its operation and so, to avoid ambiguity, a minor modification to paragraph 6.18 ought to be made.</p>
5(iii).9	<p><i>Is Policy JWP2B consistent with paragraph 16 of the Framework which expects that plans should contain policies that are clearly written and unambiguous, and that unnecessary duplication of policies that apply to a particular area should be avoided? How would the addition of the paragraph by way of suggested modification SM5 (see attached Schedule) address any soundness shortcomings in these regards?</i></p>

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	<p>Policy JWP2B is considered consistent with paragraph 16 of the Framework and provides a consistent and unambiguous approach to the safeguarding of existing, and provision of additional, wastewater treatment capacity in East London.</p> <p>As set out in Appendix 3 of the Consultation Statement (CD08), the East London borough's objective for this policy approach is to ensure that planning decisions accord with the relevant strategic objectives of the development plan and the broader Asset Management Plan requirements. The policy's supporting text provides additional information around the implementation of this policy. Paragraph 6.71 sets out that <i>"In exceptional (and unlikely) cases it may be possible to demonstrate that the capacity proposed to be lost is not actually required to meet the objectives of this Plan and the London Plan"</i>.</p> <p>Paragraph 6.62 sets out how <i>"need for additional wastewater treatment capacity is determined through the 'Asset Management Planning' (AMP) process."</i> It is considered this supporting text provides further guidance on the information sources that may be used to justify a loss of capacity from a wastewater site.</p> <p>The addition of a new paragraph of supporting text directly referencing the strategic objectives of the development plan and the AMP process (SM5) helps clarify the position and ensure the effectiveness of the Policy.</p>
5(iii).10	<p><i>Is the reasoned justification at paragraphs 6.59 and 6.71 consistent with the wording of Policy JWP2B insofar as development that would lead to loss of safeguarded wastewater sites is concerned?</i></p>
	<p>Yes. Paragraphs 6.59 and 6.71 explain that waste treatment capacity is safeguarded other than in exceptional cases/circumstances and Policy JWP2B (B)(2.) sets out what those 'exceptional circumstances' might be. Policy JWP2B (B)2 refers to "policy objectives and legal requirements" while paragraph 6.71 refers to "the objectives of this Plan and the London Plan", in light of this inconsistency a modification to ensure paragraph 6.71 wording is aligned with the policy is proposed to ensure clarity.</p>
5(iii).11	<p><i>Suggested modification SM5 (see attached Schedule) would see the inclusion of additional text relating to wastewater treatment facilities:</i></p> <p><i>a) What soundness deficiencies are these changes expected to address?</i></p> <p><i>b) If taken forward would it be clear and unambiguous to a decision-maker how to react to relevant development proposals given that the changes are included in the Plan's reasoned justification rather than its policies?</i></p> <p><i>c) Are the information requirements justified and would they be included in the Boroughs, lists of local information requirements?</i></p>
	<p>(a) SM5 is intended to improve certainty (and so the effectiveness of the Plan) about how proposals affecting safeguarded wastewater sites might be allowed, insofar as loss of capacity and the relationship with nearby sensitive development is concerned.</p> <p>(b) It is considered that the policy is clearly worded and the supporting text provides appropriate additional information intended to explain how the policy will be implemented in practice i.e. what matters will be considered when assessing proposals for consistency with the policy. Including the text within the policy might make the policy more direct but could also make it more cumbersome to implement.</p> <p>(c) The information requirements are justified on the basis that it will be hard to assess a specific proposal's consistency with the policy unless this</p>

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	information is provided. The Boroughs will consider the extent to which these requirements should be reflected in Borough local lists and update them accordingly once the Plan has been adopted.
5(iii).12	<i>What is the justification for the radii around waste sites (set out in paragraph 6.75, 6.76 and 6.77) wherein proposals for non-waste uses would have to consider their amenity impacts?</i>
	The radii are intended as precautionary consultation distances rather than absolute exclusion zones. The 250 metre distance is expressly linked to bioaerosol considerations for relevant waste uses, and the wastewater-related distances reflect the need to assess potential amenity and environmental effects around major wastewater infrastructure (Beckton Sewage Treatment Works in particular). Their purpose is therefore to trigger assessment where justified, not to impose an automatic prohibition. The distances around wastewater treatment facilities are consistent with those applied by the affected wastewater management companies and based on advice provided by the water companies (Anglian Water and Thames Water when the Draft (Regulation 8) Plan was published.
5(iii).13	<i>Is it clear to a decision-taker where the radii are measured from (for example the centres or edges of sites)?</i>
	Yes. The wording reasonably takes 'site' to mean the entire site up to its boundary – distances from the site are therefore from the boundary of the site.
5(iii).14	<i>Are the relevant radii shown on policies maps?</i>
	No, however it is entirely usual to have to measure distances on maps when preparing and assessing planning applications and so the fact that the radii are not shown will not adversely impact the effectiveness of the policies.
5(iii).15	<i>Is the Policy JWP4(A)(6) requirement for the provision of community benefits justified and consistent with the Framework's requirements (at paragraph 58) relating to planning obligations?</i>
	<p>Yes, the requirement for the provision of community benefits in Policy JWP4(A)(6) is not absolute as the clause is qualified by the term 'where required'. In certain circumstance it will be reasonable, where directly related to the development, and fairly and reasonably related in scale and kind, to require community benefits (e.g. educational opportunities, public realm improvements) to be provided alongside the development of a waste facility.</p> <p>As the text "where required" falls after a comma, it is recognised that this could be construed as relating solely to "biodiversity enhancement and net gain" Insertion of a comma after "gain" would make it more clearly relate to all previous items listed: "contributions to green and blue infrastructure, community benefits (including Public Rights of Way), and biodiversity enhancement and net gain, where required;"</p>
5(iii).16	<i>With regard to requirements to achieve BREEAM 'Excellent', are the criteria in Policy JWP4(A)(9) justified, effective and consistent with the Framework (particularly Chapter 14) and the 'Climate Change' PPG? Have the viability implications of this requirement been considered?</i>
	Yes. The requirement for BREEAM 'Excellent' is justified because the policy allows for both an equivalent and an exclusion "if not practical". Paragraph 6.90 recognises that site or technological constraints may make that rating

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	impracticable, in which case the highest practicable standard must be demonstrated. This flexibility allows for any viability concern to be addressed.
5(iii).17	<i>Are Policy JWP4(B)'s requirements relating to local employment justified and effective?</i>
	Yes. The provision supports Strategic Objective 3 in particular. It is intended to operate so that such development bring local employment and skills benefits in line with Local Plans. Para 24 and Table 4 sets out how unemployment rates in at least two of the Boroughs are higher than the London average, so inclusion of this requirement is considered to be justified.
5(iii).18	<i>Does Policy JWP4(C) unnecessarily duplicate other regimes relating to development proposals and is its wording otherwise justified and effective?</i>
	It might be said that Policy JWP4(C) overlaps with other regimes, but it also performs a legitimate plan-making function by signposting a critical constraint that is considered to potentially be particularly relevant to waste and wastewater development. The Plan HRA also relies in part on the protections in Policy JWP4.
5(iii).19	<i>Is the list of abbreviations contained in the Plan sufficiently comprehensive to ensure that policies would be clear and unambiguous (per paragraph 16 of the Framework)? In answering this question, the Boroughs are encouraged to undertake a review of acronyms included in the Plan including, but not limited to MBT, CLEUD, WTS, LSIS, LIL).</i>
	It is acknowledged that the abbreviations list does not currently capture the acronyms MBT, CLEUD, WTS, LSIS, LIL used in the Plan. To ensure the Plan includes a full list of abbreviations, a review will be undertaken, and updates will be proposed once it is clear what modifications to the Plan may arise during the examination of the Plan.
Issue (iv)	Does the Plan set out effective mechanisms for its implementation and monitoring?
5(iv).1	<i>Are the Plan's monitoring arrangements set out in Appendix 1 clear as to how any agreements reached with other Boroughs (per paragraph 5.5 of the Plan) would be taken into account in assessments of available capacity over the Plan period?</i>
	It is proposed that the explicit inclusion of "any apportionment transfers and other capacity sharing agreements" could be added as an additional Source to the indicator "Waste management capacity by waste category and position on the waste hierarchy (recycling / other recovery / disposal)" Under Safeguard existing waste management capacity for comprehensiveness.
5(iv).2	<i>Are the monitoring arrangements effective in terms of setting out the range of actions that may be required if targets or milestones are not met?</i>
	It is considered that the monitoring framework will be effective, particularly when read with paragraph 5.5, in identifying parts of the Plan that will need updating when it is reviewed.

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5(iv).3	<i>Are effective monitoring arrangements in place to assess the capacity effects of sites falling out of waste use by virtue of temporary permissions coming to an end or environmental permits being ceased or surrendered?</i>
	<p>Yes. Neither of the scenarios identified are considered to be determinative to the continued availability of capacity. This is because</p> <ol style="list-style-type: none"> 1. the Capacity Assessment already takes account of the loss of sites subject to time limited permissions; and 2. the identification of existing waste sites relies on the lawfulness of a waste use rather than the existence of an environmental permit, So a permit could cease but the lawful waste use would subsist unless/until an application for change of that use comes forward, at which point the matter of compensatory capacity would need to be addressed as per Policy JWP2.