

# Examination of the East London Joint Waste Plan

## London Borough of Tower Hamlets: Response to Main Matter 1

### Matter 1: Legal and Procedural Requirements

#### Issue (i)

#### Q1: Has the SA process complied with the requirements of the SEA Directive and the SEA Regulations?

1. No. The London Borough of Tower Hamlets (LBTH) considers that the SA process has not complied with the requirements of the SEA Directive and the SEA Regulations.
2. The East London Joint Waste Plan (ELJWP) has failed to assess a reasonable alternative which addresses LBTH's request for assistance with its identified shortfall in capacity within the Integrated Impact Assessment (IIA).
3. The 2024 IIA Scoping Report (submission document CD05), at paragraph 4.25, states that in order "to avoid abortive IIA work, the Councils must first establish whether the allocation and/or deallocation of sites is in fact reasonable and secondly the quantum of shortfall/surplus requiring allocation/deallocation, both in light of the evidence and following consultation with neighbouring authorities". The clear implications of this statement are that, in advance of the IIA Report being produced, neighbouring authorities should be consulted in order to identify and quantify any shortfall, and that the IIA itself would need to give this matter due consideration given its influence on any decisions to allocate or deallocate sites.
4. LBTH's shortfall has been identified as 192,370 tonnes per annum (tpa) of Household, Industrial and Commercial (HIC) qualifying waste management capacity and 56,953 tpa of Construction and Demolition (C&D) waste management capacity. In its representation to the Regulation 18 consultation on the draft ELJWP, LBTH requested that this shortfall was addressed through an assignment of a portion of the identified surplus capacity in the ELJWP to LBTH which would allow LBTH's London Plan apportionment targets to be met. The request was repeated in the LBTH Regulation 19 representation. The request also includes the assignment of 26,353tpa of HIC waste capacity formerly managed at the Hepscott Road site located in LB Tower Hamlets, which was granted planning permission for redevelopment and de-designation as a waste site in February 2018 by the London Legacy Development Corporation (LLDC). The capacity from the Hepscott Road site was transferred to a site located at River Road in LB Barking and Dagenham, thereby resulting in a reduction in capacity within Tower Hamlets.
5. LBTH considers that a scenario in which the ELJWP makes provision for accommodating the request is a reasonable alternative that should have been assessed in the IIA, since the request was made known to the East London Joint Waste Planning Group (ELJWPG)

both in LBTH's responses to consultation on the ELJWP and through Duty to Cooperate discussions which are captured in Statements of Common Ground between the two authorities. By omitting this scenario from the assessment of reasonable alternatives, the approach taken in the IIA does not satisfy the requirement of Regulation 12(2)(b) of the Environmental Assessment of Plans and Programmes Regulations 2004 to "identify, describe and evaluate the likely significant effects on the environment of reasonable alternatives taking into account the objectives and geographical scope of the plan or programme".

6. Paragraph 18 of the Strategic Environmental Assessment and Sustainability Appraisal Planning Practice Guidance explains that sustainability appraisals need to consider and compare "all reasonable alternatives" (reflecting the requirement in regulation 12(2) of the SEA Regulations). It defines reasonable alternatives as "the different realistic options considered by the plan-maker in developing the policies in the plan". It is entirely realistic, given the significant identified surplus capacity across the areas covered by the ELJWP, for some of this capacity to be assigned to other authorities which are facing a shortfall against their apportionment targets, and by extension it is clear that the scenario should have been included in the assessment of reasonable alternatives.
7. Furthermore, LBTH considers that making provision for neighbouring authorities' shortfall within the assessment of reasonable alternatives is necessary in the context of paragraph 9.8.6 of the London Plan 2021, which states that boroughs with surplus capacity should offer to share this surplus with boroughs who are facing a shortfall in capacity. This sets an expectation that boroughs will cooperate with other authorities to address unmet apportionment targets, and therefore conformity with this element of the London Plan should be considered through the IIA when a shortfall has been identified and a request for assistance received.
8. In the ELJWPG response to Regulation 19 representations (submission document CD08, p132) the Boroughs explicitly state that it is not considered to be a reasonable alternative that needs to be assessed in the IIA, relying instead on provisions in the plan which set out that requests to share capacity are handled under the Duty to Cooperate process. This is considered to be a deficient response as it omits assessment of the specific capacity that LBTH has requested be assigned to LBTH, and the environmental impacts that may arise if specific provision was made for this assignment of capacity in the draft plan, including those related to IIA objectives 1 (climate change), 5 (sustainable transport), 11 (noise, light and air pollution) and 12 (mineral resources and soils).
9. This omission means that the plan-making process for the ELJWP has not been informed by a sufficient IIA and that plan-makers have not been provided with an adequate assessment of the impacts of safeguarding surplus capacity to accommodate the waste arisings of neighbouring authorities who face a shortfall, or indeed the potential impacts of not accommodating LBTH's request for assistance.
10. Therefore, LBTH maintains that the SA process has not been carried out in accordance with the SEA Directive and Regulations since it has not appropriately considered LBTH's

outstanding request for assistance. LBTH considers that the IIA should be revisited to include this option as a reasonable alternative, and that this review should in turn inform the drafting of the plan itself.

**Q3: Has the SA process been genuinely iterative and carried out in step with the stages of plan preparation?**

11. No. LBTH considers that the SA process has not been iterative as the IIA has not evolved alongside the representations received at various stages of plan preparation.
12. As set out in detail in our response to Matter 1 Issue (i) Question 1, the IIA does not include a reasonable alternative in which the ELJWP makes provision for both the apportionment targets of the East London boroughs and the LBTH shortfall in its apportionment target. The IIA Scoping Report provides a strong steer that neighbouring authorities' shortfall should be considered as part of the IIA process, informed by consultation with those authorities.
13. The Regulation 22 Consultation Statement (submission document CD07) summarises representations received in response to the Regulation 18 consultation on the draft ELJWP. This includes, on page 18, LBTH's suggestion that the IIA should assess an alternative whereby the ELJWP takes on apportioned waste from neighbouring boroughs, and the ELJWPG's response that the assessment of alternatives was proportionate and in line with requirements.
14. Consequently, the IIA which accompanied the Regulation 19 consultation version of the plan did not include the reasonable alternative which had been suggested by LBTH. The Regulation 22 Consultation Statement, Appendix 3 (submission document CD08) includes representations received at Regulation 19 and the ELJWPG's response to those representations. LBTH again noted that the IIA accompanying the consultation did not assess the reasonable alternative of safeguarding waste capacity for authorities facing a shortfall (see reference 30/008 on page 17). In response, the ELJWPG restates its position that this is not a reasonable alternative that needs to be assessed in the IIA, although it does not address the apparent discrepancy between this position and paragraph 4.25 of the IIA Scoping Report which suggests that neighbouring authorities' shortfalls should be considered in the IIA Report.
15. As set out in our response to Question 1, LBTH considers that this reasonable alternative should be assessed in the IIA, and its omission from the IIA results in a flawed plan-making process which has not been informed by a comprehensive assessment of realistic alternatives to the chosen strategy. A genuinely iterative SA process should be responsive to the representations received during the plan-making process and should accord due consideration to the reasonable alternatives suggested by representors.