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East London Joint Waste Plan Consultation Team
By email to 

30 June 2025

Re: East London Joint Waste Plan, Regulation 19 Consultation – Representation submitted on behalf of East London Waste Authority

Response ID: ANON-VY45-AG6S-9

Response key: 89c8c57ef13465c8af21adef59b802f775bd5f0a

Agent: Hannah Booker 

The following representation has been submitted via the East London Joint Waste Plan consultation portal [online]. However, for ease of reading and clarity of suggested wording which is highlighted in blue text below, we share this note which should be read alongside the submission.

The below provides emphasis in response to the parts 14 and 15 of the online consultation form. The remainder of the questions have been answered on the online form in the response ID noted above.

14. Please give details of why you consider the Waste Plan is not legally compliant or is unsound or fails to comply with the Duty to Cooperate.

Please be as precise as possible. If you wish to support the legal compliance or soundness of the Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

I am writing on behalf of the East London Waste Authority (ELWA) in relation to the Regulation 19 consultation on the East London Joint Waste Plan (ELJWP).

ELWA is the statutory joint waste disposal authority for the London Boroughs of Barking & Dagenham, Havering, Newham, and Redbridge. ELWA is responsible for arranging the treatment and disposal of waste and recycling collected by the four Constituent Councils, and also provides a network of four public Reuse and Recycling Centres across the area.

ELWA has been consulted constructively, actively and on an ongoing basis by the local planning authorities, and has been able to feed in detail about ongoing contracts and operational changes that are anticipated over the plan period. However, in recent months a procurement exercise and contract review has commenced and has revealed potential challenge to renewal of existing contracts.

Some of the wording in the plan regarding ELWA waste management sites and their future capacity creates concern in preventing ELWA from fulfilling its Statutory obligations regarding waste operations, and also in the binding requirements of seeking public good and best value in which they must review contracts. Due to the contract review commencing in recent months, the challenge to contract renewal was not captured in detail prior to the Regulation 19



consultation. ELWA is therefore making a representation to request updates to the Joint Waste Plan to ensure that it is justified and effective for the duration of the plan period.

ELWA is broadly in support of the East London Joint Waste Plan, but are concerned that the Plan does not adequately reflect the likelihood of contract reviews during the plan period that may require capacity to be transferred from existing sites to new facilities. The document wording at this time could restrict ELWA's ability to discharge its statutory duties while achieving value-for-money for its residents. ELWA is also concerned that the current wording of Policy JWP2 will in turn preclude future capacity in the plan area being accommodated. It is considered without additional information noted below, the plan may be unsound due to the justification of Safeguarding Policy JWP2 being challenged by detail available to the Local Planning authority at this point in time.

While it is not believed a significant update is required, the addition of the information noted below is considered imperative, and it is believed that the plan should acknowledge the potential need for new waste-allocated sites to be brought forward where consideration of cost-effective discharge of statutory duties by public authorities would justify such action.

5. Please set out the modification(s) you consider necessary to make the East London Joint Waste Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified above.

(Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Waste Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

4 Concerns are raised below, with suggested update to supporting text and policy wording (shown in blue) noted beneath the concerns:

- 1) Paragraphs 1.124 – 2.130 (Pages 49 and 50) present the status of ELWA and note one of the contract review exercises that is anticipated over the plan period. The detail does not include the expectation that there will be multiple contract review and/or procurement exercises over the plan period, and that changes to sites may become necessary during the life of a contract and delivered through a Deed of Variation rather than at the point of procurement. The plan similarly does not express the requirements of ELWA in regard to procurement exercises, namely to ensure compliance with public sector spending and procurement rules. It is suggested a new paragraph be noted after paragraph 2.129 as follows:

'ELWA must undertake contracts and procurement exercises in accordance with Public Sector spending requirements. As noted within the adopted Joint Strategy (2027-57) (Pages 45 - 48), "effective future commissioning will need to consider issues such as flexibility and resilience as well as value for money, service quality, social value and environmental impacts including greenhouse gas emissions". The future of the ELWA operations will be determined with weight applied to such considerations, and particular note is made to the operations at Jenkins Lane and Frog Island.'

- 2) Paragraph 6.33 (page 71) notes that certain sites are only safeguarded until planning permission expires, regardless of the status of a related Environmental Permit. While ELWA support the general approach to safeguarding, it is suggested that clarity is given to paragraph 6.33 as follows:

*'Some sites may have a time limited planning permission for a waste management use, or a planning permission for waste management use which is restricted by condition(s), and the temporary nature of the permission means that it has been determined that it is not desirable for the use permitted to continue beyond a certain date and/or by way of compliance with restrictive condition(s) criteria. For this reason, sites with ~~time limited~~ planning permissions **restricted by condition(s) and/or time** are only safeguarded by the ELJWP up to the date on which the permission expires or no longer addresses conditional criteria. This is regardless of the status of any related Environmental Permit for the site e.g. if it has been surrendered. In addition, in cases where land on which (i) the waste use is lawful under the land use planning system and (ii) land covered by an Environmental Permit **do not align**, the area to which the lawful use under planning applies is taken as that to be safeguarded. Finally, where a site is subject to planning enforcement action against the continued use, safeguarding will not take effect/is held in abeyance until the matter has been resolved regardless of permitted status.'*

- 3) Considering the background provided above, Policy JWP2 appears to be too restrictive regarding potential need and likelihood for new or replacement facilities over the ELJWP period, which is extensive due to recent contract review highlighting significant public cost of maintaining the status quo. There may be many valid reasons why a waste management site needs to be brought forward on land that is not safeguarded for waste and/or allocated or in use for more general industrial uses, such as to reduce transport congestion/emissions, access power connections, to deliver best value an/or public good and other benefits to the local area.
- 4) Policy JWP2 also includes several statements that are unrealistic to waste development, for example:
- a. under Criterion D (Waste hierarchy and location) point 4, vi, does not reference the move that modern facilities are completely contained within a building;
 - b. under Criterion D (Waste hierarchy and location) point 6, v, does not acknowledge the significant size requirement of a neighbouring site to be able to utilise all compost/digestate from a large, commercial IVC or AD facility. It is noted that it is very unlikely that a neighbouring site would be large enough to be able to utilise ALL of the compost/digestate, and that there is a need to insert "some of" when referring to any neighbouring site; and,
 - c. Criterion C.2 point 3 appears to be counter to the intentions of the earlier wording of the policy – it is noted that moving waste up the hierarchy would normally decrease throughput, as operations that seek to recover, recycle, repair or reuse materials will generally require more space. While this is not a hard and fast rule, Criterion C.2. appears to require further justification for its inclusion.

To ensure the proposed policy is efficient and justified, and ultimately sound, it is proposed that the wording of this policy is updated as follows (see blue text additions):

'Policy JWP2: Safeguarding and Provision of Waste Capacity Safeguarding existing capacity

*A. Existing waste sites safeguarded from non-waste development are listed in Appendix 2 and detailed in Appendix 3 (hereinafter referred to as "safeguarded waste sites"). If a waste site does not have express planning permission for a waste management use, benefit from a CLEUD or has become lawful over time and is safeguarded under London Plan policy only by virtue of it having an Environmental Permit for a waste activity, the site will cease to be safeguarded if/when the Environmental Permit is surrendered/ceases to exist. Where a site benefits from a time limited planning permission **or permission that is restricted by condition(s)**, the site will cease to be safeguarded on the date when the planning permission expires **or can no longer address conditional criteria**, regardless of its permitted status.*

B. Development that would lead to the loss of capacity and/or constrain current operations of a safeguarded waste site or future committed operations subject to an active planning permission^{52A} will not be permitted unless:

- 1. it can be demonstrated that equivalent, suitable, and appropriate compensatory capacity is provided within the **Borough catchment** where the site is located, or if this is demonstrated not to be possible, elsewhere in East London, or finally, elsewhere in London; or*
- 2. it has been demonstrated that the capacity of the facility to be lost would not compromise the ability of London to meet the London Plan objective of net self-sufficiency for London as a whole.*

Overarching need for new capacity

C. Proposals for the management of HIC waste (LACW and C&I waste) which would result in waste management capacity exceeding that required to meet the London Plan apportionment for East London and any proposals for the management of other waste streams beyond those needed to meet Plan targets, will not be permitted unless they would:

- 1. Provide appropriate compensation for the loss of existing capacity which is needed for London to be net self-sufficient in waste management capacity overall (**appropriate compensation should be robustly justified with regard to its overall economic, environmental and social benefit to the local community**); or*
 - 2. result in waste being dealt with further up the hierarchy (unless a life cycle assessment demonstrates that the method of management proposed is appropriate); and,*
 - 3. subject to criterion C2 above, increase the throughput of an existing waste management facility;*
- or 4. consolidate waste management activities taking place at more than one site in East London at a single location (subject to cumulative impacts being acceptable and compliance with other policies in the Development Plan).*

Waste hierarchy and location

D. Subject to criterion C above, proposals for waste management uses, including changes to the operation and layout of safeguarded waste sites, will be permitted where it is demonstrated that:

1. The waste to be managed could not practically be avoided or **practically** managed by a means further up the waste hierarchy unless a life cycle assessment demonstrates that the method of management proposed is appropriate; and,

2. by-products and residues are minimised; and,

3. any proposed decrease in the throughput of safeguarded waste sites would result in waste being managed further up the waste hierarchy.

4. The proposal will:

i. Minimise transportation of waste by being well located in relation to the sources of waste to be managed; and,

ii. have good access to railheads and wharves and utilise non-road modes of transportation or demonstrate why this would not be practicable; and,

iii. Subject to criteria i., have good access to the road network and will not cause unacceptable adverse effects on the road network; and,

iv. avoid creating an undue **adverse** amenity impact on existing permitted non-waste uses, or land allocated, or land with permission for non-waste uses that could conflict with the proposed waste management use; and,

v. for energy from waste facilities, be close to current or future heat users or networks and locations where resultant carbon may be captured for use; and,

vi. for operations which generate bioaerosols (like composting), be situated at least 250m from sensitive receptors or **be fully contained in a building**.

5. In the following priority order, the proposal is situated:

i. On a safeguarded existing waste site; or

ii. where it is demonstrated that the use could not be located on an existing safeguarded waste site, in a Strategic Industrial Location (SIL); or

iii. where it is demonstrated that the use could not be located in a SIL, in a Local Industrial Location (LIL) as appropriate.

6. Where it is demonstrated that SIL and LIL is not available, and that the proposal is consistent with all other policies in the Development Plan, proposals may be permitted in the following locations

i. In or near safeguarded waste sites especially where this enables synergistic relationships between facilities; or,

ii. Local Plan allocations identified as suitable for industrial uses;

or, iii. previously developed, contaminated, or brownfield land not allocated for other non-industrial uses;

or, iv. redundant agricultural and forestry structures and their surroundings; and,

v. where composting or anaerobic digestion is proposed, farm properties where **some of** the resulting compost/digestate will be utilised including on adjacent land.

E. Proposals on greenfield land will not be permitted unless it can be demonstrated that special circumstances require that the proposed waste management development is particularly needed in that location.



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F. Proposals must be in accordance with other policies of this Plan, in particular Policy JWP4 relating to the protection of residential amenity, together with other relevant policies of the appropriate borough's Development Plan.'

