

Examination of the East London Joint Waste Plan

London Borough of Tower Hamlets (LBTH): Response to draft modifications proposed by the East London Boroughs (ELBs)

9 July 2026

Introduction

1. LBTH's position remains the same as that expressed in our written statements and during the hearing sessions, namely, that any capacity sharing should be set out within the ELJWP itself, in order for the plan to be positively prepared and effective. Comments on the ELBs' proposed alternative approach are provided without prejudice to this principal position.

Proposed modifications of Paragraphs 4.11 and 4.12

2. LBTH does not agree with the proposed modifications to paragraphs 4.11 and 4.12.
3. The amendments are inconsistent with national policy and the London Plan (the relevant provisions of the NPPF and the London Plan are summarised in the Annex to this response). In summary:
 - a. NPPF paragraph 11(b) states that '**strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas**'. The approach of deferring rather than dealing with the needs of LBTH is contrary to NPPF paragraphs 11(b) and 36.
 - b. London Plan paragraph 9.8.7 states: '*Where apportionments are pooled, boroughs must demonstrate how their joint apportionment targets will be met, for example through joint waste Development Plan Documents, joint evidence papers or bilateral agreements*'. Having regard to the requirements of national policy, the London Plan supports unmet needs being addressed when possible through strategic policies rather than deferred to statements of common ground or other agreements. LBTH's proposed modifications to the main policy text of Policy JWP2 is in line with this support and the priority given in national policy to a plan-led approach, whereas the ELBs proposed approach is not.
4. Further, the ELBs' proposal to cap the amount of waste capacity to be shared at the capacity of the waste sites that are proposed to be released is contrary to the London Plan, both in respect of the London Plan's overarching strategy to achieve net waste self-sufficiency (see policy SI8.A.1 and paragraph 9.8.1) and in respect of the text in paragraphs 9.8.6 and 9.8.7. Neither LP policy SI8 nor the supporting paragraphs limit the amount of capacity to be shared only to an amount equivalent to the capacity of sites proposed to be released. The requirement to offer to share sites that are proposed to be released is a distinct requirement, separate to the general requirement that boroughs with surplus capacity should share that capacity with other boroughs facing a shortfall in

capacity. The identified surplus in the ELJWP area significantly exceeds the capacity of the four sites proposed for release.

Proposed addition of Appendix 6

5. LBTH acknowledges that a new Appendix 6 is proposed to be added to the ELJWP. The Council agrees with the principle of incorporating capacity sharing criteria in the plan to ensure a consistent approach is applied to all capacity sharing requests, whether these are made during the plan-making process and therefore addressed in the plan (as they should be for the LBTH request) or whether they are made outside the plan-making process i.e. following the plan's adoption. However, it is noted that the criteria in Appendix 6 are in several respects new, and differ from the criteria contained in Appendix 4 of submission document CD09.
6. Whilst some proposed amendments appear reasonable to ensure criteria are in line with London Plan requirements, there have been several changes which go beyond the requirements of the London Plan:
 - **Criterion 1: This is not agreed.** Appendix 4 of CD09 requires "suitable evidence that insufficient capacity exists". The amended criterion now appears to require a calculation of future need rather than provision of robust evidence of an established existing shortfall. Such a future calculation builds in several uncertainties (such as future London Plan apportionments, uplifted housing and employment trajectories, and the potential limitations of existing waste sites) and risks underestimating overall shortfalls. Solely focusing on predicted quantum therefore does not align with the London Plan's strategic objective of net self-sufficiency (Policy SI8)
 - **Criterion 2(a):** The amendments appear to be reasonable, notwithstanding previous LBTH comments regarding the use of 'maximise' as this does not align with the requirement to 'optimise' capacity in London Plan policy SI8 part A(3).
 - **Criterion 2(b):** Amendments appear to be reasonable.
 - **Criterion 2(c):** Amendments appear to be reasonable.
 - **Criterion 2(d):** Amendments appear to be reasonable. London Plan Policy SI8 B4(a) and (c) should also be referenced to align with the expanded list of suitable sites.
 - **Criterion 2(e):** Agreed in principle however wording is unclear. We recommend removing the word 'sought' from this text.
 - **Criterion 2(f): This is not agreed.** It places an additional burden on the source WPA to identify specific sites within a donor WPA's plan area that could accommodate the unmet need. Instead, it should require the source WPA to demonstrate efforts to secure a strategic agreement with 'donor' WPAs to address shortfall across their plan area. The term 'demonstrable relationship' is unclear and requires further definition to clarify what this means in a waste planning context.

- **Criterion 3: This is not agreed.** Basing capacity sharing decisions on existing flows between source WPAs and ‘donor’ WPAs is not aligned with the London Plan’s strategic objective of net self-sufficiency (Policy SI8) and NPPF paragraph 11(b). Waste flows are subject to change and linking capacity sharing to existing flows places a potential restriction on London’s ability to become self-sufficient in waste management, as well as potentially locking in less sustainable patterns of waste management where existing flows are to facilities that are further away from the source WPA. Regardless of existing waste flows, LBTH has confirmed its waste shortfall, the ELBs have confirmed that they accept LBTH’s evidence of the shortfall, and there is no evidence there is surplus capacity elsewhere in London to accommodate this shortfall. We reiterate the point above about the term ‘established relationship’ being unclear and requiring further definition.

Proposed Statement of Common Ground between ELJWPG and LBTH

7. **LBTH does not agree that a standalone Statement of Common Ground (SoCG) is the appropriate mechanism for setting out capacity sharing agreements. This is for the same reasons the proposed modifications to paragraphs 4.11 and 4.12 are not agreed, as capacity sharing can and should be addressed through strategic policies in the development plan itself where requests are made during the plan-making process. Notwithstanding this position, below is a high-level summary of initial concerns with the draft SoCG. Further comments will be made if Inspectors deem the SoCG to be the appropriate mechanism for a capacity sharing agreement.**
8. Paragraph 3.1 of the proposed SoCG focuses on LB Newham’s waste flows to LBTH and onwards to LB Bexley but does not recognise the existing flows from the ELBs to LBTH. Ultimately, focusing on existing waste flows is not aligned with the wider strategic objective of achieving London-wide net self-sufficiency in accordance with Policy SI8 of the London Plan. This same approach needs to be reflected in paragraph 5.3 to ensure flexibility within the plan period to manage changes within waste management and wider waste flows. As noted in our comments on Criterion 3 of the proposed Appendix 6, it is unnecessarily restrictive to base capacity sharing decisions on existing flows when opportunities exist to reach agreements through which waste can be processed closer to its source at sites which have the potential for capacity optimisation. If ‘donor’ WPAs carry out waste capacity assessments that only take into account existing flows with other WPAs, there is a significant risk they will fail to accurately account for shortfalls in other London WPAs with which they do not currently have existing flows, potentially leading to release of sites which could be used to address some or all of those shortfalls.
9. The approach by the ELBs also fails to consider potential changes within source WPAs such as uplifted housing and employment trajectories, the potential limitations of existing waste sites, and wider policy changes i.e. draft London Plan waste apportionments and the wider impacts this may have on waste capacity management during the plan period.
10. Paragraph 3.2 of the proposed SoCG states that LB Bexley, *‘in its recently adopted Local Plan indicates the availability of additional capacity for the management of apportioned*

HIC waste'. However, the extract from the Bexley Local Plan attached to the proposed SoCG is incomplete and no information is provided as to whether Bexley continues to have spare capacity. Paragraph 6.82 of the Bexley Local Plan states that "*sites suitable for waste management are designated in partnership with the Southeast London Joint Waste Planning Group*" and paragraph 6.83 provides that Bexley has "*formally accepted responsibility for meeting the waste management capacity for London Plan waste apportionment requirements identified for the City of London and City of Westminster*". Further in this regard, and as evidenced in the LBTH Local Plan submission documents, LBTH have had ongoing discussions with LB Bexley on behalf of the SELJWPG post adoption of their Local Plan. To date no confirmation of available surplus capacity has been provided, and the SELJWPG has indicated that updated capacity evidence will only be produced once the draft London Plan apportionments are known. This position, which has consistently been evidenced by LBTH, is not acknowledged within the proposed SoCG.

11. As noted above (paragraph 3), the 2024 NPPF requires the development plan to provide for '*any needs that cannot be met within neighbouring areas*' (paragraph 11(b)). Therefore, the proposed approach of using a SoCG to agree capacity sharing to address the LBTH shortfall instead of setting this out in a development plan policy is inconsistent with national policy, including NPPF paragraph 15 which provides that the planning system should be genuinely plan-led. It follows that paragraph 4.1 of the draft SoCG is inadequate for failing fully to reflect the NPPF requirement that policies should provide for unmet neighbouring needs. Paragraph 4.2 of the draft SoCG would also need to be expanded to be consistent with London Plan paragraphs 9.8.6 and 9.8.7, and to clarify that capacity sharing offers should be extended to all surplus capacity rather than limited to the capacity of sites proposed or being considered for release from safeguarding.
12. LBTH's primary position accordingly remains that the ELJWP should make provision for all of LBTH's unmet need, as the identified surplus in capacity can accommodate the entirety of LBTH's identified shortfall. This would represent the most sustainable approach to the management of Tower Hamlets' shortfall and would accord with the proximity principle set out in the Waste Regulations 2011. Failing this, the proposed SoCG should set out agreement that all of LBTH's unmet need will be provided for through the surplus capacity identified in the ELJWP. In this regard, on the basis that the ELBs accept that LBTH's unmet need is as set out in paragraph 5.2, the proposed SoCG should also set out that the draft criteria in draft Appendix 6 have been satisfied.

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Annex: Relevant National and Regional Policies

Under national policy:

1. **NPPF 11(b)** provides that strategic policies should, as a minimum, provide for “*any needs that cannot be met within neighbouring areas*” unless the stated exceptions apply (which however are not relied upon by the ELBs), i.e. it sets out an overarching requirement that policies should provide for unmet neighbouring need;
2. **NPPF footnote 6 to NPPF 11(d)** indicates that statements of common ground should be used to establish the unmet neighbouring need (i.e. footnote 6 does not displace the overarching requirement that policies should provide for unmet neighbouring need);
3. **NPPF 15** provides that the “*planning system should be genuinely plan-led*”, meaning that matters should wheresoever possible be set out in development plans and not left for later resolution;
4. **NPPF 16(b)** provides in this regard that plans must be “*prepared positively*”;
5. **NPPF 26** provides that a “*positively prepared and justified strategy*” is one that exhibits “*effective and on-going joint working between strategic policy-making authorities*”, such joint working “*in particular*” being required to determine “*whether development needs that cannot be met wholly within a particular plan area could be met elsewhere*”, meaning again that under national policy the expectation is that development plans will set out when the development needs of other strategic policy-making authorities are being catered for;
6. **NPPF 27(b)** confirms this, stating that “*In particular ... plans should ensure that: ... (b) unmet development needs from neighbouring areas are provided for in accordance with paragraph 11b*”;
7. **NPPF 28** confirms the requirement to prepare statements of common ground to demonstrate effective cooperation, but again this does not displace the overarching requirement that policies should provide for unmet neighbouring need, given both (a) the other policies in the NPPF and (b) the final sentence of this paragraph which directs strategic policy-making authorities and Inspectors “*to come to an informed decision on the basis of available information*”, i.e. an informed decision about the content of policies.
8. **NPPF 36(a)** confirms that a “*positively prepared*” plan is one that is “*informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so*”, again confirming that the overarching requirement that policies should provide for unmet neighbouring need;
9. **NPPF 36(c)** confirms that an “*effective*” plan is one that is “*based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground*”, which should again be understood as requiring the relevant development plan to set out how the needs of neighbouring areas are being met (see **NPPF 11(d), 15, 16(b), 26, 27(b), and 36(a)**), with the statement of common ground being the basis of establishing the unmet need and not the basis for meeting it (this being the job of the development plan).

So far as the London Plan is concerned:

1. **Policy SI 8.A.1** sets out the overarching policy requirement that London should achieve net self-sufficiency, this meaning self-sufficiency of all waste streams with the exception of excavation waste;
2. **Paras 9.8.6 and 9.8.7** address both (a) the need for boroughs to offer to share surplus waste sites with other boroughs with a shortfall in capacity before release, and (b) the “*need to agree the transfer of apportioned waste*” when it is not possible for a borough to “*meet their apportionment within their boundaries*” (see the penultimate sentence of 9.8.7).