

## MUNICIPAL YEAR 2010/2011 REPORT NO. 56

### MEETING TITLE AND DATE:

Cabinet  
15<sup>th</sup> September 2010  
Council  
22<sup>nd</sup> September 2010

### REPORT OF:

Director of Place Shaping  
and Enterprise

Agenda – Part: 1

Item: 9

### Subject:

Minor Changes to the Memorandum of  
Understanding for the Joint Waste  
Development Plan Document (JWDPD)

Cabinet Member consulted: Councillor  
Bond

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### 1. EXECUTIVE SUMMARY

- 1.1. This report seeks the approval of Cabinet and Full Council for minor changes to the **Memorandum of Understanding** (MoU) for the production of the North London Joint Waste Development Plan Document, now known as the North London Waste Plan (NLWP).
- 1.2. In November 2006, the Council approved the original MoU, setting out the partnership arrangements for project management and decision making procedures between the London Boroughs of Barnet, Camden, Enfield, Hackney, Haringey, Islington and Waltham Forest for the preparation of the NLWP. Under the provisions of the original MoU, work on the NLWP has progressed. However, through the preparation of the plan there has become a need to make some alterations to the production arrangements. A supplemental MoU has been drawn up in order to agree a revised indicative budget, and for participating boroughs to share these base budget costs on an equal basis, with one exception which benefits LBE; for regular meetings of the Heads of Planning Group; and revised mechanisms for agreeing additional expenditure and variations to the NLWP

### **3. BACKGROUND**

- 3.1. The Planning and Compulsory Purchase Act 2004 (the Act) requires the Council to replace its existing Unitary Development Plan with a Local Development Framework (LDF). Enfield's LDF will consist of a folder of development plan documents (DPDs) containing core policies, site specific or thematic policies and area action plans, together with other supplementary planning documents (SPDs) such as a design guide. All DPDs will be subject to rigorous procedures of public consultation, independent examination and adoption.
- 3.2. The Act also allows for the preparation of joint DPDs and SPDs by two or more planning authorities on cross border issues such as waste. The potential for a joint approach to waste planning with the other boroughs of the North London Waste Authority (NLWA) was the subject of a DEFRA funded scoping exercise in 2005. The Study recommended the boroughs should adopt a joint approach to planning for waste sites. In October 2005, Cabinet endorsed the involvement of the Council in the preparation of a North London Waste Development Plan Document (NLWP), in conjunction with the other NLWA London Boroughs of Barnet, Camden, Hackney, Haringey, Islington and Waltham Forest.
- 3.3. The NLWP seeks to provide a co-ordinated sub-regional approach to planning for new waste facilities across North London and performs two main functions:
  - The London Plan requires that each borough identify sufficient land to manage a predetermined proportion of London's waste (the "apportionment"). The NLWP must identify these sites. Boroughs are encouraged to work together and pool their apportionments in order to find the most sustainable waste management solution possible.
  - The NLWP sets out a number of waste-specific policies designed to ensure that waste facilities maximise their potential benefits and minimise any negative impacts.
- 3.4. As a policy document within the LDF, preparation of the Waste Plan must follow a series of statutory stages before it can be adopted. Each of the seven boroughs needs to approve the NLWP at each of its key stages

Understanding (MoU). The original MoU was approved by Council in November 2006. Under the provisions of this MoU, a Planning Members Group comprising Lead Members from each of the participating boroughs has been established to oversee the plan preparation. This group was chaired from the inception of the project to April 2010 by the Council's former Cabinet Member for Environment and Street Scene. Consultants Mouchel Parkman were commissioned in January 2007 to prepare the Plan.

#### **4. MINOR CHANGES TO THE MEMORANDUM OF UNDERSTANDING**

- 4.1. Under the provisions of the original MoU, work on the NLWP has progressed. However, the following minor changes are proposed:

##### **Revised base budget**

- 4.2. Preparation of a Waste Plan is a complex task. The original budget for the NLWP was drawn up in 2005 by Land Use Consultants. This budget was based on a number of assumptions concerning the implementation of a new, and at the time untried, planning system. Therefore, the costs were difficult to predict. Since that time there has been upward pressure on the budget due to a number of reasons:

- Acceptance of the consultants' tender at more than guide price;
- New legislative requirements being introduced requiring additional assessment on flooding, habitats and equalities;
- Revision of the costs of consultation over seven boroughs;
- The complexity of plan preparation means that it is now a six year rather than three year project resulting in increased project management costs;
- Increasing costs such as day rates of planning inspectors

- 4.3. These original indicative costs of the project have been reviewed and the base budget revised. The detailed breakdown is given in Schedule 1 of the supplemental MoU

- 4.4. The supplemental MoU agrees that the participating boroughs will share

Planning meeting on 20<sup>th</sup> July, the Programme Manager has been asked by the boroughs to review the budget in order to reduce project costs.

### **Regular Heads of Planning Meetings**

- 4.5. The supplemental MoU includes the commitment that Heads of Planning Group or equivalent Chief Officer of each of the North London Boroughs would meet on a regular basis to review the progress on the project.

### **Revised mechanisms for agreeing expenditure and NLWP contract variations**

- 4.6. Approval for additional expenditure would now be sought from the Heads of Planning in conjunction with their Planning Members Group representative, rather than by the Planning Officers Group under the original MoU arrangements. In accordance with this revised clause, where the Heads of Planning (or equivalent Chief Officers) and Planning Members Group representative approve additional expenditure in connection with the production of the project plan, the supplemental MoU sets out the understanding that participating Boroughs agree that Camden may seek a variation of the contract with the consultants appointed to prepare the NLWP. Each of the North London Boroughs agree to be liable for payment of their proportion of the costs of any contract variation.
- 4.7. For the avoidance of doubt all other provisions of the original MOU save for Clause 9.5 and Schedule 3 apply to this supplemental MoU.
- 4.8. Formal approval by each of the partner boroughs is required to endorse and implement the working arrangements set out in the amended MoU. To date these changes have been agreed by 5 of the participating boroughs.
- 4.9. The dissolution of the joint working arrangements and participation in the NLWP could potentially have a number of implications:
- Enfield's Core Strategy has been now been subject to independent examination and is expected to be adopted by the Council in the autumn. It currently refers the obligation for waste planning to the

- Waste planning is specialist work which would need to be outsourced with cost implications. Under the terms of the Memorandum of Understanding, the Council would also still be liable for its contribution to the cost of the NLWP (including examination) so would in effect be paying for waste planning twice over. Production of an Enfield waste plan (or equivalent within a revised Core Strategy) is likely to take 12-24 months from draft to submission and examination.
- Delay to the adoption of the Core Strategy would also delay the adoption of the policies which underpin other place shaping priorities – eg Area Action Plans and masterplans, housing policies etc.
- A waste plan provides greater control when considering planning applications for waste facilities. Firstly, it protects existing sites as required by the London Plan. Secondly, it requires that developers demonstrate that they have considered the redevelopment of existing sites and transfer stations (encouraging more efficient, cleaner and sustainable uses) before new waste sites may be considered. Thirdly, it states that any new facilities should be located on a limited list of potential new sites.

## **5. ALTERNATIVE OPTIONS CONSIDERED**

### **5.1. None Considered**

## **6. REASONS FOR RECOMMENDATIONS**

- 6.1. To seek agreement on the financial and executive arrangement between the seven North London boroughs throughout the preparation of the NLWP.

## **7. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS**

### **7.1. Financial Implications**

The initial estimates of the cost of preparing the NLWP were considered by the Cabinet in 2005 and at the time were expected to be a minimum of

preparing draft planning policies, further deliverability and viability assessments.

These variations and the revised budget were agreed by the Planning Members Group in May 2008 and are reflected in the Supplemental MoU.

Provision for the cost of preparing the North London Waste Plan is included in the revenue budgets, which include a contingency sum to cover any additional costs arising from the Local Development Framework. To date approximately £105k of the total LBE contribution of £173K has been spent on the project.

## **7.2. Legal Implications**

The SMoU proposed will constitute a voluntary arrangement between the Local Authorities specified. It is intended to form the basis of a common understanding but not to create a legally binding agreement so the provisions will not be legally enforceable. The groups established under the Memorandum will not have formal decision making authority and it will be necessary for decisions to be made at the appropriate level within the London Borough of Enfield. When the NLWP is adopted as part of the Council's Local Development Framework document, it will comprise formal policy against which planning decisions should be taken.

## **8. KEY RISKS**

8.1. Timely completion, independent examination and ultimate adoption of the NLWP is critical to underpin and help deliver the Council's place shaping programme and ensure that development decisions in the borough are plan led. The following key risks and measures to mitigate them have been identified for the NLWP production:-

- Delay to Submission of NLWP to the Secretary of State due to concerns by GLA and other statutory bodies over the content of the document.
  - Ongoing consultation and joint working with these and other key bodies will help to resolve issues as part of the production

- Advice received from a Planning Inspector who reviewed progress and content of the NLWP last year is being considered in the production of the document.

## **9. IMPACT ON COUNCIL PRIORITIES**

### **9.1. Fairness for All and Growth and Sustainability**

The NLWP contributes towards the Council priorities by providing excellent services and promoting sustainable waste management. It seeks to provide a co-ordinated sub-regional approach to planning for new waste facilities to meet the needs of the North London boroughs and to contribute towards the Londonwide target of 85% self sufficiency in the management of waste. The NLWP boroughs are working together in order to find the most sustainable waste management solution possible.

The NLWP sets out a number of waste-specific policies designed to ensure that waste facilities maximise their potential benefits and minimise any negative impacts.

### **9.2. Strong Communities**

The NLWP production stages aim to listen to the voices and needs of Enfield's diverse communities and involve local people in decision making. It includes a programme of consultation in conformity with the adopted Statement of Community Involvement. The needs of all communities within the borough will be considered throughout the consultation exercises especially those of traditionally disadvantaged groups.

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

When the NLWP is adopted as part of the Council's Local Development Framework document, it will comprise formal Council policy against which development management decisions should be taken.