

## London Borough of Enfield

### COUNCIL

**Meeting Date:** 13 July 2022

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**Subject:** Adoption of the Statutory Waste Plan for North London

**Cabinet Member:** Cllr Nesil Caliskan, Leader of the Council

**Executive Director:** Sarah Cary, Executive Director Place

**Key Decision:** KD 5269

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### Purpose of Report

1. The seven North London Boroughs of Barnet, Camden, Enfield, Hackney, Haringey, Islington and Waltham Forest have worked together to produce the North London Waste Plan (NLWP). The NLWP:
  - Ensures there is adequate provision of suitable land to accommodate waste management facilities up to 2036 to manage waste generated in North London; and
  - Provides policies against which planning applications for waste development will be assessed.
2. The NLWP aims to achieve net self-sufficiency in waste and to maximise recycling to achieve the recycling targets set out in the London Plan 2021. Progressing the NLWP is necessary to protect Enfield from potentially unsuitable waste development proposals which would be difficult to resist without an adopted plan.
3. In November 2018 the Council approved to publish the draft NLWP for public consultation and submission to the Government for Examination. In 2020 the Council agreed to further modifications to the NLWP as a result of issues raised at the Examination held in November 2019.
4. The NLWP has now been independently examined by a Planning Inspector appointed by the Secretary of State and is now ready for adoption. The Inspector's Report (Appendix A) confirms that the Plan is sound and it can now, with recommended modifications, proceed to adoption by the Council. If adopted, it will form part of the statutory Development Plan for all seven boroughs, including Enfield.

### Proposals

5. Council is recommended to:
  - Agree to adopt the NLWP shown at Appendix C to become part of the statutory Development Plan for the borough.

## Reason for Proposal(s)

6. As a waste planning authority, the Council is responsible for producing waste local plans that cover the land use planning aspect of waste management for its area.
7. The purpose of the NLWP is firstly to ensure that new waste facilities are directed to the most suitable areas in North London, to protect the environment and the amenity of local residents, the borough's identified waste management needs are met, and to provide planning policies against which planning applications for waste development will be assessed, alongside other relevant planning policies/guidance.
8. At its meetings in November Cabinet and Full Council agreed that the NLWP be referred back to Cabinet and Full Council for adoption.
9. Whilst significant parts of the NLWP as submitted were considered sound the Planning Inspector identified, at examination, the need for Main Modifications to ensure soundness, clarity and effectiveness across a range of policies and supporting text.
10. The substantive modifications put forward by the Planning Inspector which are especially relevant to Enfield relate to Policies 2 and 3, which can be summarised as:
  - **Policy 2: Priority Areas for new waste management facilities:** amended to help meet the spatial principle to create a better geographical spread of waste facilities in North London, developers should first seek sites in Priority Areas outside Enfield, and must demonstrate that no sites are available or suitable before considering sites within Enfield's Priority Area; and
  - **Policy 3: Windfall sites:** amended to help redress the high proportion of North London's waste facilities already in Enfield (62%), and help deliver a better geographical spread of sites (Spatial Principle B), developers are required to demonstrate that no land is available or suitable in Priority Areas outside of Enfield before considering the Priority Area identified within the Borough. The exception to this is for Recycling and Reuse Centres (RRCs) where there is an identified need in Enfield and Barnet to improve the coverage across North London (see Policy 4). The evidence will need to demonstrate an adequate search has been undertaken which takes into account the type of waste facility proposed, the criteria set out in Table 10 and the criteria set out in policy 6.
11. Alongside the Main Modifications, the consultation (2020) also made available additional Modifications, which make minor changes to the text involving clarifications, consequential amendments associated with the MMs or where corrections of factual errors in the supporting text of the Plan need to be made. These range from the insertion or substitution of single words to the removal of paragraphs to either: contribute to consistency, clarity to correct

errors and/or to ensure that the wording is consistent with the London Plan (2021) and/or to ensure that it is positively prepared and justified.

12. The overall recommended modifications to the NLWP ensures that it meets relevant legal requirements and is sound.

## **Background**

13. In November 2018 Cabinet approved the submission version of draft North London Waste Plan ('NLWP'), it was then published and submitted to the Secretary of State for public examination. In September 2020 further modifications to the NLWP were agreed following the public hearing sessions held in November 2019.

14. On 27 October 2021, the Inspector appointed by the Secretary of State to examine the NLWP published his final report which concluded that with the recommended modifications set out in the Schedule to his report, the NLWP satisfies the requirements referred to in Section 20(5) of the Planning and Compulsory Purchase Act 2004 and is sound.

## **Consultation on the NLWP**

15. In April-June 2013, the North London Boroughs invited representations about what the NLWP ought to contain and a series of Focus Group events were held in 2014 to further develop the draft NLWP.

16. The draft Plan was prepared and consultation took place on it over a nine-week period during July-September 2015. The draft Plan provided the first opportunity for stakeholders to make comments on the strategy for future waste management in North London, potential locations for new facilities across the area, and policies.

17. The Boroughs then consulted on the Proposed Submission version of the NLWP in March-April 2019. The Proposed Submission draft took account of comments made on the draft Plan as well as an updated Data Study and changes to national, regional and local policies.

18. Following Cabinet approval of the Proposed Submission version of the NLWP in November 2018, the NLWP was submitted to the Secretary of State for public examination by a Planning Inspector in August 2019. Public hearings took place in November 2019.

19. In response to the issues raised in the hearing sessions, the North London Boroughs prepared a Schedule of Proposed Modifications to the NLWP. The Proposed Modifications were published for consultation during October-December 2020. The Boroughs prepared responses to the representations on Main Modifications which were given to the Inspector to consider in the final stages of the examination and to inform the recommendations in his final report.

20. The Inspector's Report was received in October 2021 (Appendix A) and it confirms that the Plan has been found sound subject to modifications set out

in the schedule to his report. It can now, with recommended modifications (Appendix B), proceed to adoption by the Council.

21. Having passed examination, the NLWP is being considered by all of the seven boroughs for adoption between December 2021 and March 2022. This report therefore seeks the adoption of the NLWP (incorporating the main modifications recommended by the Inspector), as set out in Appendix B to this report, and associated changes to the Policies Map, as set out in Appendix C.

### **Relevance to the Council's Plan**

Good homes in well-connected neighbourhoods

22. By identifying an adequate provision of land to manage waste generated in north London and designing policies which ensure that waste facilities maximise their potential benefits (e.g. quality job creation) and minimise any negative impacts (additional disposal costs, poor air quality etc), the NLWP seeks to facilitate the delivery of high quality and accessible waste facilities which will serve communities across north London.

23. The NLWP contains planning policies which aim to minimise negative impacts (poor air quality, etc.) of new facilities on local homes. This will facilitate the delivery of new homes in the vicinity of new waste management facilities.

Safe, healthy and confident communities

24. Ensuring balanced waste provision is also supporting of an effective economy and supports jobs in waste as well as related industries such as transport and construction. This will help to counteract problems of worklessness in Enfield's most deprived wards. New design and environmental policies will ensure that new waste management facilities contribute better to making local communities healthier places to live and work.

An economy that works for everyone

25. The NLWP is based on a combined strategy of net self-sufficiency and maximised recycling. New waste facilities can create new jobs, produce local energy and provide important resources for reuse in other processes – all of which can help deliver wider economic benefits.

### **Safeguarding Implications**

26. Not applicable

### **Public Health Implications**

27. The NLWP will secure public health benefits through supporting an agreed network of waste sites across North London to share the responsibility for the safe and effective treatment of waste and through minimising the environmental impact for the local population while ensuring the boroughs meet targets for recycling and responsible waste disposal.

## **Equalities Impact of the Proposal**

28. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
29. Under the Equality Act 2010 the decision takers need to have taken equalities issues into account when they make the decision.
30. An Equalities Impact Assessment (EqIA) has been carried out at each stage of the NLWP process (Appendices D and E). The most recent Addendum to the EqIA was prepared to assess the main modifications arising from the Examination and should be read in conjunction with the main EqIA report. Both documents are attached as background papers to this report.
31. The conclusions of the Addendum to the EqIA found that the NLWP to be adopted, and as modified following the examination and receipt of the Inspector's report, did not have any disproportionate or differential negative impacts on any one group with protected characteristics.

## **Environmental and Climate Change Considerations**

32. The NLWP contributes to the sustainable management of waste to combat climate change, to improve the environment and to promote decentralised energy. Overall, the NLWP will support the Climate Action Plan through enabling implementation of waste policies for maximising waste prevention and increasing the amount of recyclable waste collected.
33. The NLWP will form part of the Development Plan and has been found to be in conformity with other development plan documents, in particular the London Plan 2021 which contains strategic waste policies and provides that responsibility for allocating sites and setting out more specific waste policies within the NLWP.
34. The NLWP includes policies which aim to minimise the environmental impact of related uses, for example by setting planning criteria in relation to the impact on the quality of underlying soils, surface or groundwater. There is also a specific policy requiring facilities generating energy and excess heat to provide a supply to networks including decentralised energy networks. It should be noted that the NLWP does not assess the potential impacts of new facilities, which is part of the planning process.

## **Risks that may arise if the proposed decision and related work is not taken and actions that will be taken to manage these risks**

35. The Council has responsibility as a waste planning authority to deliver a waste management plan which identifies adequate land for waste use. The UK government has incorporated all EU directives/legislation at the time of leaving the EU into UK law as part of the Brexit process. Failure to adopt the

NLWP as part of the Development Plan will delay the delivery of sustainable development and infrastructure while reducing the Council's power to protect and enhance the borough. The NLWP is critical to underpin and help deliver the Council's regeneration programmes and its development ambitions, and to ensure that development decisions in the borough are plan led.

36. If Enfield does not continue in its cooperation with its NLWP partners and does not adopt the Plan, it would be required to produce its own waste plan, having due regard to the duty to cooperate with neighbouring boroughs, following national policy requirements to meet apportionment targets.
37. Moreover, failure to complete the joint NLWP will put the Local Plan at risk as it will delay policies and plans and result in additional costs in their production, place uncertainty on site allocations and would be damaging to interborough relations leaving the Council exposed under the 'duty to cooperate' obligations.
38. The Plan also addresses some of the concerns Enfield officers had regarding the concentration of industrial land in the borough which without the NLWP makes them suitable for future waste management facilities. The Plan aims to redistribute future waste capacity among seven North London Boroughs in order to ensure concentration of future waste facilities in Enfield is avoided. Without an adopted NLWP the Council will have limited powers to effectively control future waste capacity in Enfield.
39. It is therefore recommended that the NLWP progresses to adoption to manage the risks identified above.

### **Financial Implications**

40. Under the NLWP Memorandum of Understanding (MoU) the boroughs have agreed to share the costs equally. The costs to be shared include the cost of the consultants, the two members of staff employed by Camden as lead borough for the various consultations and of the examination. The cost over the estimated seven years is expected to be £235k per borough or an average of £33k per annum. To date Enfield has spent £223.8k and has made financial provision for the remaining expenditure.
41. Any decision on the NLWP must be made on its planning merits but there are potentially significant financial risks attached to not having a plan in place.
42. Without an up to date plan, the Council is increasingly vulnerable to planning applications in areas where it may wish to resist development. The cost of trying to resist developments is generally far higher than the cost of negotiating developments supported by an up to date Plan.
43. An independent waste development plan would be far costlier than a jointly prepared plan, hence the Council has not allowed for costs to produce its own waste related development plan on top of the existing expenditure.

### **Legal Implications**

44. The legal framework for the preparation, submission, examination and adoption of the NLWP is set out in the Planning & Compulsory Purchase Act 2004 (as amended) (2004 Act). Detailed regulatory requirements are contained in the Town & Country Planning (Local Planning) (England) Regulations 2012 (“2012 Regs”).
45. Following consultation carried out in accordance with the 2012 Regs and a public inquiry subsequently being held. The Planning Inspector appointed by the Secretary of State has concluded that with the addition of the main modifications detailed at Appendix B of this report, that the NLWP meets the criteria for soundness and complies with all the legal requirements set out in section 20(5) of the 2004 Act. The Inspector has also concluded that the NLWP is in general conformity with the London Plan 2021.
46. This means that the NLWP is now ready for adoption and pursuant to Section 23(5) of the 2004 Act this must be done by a resolution of Full Council. Once adopted the NLWP will form part of the Council’s statutory development plan.
47. Regulation 26 of the 2012 Regs states that the Council must as soon as reasonably practicable after adoption: (i) make the plan, the adoption statement and the sustainability appraisal report available for inspection at its principal office and at such other places within the borough as considered appropriate, (ii) publish the plan on the Council’s website and (iii) send a copy of the adoption statement to the Secretary of State and any person who has asked to be notified of the adoption of the plan.

### **Workforce Implications**

48. There are no workforce implications arising from the contents of this report.

### **Property Implications**

49. The NLWP safeguards a number of existing waste sites from inappropriate development. The adoption of the NLWP will not change those safeguards which are in place to ensure adequate supply of land is available in Enfield and in our partner North London Boroughs to manage the waste arisings.
50. The NLWP however only identifies Eley’s Estate as a potential area of search for new waste management facilities in Enfield. This estate is not owned by the Council. Without an adopted Plan the rest of Enfield’s Industrial land may be deemed suitable for future waste proposals which would limit the Council’s ability to effectively manage its controlled land for other uses.
51. The NWLP will nevertheless impact adversely upon the quantum of development permissible on the Council’s joint venture regeneration scheme with developers, HBD, on the Montagu Industrial estate. This will reduce the financial and wider economic benefits to the Council, as landowner, which a more comprehensive form of regeneration would have delivered in the absence of the plan. It is nevertheless accepted that in the wider planning context, the NLWP is required.

### **Procurement Implications**

52. The development of the NLWP is out of scope of the Contract Procedure Rules (CPRs) and the Public Contract Regulations.

53. Any projects that arise as a development of this plan must be procured in accordance with the CPR's and the PCR's.

### **Other Implications**

54. If the NLWP is not adopted by the Council, Enfield will continue to operate without a Plan. Due to its statutory obligation to produce a waste plan, the Council would then have to proceed with evidencing, writing and adopting Enfield's own waste related development plan. This would be a significant cost and resource burden which the Council has not budgeted or planned for. The production of a 'sound' development plan would in any case require neighbouring boroughs to collaborate in order to develop consistent policies and proposals in line with the legal requirement of 'duty to cooperate'.

### **Options and Alternatives Considered**

55. There is a legal requirement for the Council to draw up a waste management plan and the Council's adopted Core Strategy provides that this will be prepared jointly with partners across North London. The need to plan for waste is an important statutory requirement. The EU Waste Framework Directive (now the Waste (Circular Economy) (Amendment) Regulations 2020) requires waste planning authorities to have waste management plans in place.

### **Conclusions**

56. After a very lengthy process, the NLWP has now been independently examined by a Planning Inspector appointed by the Secretary of State and is now ready for adoption. If adopted, it will form part of the statutory Development Plan for all seven boroughs, including crucially, Enfield.

57. Cabinet is asked to 1) agree the modifications put forward by the Inspector in his report (Appendix B) and 2) refer the NLWP (Appendix C) to the Council meeting on 13 July 2022 for adoption to become part of the statutory Development Plan for the borough.

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Date of report: 30 May 2022

## **Appendices**

Appendix A - [Inspector's Report on the North London Waste Plan](#)

Appendix B - [Main Modifications Appendix](#)

Appendix C - [North London Waste Plan – adoption version](#)

Appendix D – NLWP EqIA – January 2019

Appendix E – NLWP EqIA – December 2021