

## **Committee: Cabinet**

**Date: 7 November 2022**

Wards: all

## **Subject: Adoption of the South London Waste Plan as part of Merton's Local Plan**

Lead officer: Mark Gaynor - Interim Executive Director of Housing and Sustainable Development

Lead member: Councillor Andrew Judge, Cabinet Member for Housing and Sustainable Development

Contact officer: Tara Butler, Deputy Head of Future Merton and Eben van der Westhuizen, planning policy, Future Merton

### **Recommendations:**

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1. That Cabinet resolves to recommend adoption of the South London Waste Plan to Council (16 November 2022) as part of Merton's statutory Local Plan and subsequent updating of Merton's statutory Policies Map, subject to any amendments necessary in order to give effect to any recommendations contained in the Final Report from the Planning Inspectors and that authority to make such amendments be delegated to the Executive Director of Housing and Sustainable Development in consultation with the Cabinet Member for Housing and Sustainable Development.
  2. That authority be delegated to the Executive Director of Housing and Sustainable Development to deal with all the necessary adoption documents and other consequential matters in accordance with the appropriate Regulations.
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### **1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. This report recommends the adoption of the South London Waste Plan as part of Merton's statutory Local Plan. This follows the Plan's successful examination by independent planning inspectors. The adoption of the South London Waste Plan will meet the Council's strategic objectives of Civic Pride and Sustainability.
- 1.2. If adopted, the South London Waste Plan will be one of the key documents guiding planning decisions in the borough regarding waste management matters, alongside Merton's adopted Core Planning Strategy 2011, the Sites and Policies Plan and Policies Map 2014, the Estates Local Plan 2018 and the draft New Local Plan. The South London Waste Plan therefore has no direct relation to matters concerning the local authority's waste collection services and the management of related contracts.
- 1.3. The South London Waste Plan (with proposed modifications), the associated sustainability appraisal and the planning inspectors' Final Report will be published on the council's website and as appendices to this report.

## **2. DETAILS**

- 2.1. In 2012 the four boroughs of Merton, Kingston, Sutton and Croydon adopted the 10-year South London Waste Plan, for the plan period 2011-2021, which allocated sites, created planning policies and designated areas for waste management development. The existing South London Waste Plan can no longer be considered as an 'up-to-date' plan as referred to in national planning policy.
- 2.2. In 2019 the four boroughs agreed to work together again and produce a new South London Waste Plan to cover the geographical area of the London boroughs of Croydon, Kingston, Merton and Sutton.
- 2.3. The London Plan sets the boroughs the target of managing 100% of London's waste within Greater London by 2026 and having zero biodegradable and recyclable waste going to landfill by 2026. It also sets targets for local authority-collected waste, commercial and industrial waste, construction and demolition, and excavation waste.
- 2.4. Since the current South London Waste Plan was adopted in 2012, the four boroughs have been working closely together on:
  - Monitoring the South London Waste Plan annually
  - Fulfilling the legal Duty to Co-operate with other councils on waste management issues, responding to other Local Plan documents regarding waste management matters.
  - Preparing and submitting a successful bid for government funding to support a new South London Waste Plan 2022-2037 on the basis of joint working.
- 2.5. In 2018 the four boroughs successfully bid for government funding (Planning Delivery Fund – Joint Working) for £136,594 to support the project.

### **Relationship with the South London Waste Partnership**

- 2.6. Although the South London Boroughs already work together as the South London Waste Partnership and have a shared contract for the municipal collection and disposal of waste, the South London Waste Plan relates to the waste planning functions and responsibilities of the South London Boroughs as Waste Planning Authorities.
- 2.7. As a Local Plan document, at a strategic level, the South London Waste Plan considers the local authority collected waste and the other forms of waste collected by private contractors, and accordingly safeguards sufficient sites to treat both the South London Waste Partnership's waste needs and that of other commercial waste operators.
- 2.8. At a more detailed level, the policies in the South London Waste Plan will be used to assess the merits of any planning application submitted by the South London Waste Partnership's contractor or any other commercial waste operator.

## **Plan preparation and the planning inspectors' Final Report.**

- 2.9. Between 31 October and 22 December 2019, the four councils consulted on a draft South London Waste Plan: issues and preferred options document. Details of the draft report and the consultation findings can be found in the committee report for the Council meeting on 8 July 2020 for which a link is provided as background document 12.4 below.
- 2.10. Following the public hearings, the planning inspectors indicated that some changes to the submission version of the draft South London Waste Plan were required in order for it to progress towards adoption and indicated to the boroughs where these changes ('Main Modifications') were needed. The Main Modifications were consulted on between 14 July and 2 September 2022.
- 2.11. While the planning inspectors have recommended some changes to the Plan, in accordance with the Main Modifications, many important and beneficial new policies will still remain. The evidence base for the South London Waste Plan showed that, across the four boroughs, there are sufficient existing or consented sites to meet waste targets over the next 15 years. As such, the new South London Waste Plan:
- maintains its restrictive approach to new waste sites coming forward. The Main Modifications have introduced a criteria based approach that means new sites will not normally be permitted unless there are exceptional circumstances to justify it. This criteria is set out in Policies WP1 to WP4 and includes a requirement to demonstrate why a new site cannot be delivered in other London boroughs. This strikes a balance between meeting the London Plan waste targets, achieving net self-sufficiency in waste management and not stifling industrial land uses, whilst having some flexibility for new waste sites to be delivered in exceptional cases.
  - removes the 'waste safeguarding' designation from the Benedict Wharf site, which allows it to be developed for other uses, such as housing, once the new waste management facility at Beddington, which will provide the compensatory waste management capacity, is operational.
  - removes the existing designation 'Areas with Sites suitable for Waste Facilities' which covered the Willow Lane, Garth Road and Durnsford Road Industrial Estates.
  - designates no new sites for waste, that are not already operating or have planning permission and designates no new areas for waste in Merton.
  - has air quality policies that are stronger than those in the current 2012 South London Waste Plan.
  - provides strengthened support for the delivery of net zero carbon developments which will contribute towards tackling the climate emergency.
- 2.12. The planning inspectors informed officers on 23 September 2022 that:
- "On review of your response to the Main Modification consultation, the Inspectors are aware that some minor changes might be necessary to*

*detailed wording, to incorporate factual updates and other post-hearings matters.*

*The Inspectors suggest that the following actions are taken, and would welcome your views:*

- Changes to page numbering references as a result of formatting changes to be actioned by the Boroughs by way of additional modification prior to adoption;*
- The factual update on the position regarding the Benedict Wharf site to be actioned by the Boroughs as an additional modification prior to adoption;*
- The Inspectors will incorporate the minor changes to MM12 and MM13 (to identify the correct policy criterion) in the MM table appended to their Final Report;*
- The Inspectors will import the correct wording from MM27 into MM31 in the MM table appended to their Final Report;*
- MM120 – the Inspectors suggest that the statement “Biodiversity Net Gain 3.0 is expected by the end of 2021” is deleted, as the phrase “the latest biodiversity metric published by DEFRA” covers any future updates. If this is agreeable the Inspectors will make this change in the MM schedule appended to their Final Report;*
- MM 120 – to take into account changes to Building Regulations and the emerging London Plan response to this, the Inspectors consider that the phrase “100% of planning permissions for intensified or compensatory waste developments achieving at least a 35% on-site reduction in CO2 emissions compared to Part L2A of the 2013 Building Regulations” should be deleted and replaced with “100% of planning permissions for intensified or compensatory waste developments achieving on-site reduction in CO2 emissions in accordance with relevant London Plan targets” – if that is agreeable the Inspectors will make this change in the MM schedule appended to their Final Report.”*

- 2.13. These further minor changes proposed by the planning inspectors have been agreed by all four partner boroughs and The Planning Inspectorate have committed to sending the draft of the planning inspectors’ Final Report for fact-checking by 18 October 2022 but this report is still awaited. The partner boroughs have agreed to expedite the fact-checking and officers expect to receive the Final Report by early November.
- 2.14. Following receipt of the planning inspectors’ Final Report, the four boroughs will each need approval for the adoption of the South London Waste Plan by means of a decision at their respective (full) Council meetings. The National Planning Policy Framework now requires that a Local Plan document has a lifespan of 15-years from adoption and as the South London Waste Plan has a plan period of 2022 to 2037, it must ideally be adopted before the end of 2022.
- 2.15. The current South London Waste Plan has a plan period covering 2011-2021 and was adopted by Merton Council in February 2012. With the current South London Waste Plan ending, it is important that a replacement plan is

in place to ensure that the residents in the plan area have up-to-date and robust policies that can be used to refuse inappropriate applications for waste facilities.

- 2.16. The adoption of the new South London Waste Plan will also ensure that the residents of Merton have waste related Local Plan policies that have a locally defined approach and a consistent basis on which to determine planning applications for waste facilities. This new Local Plan document demonstrates that the councils can meet their combined waste targets whilst proposing that no new sites should be safeguarded for waste facilities, except in some circumstances, such as a replacement site that meets the relatively onerous policy tests.

### **Delegated authority**

- 2.17. If the council resolves to adopt the South London Waste Plan, there will be a number of statutory adoption documents and other procedures that the council will need to undertake, such as notifying the people who participated in the making of the South London Waste Plan, of its adoption.
- 2.18. It is recommended that these statutory matters be delegated to the Executive Director of Housing and Sustainable Development.

## **3. ALTERNATIVE OPTIONS**

- 3.1. There are no reasonable alternative options, as most of the processes being undertaken are specified by statutory requirements or by government policies (refer to Part 7 of the report).
- 3.2. If the Waste Plan was not adopted, many more sites in Merton and across the three partner boroughs, would continue to be considered suitable for waste management facilities via the planning system. This would leave Merton Council with very limited planning scope to refuse inappropriate waste management planning applications or negotiate amendments to inappropriate proposals. Furthermore, as the council has a statutory requirement to have a waste Local Plan document or policies in place, the four boroughs would have to commence the process of preparing another Waste Plan all over again.
- 3.3. Another alternative is for each borough to produce a waste related Local Plan document or policies independently, which would be far more resource intensive for each borough. The production of a 'sound' Local 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 co-operate'. Furthermore, independent working may trigger a requirement to reimburse the government funding that has been awarded to this project, for 'joint working'.

## **4. CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. Consultation was carried out in accordance with the Council's adopted Statement of Community Involvement and the requirements within the Town

and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

- 4.2. Between 31 October and 22 December 2019, the four partner boroughs, Merton, Kingston, Sutton and Croydon, consulted on the Issues and Preferred Options draft of the South London Waste Plan.
- 4.3. At the Council meeting on 8 July 2020, it was agreed that the Draft South London Waste Plan could be submitted to the Secretary of State for independent examination by a planning inspector, following a six-week pre-submission publication period. The 'submission version' of Draft South London Waste Plan was published from 4 September 2020 until 22 October 2020 and the draft plan and responses received were submitted on 19 January 2021.
- 4.4. Objectors had the opportunity to submit written statements to the planning inspectors and participate in the public hearings sessions that were held in September 2021.
- 4.5. Following the public hearings, the proposed Main Modifications were consulted on between 14 July and 2 September 2022.
- 4.6. Officers have also fulfilled the legal Duty to Co-operate with other councils on waste management issues.

## **5. TIMETABLE**

- 5.1. All four partner boroughs will endeavour to adopt the South London Waste Plan before the end of 2022 and a report recommending that Merton adopt the South London Waste Plan will be considered at the Council meeting on 16 November 2022.

## **6. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. In 2018, the four boroughs successfully bid for £136,594 from the Ministry of Housing, Communities and Local Government's Planning Delivery Fund for joint working to produce a new South London Waste Plan. It was agreed that the London Borough of Sutton would be the project administrative lead and their officers have managed the spending and reporting of these funds.
- 6.2. At the start of the 2022-23 financial year, the boroughs had £49,218 remaining from the original grant funding and officers are confident that the remaining grant funding is sufficient to cover the final stages of the production of the South London Waste Plan.

## **7. LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. Waste treatment is a strategic planning issue across London and a challenge for all successful urban areas. As Waste Planning Authorities, all London Boroughs have a statutory duty to prepare a waste Development Plan Document (*also known as a Local Plan document*) in line with Article 28 of the Waste Framework Directive (2008).

- 7.2. The National Planning Policy for Waste states that Waste Planning Authorities should have regard to their apportionments set out in the London Plan when preparing their plans and work collaboratively in groups with other Waste Planning Authorities to provide a suitable network of facilities to deliver sustainable waste management.
- 7.3. With the aim of encouraging more local authorities to have an up to date Local Plan in place, the Housing and Planning Act 2016, gives the Secretary of State greater powers to intervene in the plan making process. Specifically, it would allow the Secretary of State to intervene if a local authority was failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a Local Plan.
- 7.4. The proposals in this report and the process described to progress the South London Waste Plan, are in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and the requirements set out in those regulations.
- 7.5. The requirement to send the South London Waste Plan to a Council meeting for adoption, arises from Regulation 3 of the Local Authorities (Committee System) (England) Regulations (SI 2012/1020)
- 7.6. If the council were to resolve to adopt the South London Waste Plan on 16 November 2022, it would become part of Merton's Local Plan documents and following decision to adopt the South London Waste Plan, there would be a six-week period for people to challenge the South London Waste Plan through judicial review.

## **8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. Local Plans contain planning policies to help improve community cohesion and are subject to Sustainability Appraisal / Strategic Environmental Assessments and Equalities Impact Assessments. These appraisals, which are currently available via a link on Merton's Local Plan webpage to the South London Waste Plan webpage hosted by LB Sutton (<https://www.merton.gov.uk/planning-and-buildings/planning/local-plan#titleCol13>) will be published on Merton Local Plan alongside the adopted plan.

## **9. CRIME AND DISORDER IMPLICATIONS**

- 9.1. There are no crime and disorder implications arising from this report.

## **10. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 10.1. As set out in the body of this report.

## **11. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Appendix A – The Draft South London Waste Plan with proposed modifications (available online via

<https://www.sutton.gov.uk/documents/20124/60401/Plain+Text+Version+-+South+London+Waste+Plan+with+Mods.pdf/946cd9f7-91db-9b51-16bc-b1790c62cd5a?t=1658222504950>)

- Appendix B - Sustainability Appraisal of the Draft South London Waste Plan with proposed modifications (available online via <https://www.sutton.gov.uk/documents/20124/825670/SA+Addendum+on+Main+Modifications.pdf/5e21a831-cbc3-aeb8-1139-052fb2b64be2?t=1657618599182>)
- Appendix C - Representations received on the proposed Main Modifications to the Draft South London Waste Plan (available online via <https://drive.google.com/file/d/1Yxp537ZwdEBjqzDzei5Ab83VA4Hhs-ho/view>)
- Appendix D – Inspectors Final Report (awaited)

## **12. BACKGROUND PAPERS**

- 12.1. [South London Waste Plan 2011-2021](#)
- 12.2. [South London Waste Plan Issues and Preferred Options Document \(2019\)](#)
- 12.3. [South London Waste Plan Submission Draft \(2020\)](#)
- 12.4. [Committee report for Council meeting on 8 July 2020](#)
- 12.5. [Waste Framework Directive \(2008\)](#)
- 12.6. [Planning and Compulsory Purchase Act \(2004, as amended\)](#)
- 12.7. [The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#)
- 12.8. [National Planning Policy Framework](#)
- 12.9. [National Planning Policy for Waste](#)
- 12.10. [The London Plan \(2021\)](#)
- 12.11. [Merton's Statement of Community Involvement adopted \(2020\)](#)
- 12.12. [Merton's Core Planning Strategy adopted \(2011\)](#)
- 12.13. [Merton's Site and Policies Plan adopted \(2014\)](#)
- 12.14. [Merton's Polices Map \(2014\)](#)
- 12.15. [Merton's Local Development Scheme adopted \(2019\)](#)