

## **Committee: Cabinet**

**Date: 15 June 2020**

Wards: all

## **Subject: Proposed submission of the draft South London Waste Plan**

**Lead officer:** Director for Environment and Regeneration Chris Lee

**Lead member:** Cabinet Member for Regeneration, Environment and Housing, Councillor Martin Whelton.

**Contact officers:** Eben van der Westhuizen, planning policy, Future Merton  
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### **Recommendations:**

- A. That, having considered the recommendations from the Borough Plan Advisory Committee, Cabinet consider the contents of this report and resolve to recommend to Council, to submit the draft South London Waste Plan to the Secretary of State, understanding that this will be preceded by a statutory six-week pre-submission publication period.
  - B. That approval of any amendments arising during or subsequent to the Examination-in-Public be delegated to the Director of Environment and Regeneration in consultation with the Cabinet Member for Regeneration, Environment and Housing.
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. Following advice from the Borough Plan Advisory Committee on 12 September 2019, Cabinet (19 September 2019) approved the public consultation on the Submission Draft South London Waste Plan.
- 1.2. 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.
- 1.3. The document proposed eight draft planning policies and identified 46 existing waste sites across the four boroughs for safeguarding for waste treatment uses over the plan period to 2036. Specifically to Merton the new Plan proposes the removal of the Benedict Wharf site from waste management uses.
- 1.4. In total 78 representors made over 1,000 representations to the public consultation.
- 1.5. The purpose of this report is to seek Members' advice on the Submission draft South London Waste Plan (Appendix A, available online <https://www.merton.gov.uk/planning-and-buildings/planning/local-plan#titleCol13> ) and associated documents, including the Sustainability Appraisal (Appendix B <https://www.merton.gov.uk/planning-and-buildings/planning/local-plan#titleCol13> ), and a recommendation for Cabinet

and Council to give authority for the document to be published, representations to be sought and the plan to be submitted to the Secretary of State for Housing, Communities and Local Government.

1.6. At their meeting on 4<sup>th</sup> June 2020, the Borough Plan Advisory Committee considered the report and resolved to recommend to Cabinet that Cabinet agrees with the two recommendations A and B in this report.

1.7. The next stages of the Waste Plan's progress are:

Summer 2020	Publication of Submission version for public comment (6 weeks) across all four boroughs
Autumn 2020	Submission to Secretary of State
Early 2021	Examination in Public by Planning Inspector
Summer 2021	Adoption

1.8. Members should note that the submission of the Waste Plan to the Secretary of State will be accompanied by a schedule of proposed changes. This is common practice and covers minor changes including grammatical and factual errors and amendments arising from feedback to the 6-week publication. This report seeks the agreement of any schedule of minor amendments to be delegated to the Director of Environment and Regeneration in consultation with the Cabinet Member for Regeneration, Environment and Housing.

1.9. Should the planning inspectorate decide that the South London Waste Plan is 'sound' at examination, the final South London Waste Plan will be recommended to all four councils for adoption.

## **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. This existing South London Waste Plan will finish in 2021.

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 Development Plan Documents for waste management.
  - Preparing and submitting a successful bid for government funding to support a new South London Waste Plan 2021-2036 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 Development 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.

### **Draft South London Waste Plan: consultation on issues and preferred options**

- 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. The document proposed eight draft planning policies and identified 46 existing waste sites across the four boroughs for safeguarding for waste treatment uses over the plan period to 2036.
- 2.10. Importantly, the document identified that the four boroughs could meet their targets for household, commercial and industrial waste by only safeguarding existing sites, but would permit appropriate intensification of waste treatment on these sites. The new Plan also proposed to meet the construction and demolition waste target by allowing the intensification of waste treatment for this waste stream on existing sites. This is different from the existing 2012 South London Waste Plan which supports waste management facilities locating within specific industrial areas (i.e. not just on existing waste sites as the new South London Waste Plan proposes). The principal headline from the 2019 consultation draft South London Waste Plan was to propose no new waste sites, although a replacement site for an existing site would be considered.
- 2.11. The consultation in Merton comprised:

- (i) contacting all those on the planning policy consultation database;
  - (ii) a dedicated webpage on the planning policy section of the Council's website with a link to the administrative lead authority, Sutton Council's consultation portal;
  - (iii) documents available at Council offices and libraries;
  - (iv) a notice in the Wimbledon Guardian;
  - (v) council tweets and Facebook posts; and
  - (vi) officers offering to attend community group meetings and responding to a request to present the proposals at an Abundance Wimbledon and Sustainable Merton 'Green Coffee' meeting.
- 2.12. The consultation methods described above, meet government's Regulation 18 requirements and the commitments in Merton's adopted Statement of Community Involvement (in place at the time of consultation) and new Statement of Community Involvement.
- 2.13. The consultation closed with a total of 78 individual representors making 1,155 representations..
- 2.14. The complete list of representations with officers' comments are set out in Appendix C, available online <https://www.merton.gov.uk/planning-and-buildings/planning/local-plan#titleCol13> . If councillors would like to focus on Merton representations, these are:
- **C16** Merton Conservative Group
  - **C23** Wimbledon Park Residents' Association
  - **C70** a Merton resident (a one-word representation)
- 2.15. A summary of responses to the whole South London Waste Plan are set out in Table 1 below

Table 1: Summary of representations from the 2019 consultation

Representor	Comment	Officers' comment and actions
The Mayor of London	<p>Many matters supported but the plan is not in 'general conformity' with the London Plan and need to consider the following matters:</p> <ul style="list-style-type: none"> <li>• Councils must remove their policy discouraging new sites for waste facilities because it does not allow better waste management (<i>reuse is preferred to recycling, which is preferred to other waste management</i>) or new technologies coming forward.</li> <li>• The flexible approach to the implementation of the waste hierarchy.</li> <li>• Waste sites which are not required by the boroughs should be offered to other London boroughs</li> <li>• No contingencies for plan not delivering</li> </ul>	<ul style="list-style-type: none"> <li>• Officers intend to keep to the same approach because the councils can meet their waste targets through existing sites only and in south London, other businesses (i.e. not just waste management) have great demand for industrial uses, which the councils must also meet.</li> <li>• Wording regarding the treatment of waste in accordance with the 'waste hierarchy', have been amended</li> <li>• To ensure that London has the capacity to manage all the waste that it produces, the Mayor of London apportions target quantities of waste for each borough to manage. The councils' targets are already 13% above the waste the councils produce so the councils are already more than playing their part in meeting Greater London's waste.</li> <li>• A contingencies plan is accepted See 'Risks' below.</li> </ul>
Councils outside London (notably, Surrey, Essex and Northants)	<ul style="list-style-type: none"> <li>• The policies discouraging new sites for waste facilities because is too restrictive and the councils would not meet their targets</li> </ul>	<ul style="list-style-type: none"> <li>• The South London Waste Plan area can meet its waste targets without the need for new waste sites. See 'Risks' below</li> </ul>
Transport for London	Additions and clarifications	Accepted
Environment Agency	Additions and clarifications	Accepted
National Grid	Additions and clarifications	Accepted
Historic England	Additions and clarifications	Accepted

NHS England	Request for additional clinical waste facilities	Seeking further details from NHS England. Normally clinical waste disposal is within hospital settings. See 'Risks' below
Metropolitan Police Service	Additions and clarifications	Accepted
Thames Water	Support	Accepted
Viridor	Request for sufficient outdoor operating space	Reduced boundary of Beddington Farmlands Energy Recovery Facility
SUEZ	Request for 'Agent of Change' policy (ie: new development must mitigate effects from established uses)	Accepted
Veolia	Request for 'Agent of Change' policy (ie: new development must mitigate effects from established uses)	Accepted
Days Aggregates	Request for greater flexibility and correction that the site managed 168,000 tonnes per annum of Construction and Demolition waste	Accepted. This representation meant the shortfall for Construction and Demolition Waste target has been eliminated
Poppymill Ltd	Delete the Chessington Equestrian Centre site as it is temporary use	Accepted
Curley Skip Hire	Delete the Curley Skip Hire site because it is adjacent to residential uses	Accepted
Wandle Valley Forum	Additions and clarifications	Accepted
Residents	Numerous issues	See Appendix C

### Submission Draft South London Waste Plan Document

- 2.16. In light of the consultation and other developments, the consultation document on issues and preferred options South London Waste Plan document has been revised to become the Submission Draft South London Waste Plan (see Appendix A). The major changes between the 2019 consultation and this proposed submission are:

- *Key Issue 3 - Scarcity of Land* has been updated to reflect the fact that the London Plan housing targets have been reduced and to provide more statistics on the demand for industrial land from non-waste industrial uses
- The *Vision and Objectives* have been tweaked to ensure consistency and alignment with amended policies.
- *Policy WP2 (Strategic Approach to Other Forms of Waste)* has been amended to reflect the move from a shortfall in the 2019 consultation draft, to the 2020 submission draft showing a small surplus in terms of meeting the construction and demolition waste target. In addition, to improve conformity with the London Plan and address the concerns of South East councils, separate text and policy details have been included for inert excavation waste, which is no longer grouped together with construction and demolition waste.
- *Policy WP6 (Sustainable Construction of Waste Facilities)* has been amended in response to the Environment Agency recommendation to include the option of a requirement for an 'Excellent' CEEQUAL rating, which may be more suitable for the assessment of the sustainability features of some waste management proposals, than a bespoke BREEAM assessment.
- *Policy WP8 (New Development Affecting Existing Sites)* is a new policy to reflect the requests from SUEZ and Veolia (see above). It sets out the London Plan "agent of change" principle of if new development (e.g. homes) wants to locate next to existing development (e.g. nightclubs, hospitals, waste sites) the new development should provide appropriate mitigation measures rather than the established uses. This principle is also part of national policy.
- *Policy WP10 (Monitoring and Contingencies)* is a new policy to meet statutory requirements for monitoring and the Mayor of London's request for contingencies, such as in instances when existing sites have been unable to be intensified or operations on sites cease or have long-term throughput reductions.
- *Site C2 (Croydon Car Spares, Croydon)* has been deleted because it is closed, it only contributed a minute amount to meeting the targets and was located adjacent to two residential properties
- *Site C3 (Curley Skip Hire, Croydon)* has been deleted because it contributed nothing to the targets and is adjacent to existing and proposed residential uses
- *Site C5 (Factory Lane Waste Transfer Station)* has been divided into three: C5A (Factory Lane Waste Transfer Station), C5B (Factory Lane Reuse and Recycling Centre) and C13 (Solo Wood Recycling) at the request of the site operators/owners
- *Site K1 (Chessington Equestrian Centre)* has been deleted because it is a temporary site which is closing soon
- Changes to the safeguarded sites in Sutton comprise boundary changes, references to overhead power lines and references to the need of a transport assessment including cumulative impacts

- Appendix 1 is new and is a table of indicators for monitoring the policies.
- Appendix 2 has been revised to show new waste throughput figures and to reflect the latest information from site owners as to which sites may be intensified

## **Risks**

- 2.17. Conformity with the London Plan: Section 19 of the Planning and Compulsory Purchase Act (2004, as amended) requires Development Plan Documents to be in “general conformity” with the London Plan. The Mayor of London has written to the councils to say in some respects the plan is in conformity and in some aspects it is not in conformity, e.g., conforming with regards to the safeguarding of existing and the intensification of existing sites but not conforming with regards to the discouragement of new sites and the potential weak implementation of the waste hierarchy. Officers have made a number of amendments to the Submission Draft South London Waste Plan and consider that the plan is in general conformity but not necessarily in absolute conformity. Council officers will continue to liaise with GLA officers on these matters in an effort resolve any outstanding issues, where possible. It should be noted that it is the Planning Inspector at the Examination-in-Public who will make the judgement on whether the plan is in general conformity with the London Plan.
- 2.18. Objections from councils in the South East: Section 33A of the Planning and Compulsory Act (2004, as amended) requires the councils to co-operate with other local authorities where there are significant strategic, cross-boundary issues. Waste is defined as a strategic issue and the movement of waste is a cross-boundary issue. The councils’ have written to 43 authorities, of which some are representatives for a further 17 authorities, with whom a significant quantity of waste had been exchanged (sent and/or received) within the past 5 years. Only 4 authorities have raised matters that require further discussions on matters such as, facilities that have or will be closing and quantities of waste within unclear origin coding. Therefore, the South London Waste Plan boroughs need to come to an understanding with the South East authorities over the movement of waste. Officers continue to liaise with their colleagues in the South East authorities to conclude Statements of Common Ground with the relevant authorities.
- 2.19. Objection from NHS England: During the South London Waste Plan Issues and Preferred Options Document, the councils received a representation from NHS England requesting additional clinical waste treatment facilities in the plan area. To date, officers have followed up with NHS England but have not yet heard back from them on the nature and scale of the additional facilities requested and whether these are in addition to the clinical waste permits already held by hospitals and pharmacies in south London and so have not included a reference in the plan. Should NHS England make a further representation at the draft South London Waste Plan publication and representation stage, officers will consider the representation and if it



requires a minor amendment, with the delegated powers sought with the recommendations to this report, an amendment could be presented to the Planning Inspector during the Examination-in-Public.

### **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. Without an up-to-date South London Waste Plan, 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 treatment planning applications or negotiate amendments to inappropriate proposals.
- 3.3. Another alternative is for each borough to produce a waste related development plan document independently, which would be far more resource intensive for each borough. The production of a 'sound' development plan document 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. 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.
- 4.2. The next step is the publication of the Submission Draft South London Waste Plan, which the partner boroughs intend to submit to the Secretary of State later in 2020, after the approval by all four boroughs.
- 4.3. At their meeting on 4<sup>th</sup> June 2020, the Borough Plan Advisory Committee considered the report and resolved to recommend to Cabinet that Cabinet agrees with the two recommendations A and B in this report.
- 4.4. Before it is submitted to the Secretary of State, in line with legislation, the Submission Draft South London Waste Plan is published for six weeks. This is not a consultation in the traditional sense that each council wants to make more changes to the Plan; it is to allow anybody who still wants changes made to the Plan to submit these representations, which will then be passed to the Secretary of State's planning inspector for their consideration.
- 4.5. For the final South London Waste Plan to be legally compliant, the publication and seeking of representations must conform with Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (SI 2012/767). Any objections to the draft plan must be made with reference to the "*Test of Soundness for Development Plan Documents*", set out in

Paragraph 35 of the National Planning Policy Framework and reproduced in Table 2.

Table 2: NPPF Tests of Soundness for Development Plan Documents

<b>Test of Soundness</b>	<b>Definition</b>
<b>Positively Prepared</b>	Providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
<b>Justified</b>	An appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
<b>Effective</b>	Deliverable over the plan period, and 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; and
<b>Consistent with National Policy</b>	Enabling the delivery of sustainable development in accordance with the policies in this Framework.

- 4.6. The publication and seeking of representations will involve the following consultation methods to meet the Regulation 19 requirements and the commitments in Merton's adopted SCI and draft new SCI:
- a dedicated page on the council's website with a link to Sutton Council's consultation portal, the administrative lead authority where all the documents will be held;
  - documents on display at council offices and libraries;
  - emails / letters to consultees on the planning policy consultation database;
  - press release;
  - community meetings (if requested and probably virtual);
  - tweets and Facebook and posts.
- 4.7. Officers will also fulfil the legal Duty to Co-operate with other councils on waste management issues.

## **5 TIMETABLE**

- 5.1. Following the approval by all four boroughs to publish the Submission Draft South London Waste Plan, there are a number of procedural steps that need to be followed before the plan can be adopted and these are set out in Table 3.

Table 3: Steps to adoption

<b>Steps</b>	<b>Timescale (approximate)</b>
<b>Submission Draft South London Waste Plan published and representations sought</b>	0 weeks
<b>End of representations period</b>	+6 weeks
<b>Councils consider the representations received</b>	+10 weeks
<b>Submission to the Secretary of State</b>	+10 weeks
<b>Appointment of Planning Inspector</b>	+12 weeks
<b>Start of hearings for the Examination-in-Public</b>	+20 weeks
<b>End of hearings for the Examination-in-Public</b>	+22 weeks
<b>Main modifications (arising from the Examination-in-Public) consultation</b> <i>(Note: This stage may not be required)</i>	+26 weeks
<b>Issuing of the Inspector's Report</b>	+34 weeks
<b>If the Inspector's report finds the plan sound, officers recommend for adoption</b>	+40 weeks
<b>Adoption at Full Council</b>	+44 weeks

5.2. The adoption of the South London Waste Plan is therefore still in accordance with the programme set out in the Local Development Scheme:

Summer 2020	Publication of Submission version
Autumn 2020	Submission to Secretary of State
Early 2021	Examination in Public Hearing
Summer 2021	Adoption

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

- 6.1. Funding to support this work will mainly come from existing resources and officers will seek opportunities for funding bids and match funding wherever possible.
- 6.2. 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. This was supposed to be the first tranche of the Planning Delivery Fund but the fund has since been discontinued. Officers will now seek to produce the plan within the existing grant award.

## **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 Documents 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. As waste planning authorities (WPAs), all four of the boroughs have a statutory duty to prepare a waste Development Plan Document in line with Article 28 of the Waste Framework Directive (2008).
- 7.4. With the aim of encouraging more local authorities to have a Development Plan Document in place, the Housing and Planning Act 2016, gives the Secretary of State greater powers to intervene in the Development Plan Document 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 Development Plan Document.
- 7.5. 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.
- 7.6. The requirement to send the Submission Draft South London Waste Plan to a Council meeting for approval to submit to the Secretary of State, arises from Regulation 3 of the Local Authorities (Committee System) (England) Regulations (SI 2012/1020)

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

- 8.1. Development Plans Documents contain planning policies to help improve community cohesion and are subject to Sustainability Appraisal / Strategic Environmental Assessments and Equalities Impact Assessments. These appraisals (refer to Appendix B which is available online <https://www.merton.gov.uk/planning-and-buildings/planning/local-plan#titleCol13> ) will be published alongside the draft plan for consultation.

## **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 – Submission Draft South London Waste Plan (available online via <https://www.merton.gov.uk/planning-and-buildings/planning/local-plan#titleCol13>)
- Appendix B - Sustainability Appraisal (available online via <https://www.merton.gov.uk/planning-and-buildings/planning/local-plan#titleCol13> )
- Appendix C - Representations on the South London Waste Plan Issues and Preferred Options Consultation (available online via <https://www.merton.gov.uk/planning-and-buildings/planning/local-plan#titleCol13> )

## **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. [Waste Framework Directive \(2008\)](#)
- 12.4. [Planning and Compulsory Purchase Act \(2004, as amended\)](#)
- 12.5. [The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#)
- 12.6. [National Planning Policy Framework](#)
- 12.7. [National Planning Policy for Waste](#)
- 12.8. [London Plan Intend to Publish \(2019\)](#)
- 12.9. [Merton's Statement of Community Involvement adopted \(2006\)](#)
- 12.10. [Merton's Statement of Community Involvement draft \(2019\)](#)
- 12.11. [Merton's Core Planning Strategy adopted \(2011\)](#)
- 12.12. [Merton's Site and Policies Plan adopted \(2014\)](#)
- 12.13. [Merton's Polices Map \(2014\)](#)
- 12.14. [Merton's Local Development Scheme adopted \(2019\)](#)

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