



The Planning
Inspectorate

Report to the East London Waste Authority Boroughs

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 14th November 2011

PLANNING AND COMPULSORY PURCHASE ACT 2004

SECTION 20

REPORT ON THE EXAMINATION INTO JOINT WASTE DEVELOPMENT PLAN DOCUMENT

Document submitted for examination on 30 November 2010

Examination hearings held between 5 and 7 April 2011

File Ref: PINS/G5750/429/7

Non-Technical Summary

i. This report concludes that, with the recommendations that I make, the East London Waste Authority Boroughs' Joint Waste Development Plan Document provides an appropriate basis for waste planning in the Boroughs to 2021. The Councils have sufficient evidence to support the strategy and the approach taken to site identification and can show that it has a reasonable chance of being delivered.

ii. There are a number of matters of soundness which it has been necessary to address, and which are the subject of recommendations by me. As submitted the Development Plan Document (DPD) did not meet all the requirements set out in legislation: there was no Proposals Map and no Schedule of Superseded Policies. In addition, the period covered by the policies and proposals of the DPD did not meet the requirements of national guidance. I drew these matters to the attention of the Joint Boroughs and they responded with proposed changes which meet the requirements and which are therefore subject to recommendations. As a result there are ordnance survey based maps showing allocated sites, together with a location map covering the area of the four boroughs; a Schedule of Superseded Policies has been prepared; and the plan period has been extended to cover the required "at least 10 years". My recommendations in respect of these matters are set out in Appendix A.

iii. The changes which are the subject of my recommendations, together with the minor changes which I mention below, have all been the subject of advertisement and public consultation. The Boroughs have also assessed whether the changes affect the outcome of the Sustainability Appraisal (SA): this work satisfies me that the SA remains an adequate basis underpinning the plan. The GLA has re-confirmed, in a revised statement dated 21 September, that the plan is in general conformity with the London Plan July 2011.

iv. There were a number of shortcomings in the text of the document, including typographical errors, a lack of clarity in some areas where the text might be misleading, where it was insufficient to convey the full meaning, contained minor factual errors or could usefully be augmented by additional text. For the most part the Boroughs recognised these shortcomings at an early stage, either by their own post publication editing procedures or from responses made to advertisement of the document or proposed changes to it or from suggestions made by participants during the hearings. In addition, during the examination I have raised matters which, while not going to the question of soundness, have caused the Boroughs to determine that proposed minor changes would be beneficial. As a result, Appendix B to this report contains a schedule of all the Minor Changes proposed by the Joint Boroughs. For clarity I endorse these changes, but since they do not alter the thrust of the Boroughs' overall strategy, they require no formal recommendation from me.

Introduction

1. This report contains my assessment of the East London Waste Authority Boroughs Joint Waste Development Plan Document (DPD) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004. It considers whether the DPD is compliant in legal terms and whether it is sound. Planning Policy Statement (PPS) 12 (paragraphs 4.51-4.52) makes clear that to be sound, a DPD should be justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the Joint Boroughs have submitted what they consider to be a sound plan. The basis for my examination is the submitted draft Joint Waste Development Plan Document (November 2010) which resulted from changes to the document published for consultation in August 2009.
3. As a result of my reading of the DPD, my consideration of the written responses to the consultations, and the discussions at the hearings, I have identified three matters which go to the soundness of the DPD relating to the lack of a Proposals Map and a Schedule of Superseded Policies and the length of the plan period. These are dealt with in my assessment of soundness below.
4. There are a number of shortcomings in the text of the document, including typographical errors, a lack of clarity in some areas where the text might be misleading, where it was insufficient to convey the full meaning, contained minor factual errors or could usefully be augmented by additional text. For the most part the Boroughs recognised these shortcomings at an early stage, either by their own post publication editing procedures or from responses made to advertisement of the document or proposed changes to it or from suggestions made by participants during the hearings. In addition, during the examination I have raised matters which, while not going to soundness, have caused the Boroughs to determine that minor changes would be beneficial.
5. Some of the changes put forward by the Boroughs are factual updates, corrections of minor errors or other minor amendments in the interests of clarity. As these changes do not relate to soundness they are generally not referred to in this report although I endorse the Boroughs' view that they improve the plan. None of these changes materially alter the substance of the plan and its policies, or undermine the sustainability appraisal and participatory processes undertaken. These are shown in Appendix B. I am content for the Councils to make any additional minor changes to page, figure or paragraph numbering and to correct any spelling errors prior to adoption.

Assessment of Soundness

Preamble

6. There is a compliance issue in relation to Regulation 13(4) which requires that, where a document includes a site allocations policy, it must include a submission proposals map showing changes which would result to the adopted proposals map if the DPD is adopted. The submitted DPD is not accompanied by a submission proposals map. I have raised this with the Boroughs. They have outlined a considered approach to producing consolidated proposals maps, which seeks to balance the provision of sufficient information with the very

real consideration of minimising the cost to the public purse. There are clearly complexities raised by virtue of four Councils working together and I recognise the need to be pragmatic. The Councils have mitigated my concern by the provision of ordnance survey map extracts showing the allocated sites, together with a location map covering the areas of the four Boroughs. **I recommend that the DPD be changed by the inclusion of these maps, as set out in Inspector Change (IC) number 1 in Appendix A below.**

7. The submitted DPD has no List of superseded policies as required by Regulation 13(5). This has been overcome by the addition of the required list prepared by the Boroughs. **I recommend that this schedule be included in the DPD, as set out in IC number 2 in Appendix A below.**
8. The period covered by the DPD is to 2020 - less than the "at least 10 years" required by paragraph 16 of PPS10 and less than the "at least 15 years" required by paragraph 4.13 of PPS12. A time horizon to at least 2021 is necessary to meet the PPS10 policy and it is desirable for the DPD to look forward to the situation beyond 2021. This is a consequence of the DPD being delayed, but given the flexibility of identified sites against lower apportionment figures in the July 2011 London Plan, the Boroughs have proposed a change so that the period covered is 2011-21. **I recommend that the period of the plan, as dealt with in paragraph 1.2 of the DPD, be changed as set out in IC number 3 in Appendix A below.**
9. It will also be necessary for the Boroughs to review the DPD, in coming years, in the light of their annual monitoring, to take into account the period beyond 2021.

Main Issues raised in representations

10. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings I have identified five main issues which potentially, in addition to the matters dealt with in paragraphs 6 to 8 above, affect the soundness of the plan and which need to be dealt with in this report.

Issue 1 – i) Whether there has been adequate consultation with the local waste industry; ii) whether any lack of consultation has resulted in ineffective policies for construction, excavation and demolition waste

Consultation

11. Representations suggest that there has been inadequate consultation with the private sector waste management industry in the East London area, with the result that the evidence base is lacking in relation to construction, excavation and demolition (CE&D) waste, leading to an unsound plan.
12. Set against this is the fact that the Boroughs have attempted to maintain an extensive database of consultees, which includes a substantial number of waste industry companies, as well as many professional consultancies which are likely to include those acting for members of the industry. It is also of relevance to this issue that there have been notices published in local newspapers, copies of documents at various locations throughout the area and, of course, on the Boroughs' websites. The DPD has also been included in

the Local Development Schemes for the four boroughs. It is also fair to say that there is a responsibility on interest groups, including members of the waste industry, to make it their business to monitor the intentions of local planning authorities to prepare plans and the progress being made.

13. I conclude that there has been an acceptable level of consultation, fulfilling the requirement of the Statements of Community Involvement and following the advice in PPS12 and that there has been no real prejudice to any element of the waste industry. Furthermore, I am not persuaded that there are serious shortcomings in the evidence base, if anything it maybe that the existing waste management facilities are dealing with greater amounts of waste than the DPD indicates, but the figures change from year to year. This is an issue which should be answered by rigorous monitoring. The Boroughs are alive to this and have proposed a minor change which inserts a new indicator.

Polices for CE&D waste

14. The issue here is whether there is a need for safeguarding of existing sites. This is because it is not possible for all CE&D waste to be dealt with on construction sites, so that there is a significant amount that requires treatment on waste management sites. I accept that there will be construction sites, both medium size and small, where it will not be feasible, or viable, to set up dedicated recovery and recycling facilities. However, I was given evidence that the Boroughs have adequate capacity, including at the Barking Riverside Recycling Park, to deal with these arisings. I see no need to identify areas of search for new facilities, but I do see the need for safeguarding of existing waste management sites. My attention was drawn to policies of the London Plan (version recently superseded), specifically policy 4A.28 which specifies that "Boroughs should ensure that existing construction, excavation and demolition waste management sites are safeguarded...". It was suggested that the development plan needs to be read as a whole, and that there is no need for repetition of policy at the different levels of plan. Whilst I support this contention, it seems to me that policy 4A.28 does require some response from the Boroughs in terms of their own policy. Such an addition would be a minor change to the East London Waste DPD, because of the existing policy context, and the Boroughs have agreed to make such a change.

Issue 2 – Whether the DPD conforms generally to the London Plan

15. Following discussion at the hearings, and further meetings between officers of the four Boroughs and the Greater London Authority (GLA), in the light of the Boroughs' advertised Changes, the GLA has confirmed that the document is in general conformity with the London Plan.
16. The apportionment figures were taken from table 4A.6 of the London Plan extant at the time of the DPDs submission and at the point at which the examination hearings took place. However, in light of the publication of the replacement London Plan on 22 July these changes have been updated to remove reference to the 2008 London Plan, and fully incorporate content from the 2011 London Plan, which was previously included as emerging policy. I consider that these are minor changes because figures have been revised downwards by the GLA and the thrust of the document does not change. Nevertheless, these changes have been advertised.

17. As to the use of 75% of licensed capacity for sites, the evidence is clear that actual throughput at sites varies quite considerably from year to year. There has been agreement between the Borough and the GLA on this, and I agree that it is a pragmatic approach to be used in plan making. The necessary monitoring will reveal the effect of changes over time and the need for any action to be taken by the Boroughs.

Issue 3 – Whether Policy W5 xii is sound in relation to maximising sustainable travel modes.

18. All four boroughs have planning policies in other documents which promote sustainable modes of transport, including transport by water. Development plans must be read as a whole, taking all of the constituent parts into account. As far as this DPD is concerned, policy W5(xii) includes a reference to sustainable transport modes. However, on reflection the Boroughs have agreed that this element (xiii) of the policy is not well worded in relation to the wording of the London Plan or the other numbered points in policy W5, and have suggested a minor change. At the same time, they have taken the opportunity to add a reference in the reasoned justification to policy W5 dealing with designated routes and vehicle operating times. I support both minor changes, which I consider satisfactorily answer the issue, whilst not affecting the thrust of policy.

Issue 4 – Whether there is a robust and credible evidence base for site selection.

- i. Are the details and capacities of the Schedule 1 sites accurate or adequate?
- ii. Are the Schedule 2 sites deliverable?
- iii. Should Policy W2 support facilities in industrial areas set out in Table 4A.8 of the London Plan? Does it adequately deal with waste water/sewerage waste?
- iv. Is there a need to deal explicitly with landfill capacity?

Schedule 1

19. It was clear at the hearing that sites had been omitted from Schedule 1 of the submitted DPD. This was acknowledged by the Boroughs and subsequently additions have been made to the schedule by way of minor changes. I am satisfied that the recognition of existing sites does not amount to a change which requires a recommendation by me, although these additions have been subject to publicity and consultation.
20. Schedule 1 uses licensed capacities in listing the capacities of the sites. The explanation for this, which I accept, is that this is the compensatory provision that must be made if a facility is lost to non waste use, as required by policy W2 which is consistent with policy 4A.24 of the (recently superseded) London Plan. There were errors of capacity, but again this has been rectified by minor changes which do not change the overall situation.

Schedule 2

21. Schedule 2 identifies areas which are considered to be deliverable within the

Plan's timeframe, now showing phasing, ownership, availability and implementation. I consider that this is in accordance with paragraphs 17 and 18 of PPS10. The site over which the biggest doubt has been suggested is the Beckton Riverside site owned by National Grid Property Holdings, shown as 7ha in the schedule but, by minor change, indicated to be that figure gross but 3.5ha net. It is situated within Beckton Strategic Industrial Location, making it suitable for industrial use, and consistent with the London Borough of Newham's submission Core Strategy.

22. It is not the most straightforward of sites for development since there are a number of constraints including the East London River Crossing, Dockland Light Railway extension, East London Transit, the need for remediation, etc. Having had these constraints discussed in some detail I am not convinced that the inclusion of this site in Schedule 2 makes the DPD is unsound. It appears to me that it is likely that a suitable area for the intended purpose can be identified, given the will to do so, whilst the alternative put forward would not have the advantage of the potential sustainable transport opportunity of jetty and landing stage for waste materials which the adjacent River Thames provides. Furthermore, there has been no suggestion that the alternative has been the subject of sustainability appraisal.
23. I consider that Schedule 2 provides a reasonable and desirable degree of certainty by designating sites. Any addition to the document which would leave open ready acceptance of other sites, instead of providing necessary flexibility, would open the door to a proliferation of facilities. There is a degree of flexibility in the policy, which allows for other sites within designated industrial locations to be considered if it is demonstrated that the preferred areas provide no opportunity.

Policy W2

24. In light of my reasoning in paragraph 23 above, I consider that there is no basis for Policy W2 to give general support for waste facilities in industrial areas.
25. The question of whether Policy W2 adequately deals with waste water/sewerage waste has been answered by an advertised change which sets out within the policy, text which was initially part of the reasoned justification. Since this is a statement of policy, I consider that the Policy is the proper place for it.

Landfill

26. Policy W4 sets out a criteria based approach to landfilling. The overarching policy is to reduce waste going to landfill to the absolute minimum, and over time there should be a substantial reduction, although it seems that there will always be a residual amount. I am satisfied that Policy W4, together with the continued working with other authorities as mentioned in paragraph 28 below, is a sound basis for dealing with the likely level and nature of waste going to landfill in the future.

Issue 5 – Whether there should be phasing of sites, and whether the DPD provides for adequate monitoring and implementation?

27. As a result of raising this issue, Schedule 2 of the submission document has been amended so that it now includes an indication of anticipated timescale of implementation and the landowners involved. This provides a better basis for monitoring. This also has the benefit of enabling the addition of monitoring indicators in the schedule in the Monitoring and Implementation section of the DPD. In addition the Boroughs have inserted an indicator for monitoring the actual waste throughput of the Schedule 1 sites.
28. Related to this issue, since it facilitates monitoring and determining any remedial action which may be required, the Boroughs have added a reference in paragraph 6.6 of the document which refers to them continuing to work closely with the East London Waste Authority, together with joint working with other London Boroughs, local authorities outside Greater London, and the Environment Agency by way of continued membership and participation at the London Regional Technical Advisory Body.

Legal Requirements

29. My examination of the compliance of the **Joint Waste Development Plan Document** with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The Joint Waste Development Plan Document is identified within the approved LDS of each of the four Borough Councils, although there is some discrepancy in the dates indicated for submission and adoption. The Joint Waste Development Plan Document's content and timing are compliant with the LDS.
Statements of Community Involvement (SCI) and relevant regulations	All four Boroughs have SCIs and consultation has been compliant with the requirements therein, including the consultation on the advertised proposed changes.
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Appropriate Assessment (AA)	Natural England has confirmed that the Habitats Regulations AA satisfied the required methodology and the assessment is sound.
National Policy	The Joint Waste Development Plan Document complies with national policy except where indicated and a change is recommended.
Sustainable Community Strategies (SCS)	Satisfactory regard has been paid to the SCS.
2004 Act and Regulations (as amended)	The Joint Waste Development Plan Document complies with the Act and the Regulations except where indicated and changes are recommended.
Regional Strategy (RS)	The Joint Waste Development Plan Document is in general conformity with the July 2011 London Plan.

Overall Conclusion and Recommendation

30. **I conclude that with the advertised changes proposed by the Boroughs, set out in the Appendix A, which are the subject of my recommendations, the East London Waste Authority Boroughs Joint Waste DPD satisfies the requirements of s20(5) of the 2004 Act and meets the criteria for soundness in PPS12. For the avoidance of doubt, I also endorse the Boroughs' proposed minor changes set out in Appendix B. Therefore I recommend that the plan be changed accordingly.**

Terrence J Kemmann-Lane

Inspector

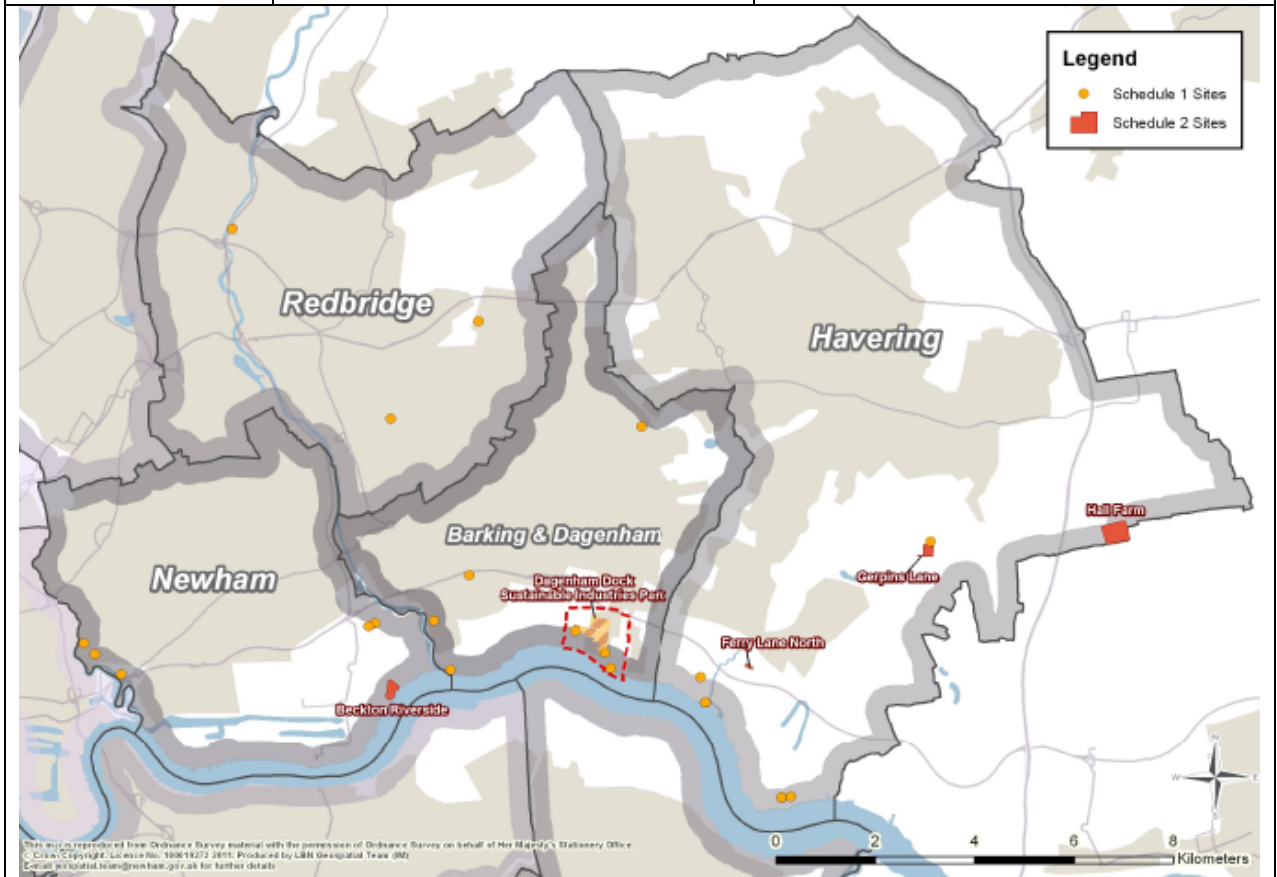
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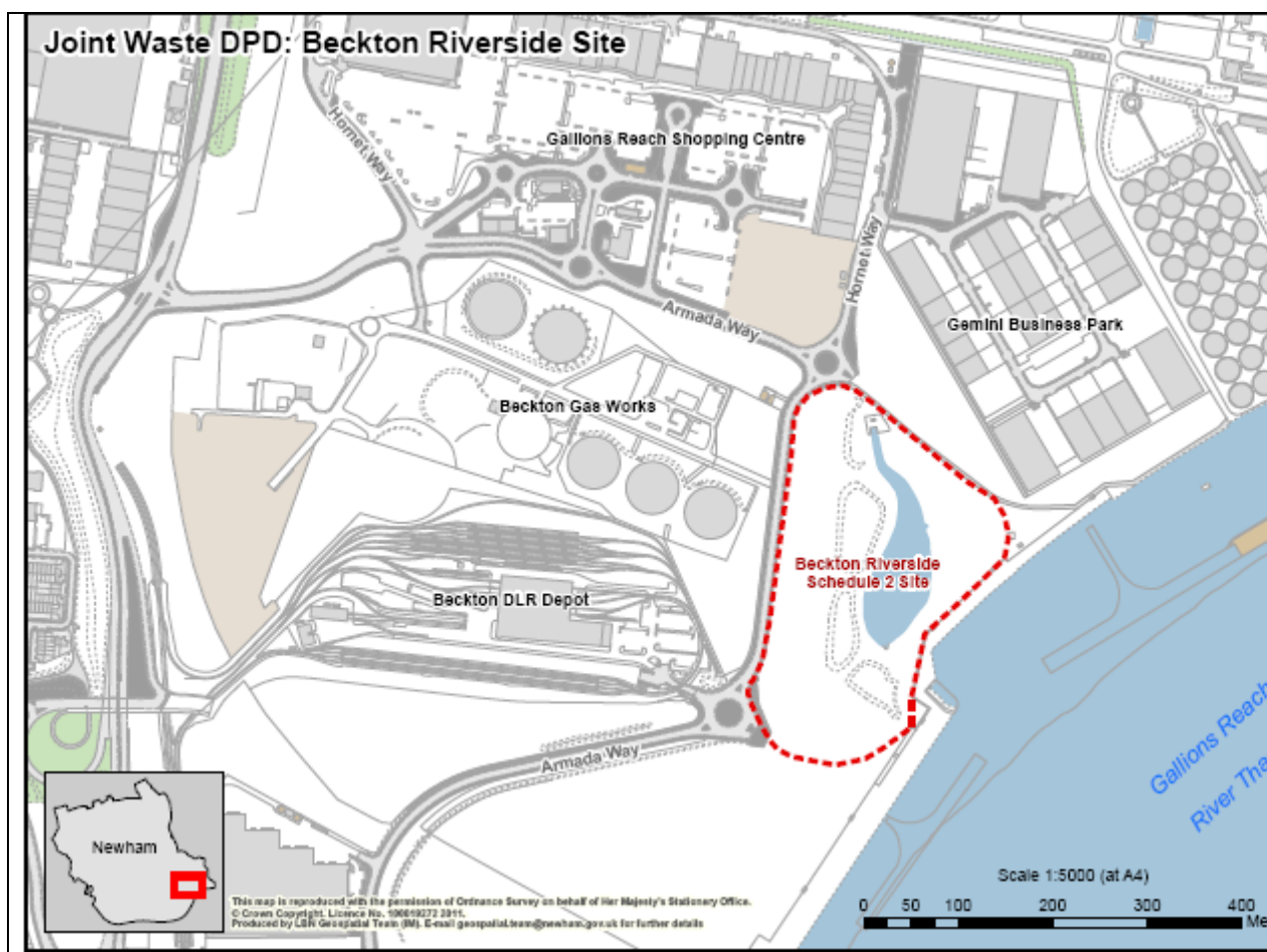
Appendix A Changes that the Inspector considers are needed to make the plan sound.

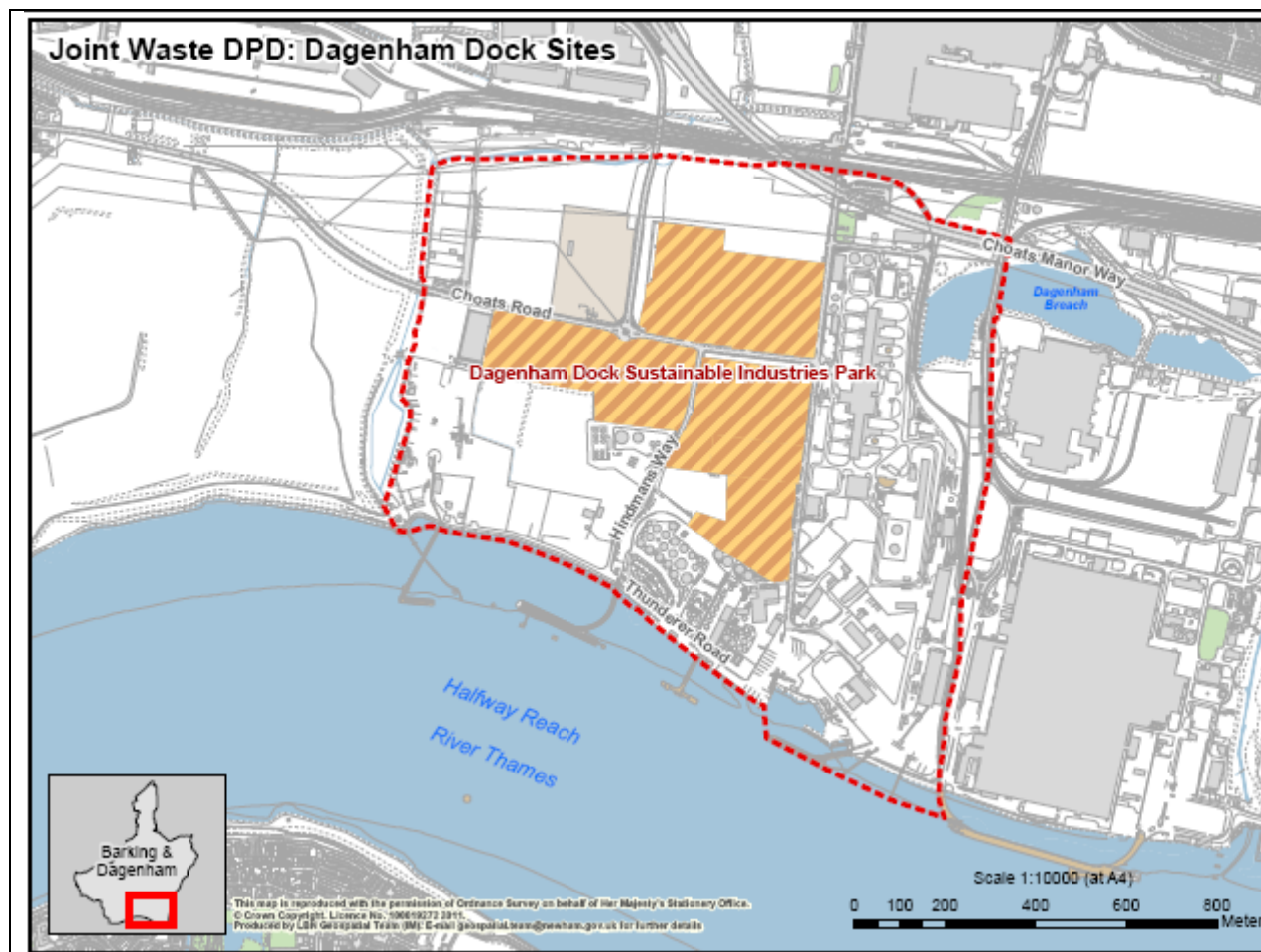
Appendix B Council's Minor Changes.

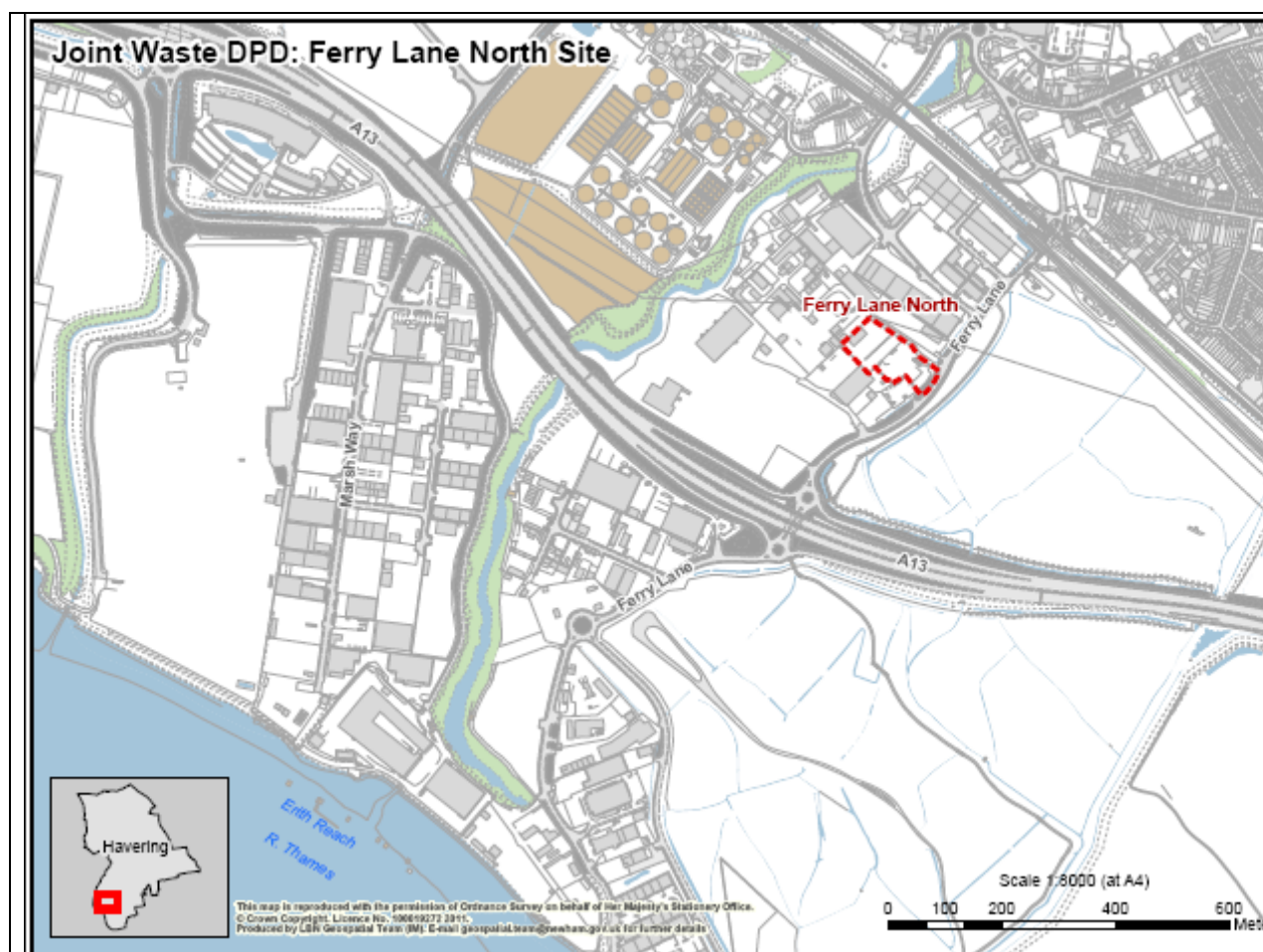
Appendix A – Changes that the Inspector considers are needed to make the plan sound

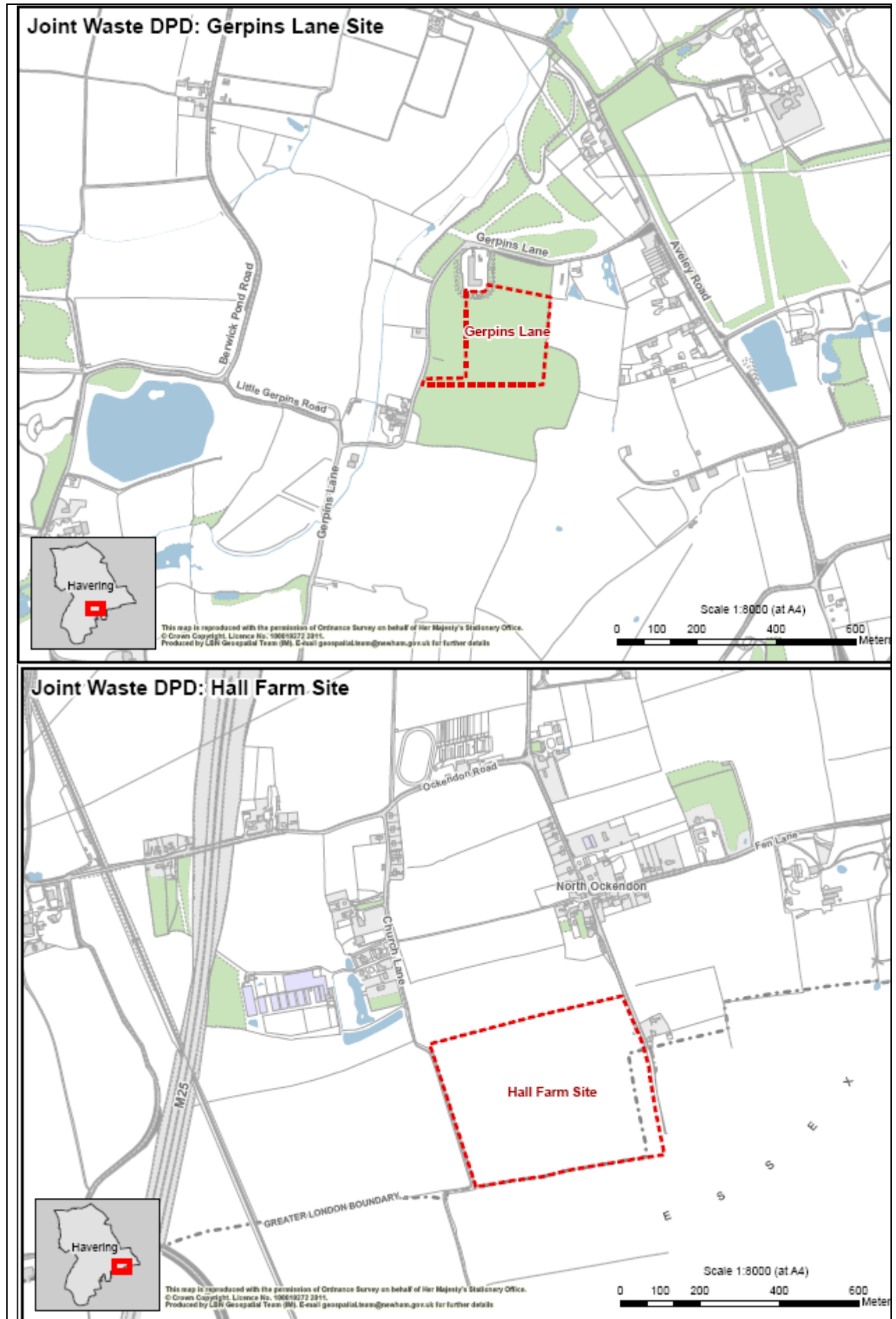
Inspector Change No.	Policy/Paragraph/Page	Change
IC1	Appendix 1: Joint Waste Site Map and Site boundary plans	Delete and substitute detailed site plans and Location Map:











IC2	No current content	<p>Add as Appendix 2 a Schedule of Superseded Policies</p> <p>Policies Superseded by the Adoption of the Joint Waste Development Plan Document</p> <ul style="list-style-type: none"> • <i>Barking and Dagenham</i> <p>LBBD UDP policies to be superseded by the Joint Waste DPD are G29, G30 and G31. Attached is a document setting out information relating to all the LBBD UDP policies.</p> <ul style="list-style-type: none"> • <i>Havering</i> <p>Havering has an adopted Core Strategy (2008) and all of its UDP policies are now fully superseded. The Joint Waste DPD will sit alongside Core Policy CP11 (Sustainable Waste Management).</p> <ul style="list-style-type: none"> • <i>Newham</i> <p>Newham has a submission Core Strategy and a list of proposed superseded UDP policies, as follows:</p> <ul style="list-style-type: none"> ○ UDP policy EQ58: Waste and Disposal, Reclamation of Land, replaced by INF3 ○ UDP policy SH23 Recycling, replaced by INF3 <p>Other UDP policies are saved until the Core Strategy and / or JWDPD are adopted:</p> <ul style="list-style-type: none"> i. EQ54: Integrated waste management facilities (until adoption of JWDPD) ii. EQ55: Safeguarding of Jenkins Lane (until adoption of JWDPD)
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		<p>iii. EQ56: Waste management facilities (until adoption of JWDPD)</p> <p>iv. EQ57: Hazardous waste (until adoption of JWDPD though this is covered in INF3)</p> <p>v. EQ60 Recycling of aggregates (until adoption of JWDPD)</p> <p>Redbridge</p> <p>Redbridge UDP was fully superseded in 2008, so there are no policies left for the Joint Waste DPD to supersede – it will sit alongside Strategic Policy 11 (Waste) in the adopted Core Strategy. The Joint Waste DPD simply provides additional detail which would not be suitable in a Core Strategy but nevertheless requires DPD status, as advocated by para 5.3 of PPS12.</p>
IC3	Paragraph 1.2	Line 1, delete 2020 and insert 2021