

Planning and Compulsory Purchase Act, Section 33A – Duty to Co-operate

Memorandum of Understanding (“MoU”) providing a frame work for co-operation between London Legacy Development Corporation (“Legacy Corporation”) and the North London Boroughs of Barnet, Camden, Enfield, Hackney, Haringey, Islington and Waltham Forest (“North London Boroughs”) undertaking the North London Waste Plan (“NLWP”).

Background

1 The North London Boroughs are working together as waste planning authorities (“WPAs”) to prepare the NLWP. The NLWP will set out the planning framework for waste management in the North London Boroughs for the next 15 years. It will identify sites for waste management use and set out policies for determining waste planning applications. Adoption of the NLWP is expected to be in early 2017.

2 The Legacy Corporation is a Mayoral development corporation, established in March 2012 with responsibility for securing the regeneration of an area of London focused on the former Olympic Park. The Legacy Corporation’s area includes parts of the London Boroughs of Newham, Waltham Forest, Hackney and Tower Hamlets (“Host Boroughs”). The London Boroughs of Hackney and Waltham Forest are both members of the North London Boroughs.

3 By virtue of article 3 of the London Legacy Development Corporation (Planning Functions) Order 2012 (“2012 Order”) and section 7A of the Town and Country Planning Act 1990, the LDDC is the planning authority for the defined “*development area*”¹ for the purposes of Part 3 of the Town and Country Planning Act 1990 and Parts 2 and 3 of the Planning and Compulsory Purchase Act 2004. As a result it is responsible for all development management decisions and development plan preparation including waste planning within the Legacy Corporation’s area. In August 2014, the Legacy Corporation published its draft local plan for statutory consultation (“Local Plan”). The draft Local Plan carries forward and develops growth ambitions for the Legacy Corporation’s area that are set out in the London Plan 2011 and builds on the Host Borough development plan documents that were adopted at the time that the Legacy Corporation received its planning powers.

4 The London Plan has a strategy for London to achieve net self-sufficiency in managing waste arising in London by 2031. The target date will change to 2026 if proposals in Further Alterations to the London Plan are formally published in Spring 2015 as anticipated. Under the London Plan, each London borough including each of the North London Boroughs is given an apportionment of waste arisings for which it should plan waste management provision. The North London Boroughs are planning to meet their combined apportionment targets through the NLWP. The London Plan does not include a waste apportionment for the Legacy Corporation planning authority area, which includes parts of Hackney and Waltham Forest from the North London Boroughs. A formal working relationship is required between the Legacy Corporation and the North London Boroughs in securing the delivery of an effective waste plan for North London.

Proportion of North London Boroughs within Legacy Corporation area

5 The proportion of each borough area that falls within the Legacy Corporation Boundary is set out within Table 1 below.

Table 1 Proportion of Legacy Corporation Area by Borough

¹ Defined in Article 2 to the Order as meaning the area of land described as a Mayoral development area, and in relation to which a Mayoral development corporation is established, by the London Legacy Development Corporation (Establishment) Order 2012

LB Newham	63%
LB Tower Hamlets	16%
LB Hackney	16%
LB Waltham Forest	5%

6 Approximately seventy six percent (76%) of the projected growth in the Legacy Corporation's draft Local Plan is expected to come forward within the boundary of the London Borough of Newham. Just over a further eighteen percent (18%) is expected in the London Borough of Tower Hamlets, and the remaining six percent (6%) is expected to come forward within the London Borough of Hackney. None is planned within the London Borough of Waltham Forest as this portion comprises the Lea Valley Hockey and Tennis Centre at Eton Manor and Chobham Academy school playing fields which have open space/MOL designation, and the established Temple Mills Bus Depot site, designated as a Locally Significant Industrial Site.

Existing Frameworks for Co-operation

7 A formal memorandum of understanding governing co-operation in plan making (amongst other activities) between the Legacy Corporation and the London Boroughs of Hackney and Waltham Forest was agreed in 2013. Co-operation is already taking place between the Legacy Corporation and the London Boroughs of Hackney and Waltham Forest in terms of plan-making. This includes attendance of borough officers representing Hackney and Waltham Forest at the established Planning Policy Forum Meetings.

8 A further formal memorandum of understanding exists between the seven North London Boroughs as the basis of working collaboratively on the NLWP. It establishes the lead borough, sets out how contracts will be let and creates terms of reference for the inter-borough grouping. The memorandum of understanding between the seven North London Boroughs describes how disputes will be resolved. It sets out the timetable and budget for the NLWP and how costs will be shared.

9 The North London Boroughs have prepared a Duty to Co-operate Protocol which will be used as the basis of co-operation; principally with other WPAs who receive significant quantities of waste from north London.

Co-operation between Legacy Corporation and the North London Boroughs

10 The North London Boroughs and Legacy Corporation have co-operated in the preparation of:

- the Legacy Corporation draft Local Plan through meetings and correspondence via email and letter; and
- the NLWP through feedback on potential sites in the Legacy Corporation area provided by Legacy Corporation.

11 Co-operation will continue to take place through appropriate methods including:

- written correspondence
- exchange of information and verification of data
- meetings:
 - Attendance of borough officers representing London Boroughs of Hackney and Waltham Forest at the established Planning Policy Forum Meetings, which take place every month to six weeks in accordance with the 2013 memorandum of understanding.
 - Meetings between officers of the North London Boroughs and the Legacy Corporation at least annually and more frequently where it is agreed that such additional meetings are appropriate and necessary to the preparation or review of relevant Development Plan Documents.

- agreement of key issues
- statement of common ground
- Memorandum of Understanding

12 The future co-operation between the Legacy Corporation and the North London Boroughs will be focused on the following areas with a view towards maximising the effectiveness of our respective plan making and securing sustainable development in accordance with our respective corporate objectives:

- policy approach to planning for waste within each local plan
- site analysis and selection within each local plan
- the further preparation, collection and updating of evidence base documents relating to waste planning
- the exchange of data (including electronically held data and GIS mapping data) relating to the evidence base for development plan documents
- the approach of the NLWP to identifying potential waste sites in North London to meet future capacity requirements in compliance with the London Plan
- the approach of the Legacy Corporation to meeting its strategic waste planning responsibilities where site capacity for waste management has not been or cannot be met by appropriate identified sites within the Legacy Corporation Local Plan for the areas of Hackney and Waltham Forest within the Legacy Corporation area

13 To secure the delivery of an effective waste plan for North London, the North London Boroughs and the Legacy Corporation agree that the areas listed in Table 2 are potentially suitable for waste management use. The North London Boroughs and Legacy Corporation have reached this conclusion after carrying out their own assessments of the areas described in evidence base documents. Acceptability of proposals for waste management uses in those locations will be determined with reference to Policy IN.2 and other relevant policies within the Legacy Corporation Local Plan and any other relevant material considerations that apply to that proposal. The North London Boroughs and the Legacy Corporation will take steps to reflect this in their respective plans.

Table 2 Areas in Hackney and Waltham Forest portions of the Legacy Corporation area potentially suitable for waste management use

Area ref	Site Name	Borough	Waste facility type: potential suitability
HAC09	Bartrip Street LSIS	Hackney	Waste transfer; Processing and recycling
HAC13	Palace Close SIL (to the west of Chapman Road)	Hackney	Waste transfer; Processing and recycling
	Temple Mills Lane LSIS	Waltham Forest	Waste transfer; Processing and recycling

14 The Legacy Corporation will decide planning applications for waste uses in its area in line with its Local Plan including Policy IN.2: Planning for waste, taking full account of the waste apportionment targets set for each Borough within the London Plan, the adopted local waste plans or waste planning policy for that Borough and the development of new or review of existing adopted waste plans for that Borough.

Resources and timescales

15 The Legacy Corporation and the North London Boroughs will use reasonable endeavours to respond in a timely manner to any request for information from the other.

16 The Legacy Corporation and the North London Boroughs officers will have a preliminary agreement in place for the hearings of the Legacy Corporation Local Plan in March 2015 which will be subject to formal ratification by each North London Borough. An update to this agreement may be required in 2016 at the submission of the NLWP to the Secretary of State.

17 Both parties will inform each other of any changes in their plan making timetable.

Level of sign off -

18 The North London Boroughs will sign off agreements under the Duty to Co-operate using appropriate measures under their respective constitutions.

19 The Legacy Corporation will sign off agreements under the Duty to Co-operate using delegated powers.

Confidentiality

20 In the course of our co-operation, the Legacy Corporation and the North London Boroughs may exchange confidential information. Each organisation will treat any confidential information provided to it by the other with the same degree of care that it treats its own confidential information, and never with less than reasonable care, and shall not at any time disclose such information except:

- a) to employees, members, officers, representatives or advisers who need to know such information for the purposes of carrying out their organisation's obligations under this letter; or
- b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

21 The Legacy Corporation and the North London Boroughs shall ensure that employees, officers, representatives or the advisers to whom confidential information is disclosed shall comply with the above restrictions. Neither the Legacy Corporation nor the North London Boroughs shall use the other's confidential information for any purpose other than to perform its obligations under this letter.

Monitoring

22 The terms of this MoU will be reviewed at a meeting between officers of the Legacy Corporation and the North London Boroughs at least annually. If either the Legacy Corporation or the North London Boroughs thinks it necessary, the terms of the co-operation can be reviewed earlier on at least seven days written notice. If following any review, either the Legacy Corporation or the North London Boroughs reasonably considers that modifications to this MoU are necessary to maximise the effectiveness of our respective plan making, the Legacy Corporation and the North London Boroughs shall use reasonable endeavours to agree such modifications.

23 Neither the Legacy Corporation nor the North London Boroughs intend this MoU to create legally enforceable obligations, and nothing in this letter should be construed as conflicting with any agreement or contract involving either the Legacy Corporation or any of the North London Boroughs, or with any statutory or other legal duties of the Legacy Corporation or any of the North London Boroughs.

Signed on Behalf of the
London Borough of Barnet

Date

Signed on Behalf of the
London Borough of Camden

Date

Signed on Behalf of the
London Borough of Enfield

Date

Signed on Behalf of the
London Borough of Hackney

Date

Signed on Behalf of the
London Borough of Haringey

Date

Signed on Behalf of the
London Borough of Islington

Date

Signed on Behalf of the
London Borough of Waltham Forest

Date

Signed on Behalf of the London
Legacy Development Corporation

Date