

Land at Frog Island, Rainham

784-B065006

Rebuttal Statement by Mark Walton BSc (Hons), Dip.T.P, MRTPI

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1.0 Rebuttal Statement

- 1.1 I have read the proofs of evidence and associated attachments prepared on behalf of the Council by Mr George Atta-Adutwum and Mr Simon Thelwell.
- 1.2 I have prepared this Rebuttal Statement to assist the Inspector in respect of the 'Need for the Facility' covered in paragraphs 4.6 to 4.13 of Mr Thelwell's proof of evidence. In preparing this statement I am conscious of the need to avoid introducing new evidence to the Inquiry and therefore only refer to the following core documents that are already before the Inquiry. The core documents are:
- The London Plan (Adopted March 2021);
 - Joint Waste Development Plan for the East London Waste Authority Boroughs (Adopted February 2012); and
 - Evidence Base for the East London Joint Waste Plan November 2022.
- 1.3 For ease of reference, I have commented on Mr Thelwell's paragraphs in turn.
- Paragraph 4.6*
- 1.4 No comments.
- Paragraph 4.7*
- 1.5 This paragraph and its associated tables set out a summary of waste tonnage received at the appeal site for the years 2020, 2021 and 2022. The baseline information is taken from the EA's Waste Interrogator records and has been divided into four areas by Mr Thelwell, namely, the East London Waste Authority area, other 'East' London Borough, Other London and Outside London.
- 1.6 It should be noted that the EA's Waste Interrogator does not make any such division of the baseline information as the movement of waste in England is not restricted to geographical areas. In addition, some of the 'outside London' destinations, such as Essex and Thurrock, border the London Borough of Havering and are less than 4 kms from the appeal Site.

Paragraph 4.8

1.7 Mr Thelwell's conclusion in this paragraph excludes any definition as to what comprises a 'significant distance' associated with the transport of C,D&E waste and fails to acknowledge that the East London Waste Planning Borough are importers of C,D & E waste for management. Paragraph 7.3.1.3 (Page 124) of the Evidence Base for the East London Joint Waste Plan states (my emphasis in bold):

*"The largest proportion of waste recorded as imported to East London was **excavation waste (43%)**, followed by LACW/C&I waste (35%), **C&D waste (21%)** and hazardous waste (1%). Figure 12 following shows the types of waste imported to East London in 2019".*

1.8 Paragraph 7.3.1.4 goes on to state (my emphasis in bold):

*"over half of waste imports (60%) are reported as coming from **other London Boroughs**, although as mentioned above, this could include waste arising in East London. If the 'non-codeable London' category is removed, the proportion of imports recorded as originating in the rest of London reduces to 34% which seems on the low side. Most of the remaining imports in 2019 originated from the **wider south east**, in particular Essex (806,000 tonnes) and Kent (214,000 tonnes). The WDI also includes other 'non-codeable' categories and 280,000 tonnes of waste was imported to East London from 'WPA not codeable (South East)' which means it is not possible to identify exactly which authorities this waste came from. In order to include the non-codeable waste, Figure 13 shows the origins of waste imports in 2019 (including waste in the 'non-codeable London' category) by region rather than individual authorities".*

1.9 Further specific information on imports of C,D&E waste is set out in Paragraph 7.3.3. (Page 133) of the Evidence Base for the East London Joint Waste Plan. The information at Paragraph 7.3.3. confirms that,

- in 2019, East London received 1.2 million tonnes of C&D and 2.6 million tonnes of excavation waste which wasn't identified as being generated within the four boroughs.

- Wandsworth, Essex, Tower Hamlets and Hackney were the most significant users of East London waste facilities.
- Facilities receiving the largest quantities of CD&E waste imports, as well as the main origins of this waste, are set out in Table 34.
- Table 34 shows that the amounts of waste from each origin vary from year to year.

- 1.10 A future source of C,D&E waste imports in the East London area, particularly Havering, is considered at Paragraph 7.3.3.4 (Page 133). Paragraph 7.3.3.4 states *“Waste arising from the Lower Thames Crossing project, a new road and tunnel linking Kent, Thurrock and Essex, may have an impact on future waste imports to East London, in particular Havering. As a Nationally Significant Infrastructure Project (NSIP), the Lower Thames Crossing will be the subject of a Development Consent Order. There is not yet a firm timetable for the DCO application or the project and, at the time of writing, Highways England are currently consulting on their plans. The consultation documentation does not provide sufficient information on where waste arising from the project will be managed and it is therefore difficult to assess the implications for Havering or East London as a whole. Havering will be providing comments on the consultation and asking for an assessment of locations for off-site management of waste”*.
- 1.11 The DCO application for the Lower Thames Crossing was received by the Planning Inspectorate on 31 October 2022 and formally accepted for examination on 28th November 2022. The application was the subject of an examination between 20th June 2023 and 20th December 2023. The Examining Authority’s recommendation was sent to the Secretary of State on 21st March 2024. The Secretary of State has until 20th June 2024 to determine the application.
- 1.12 Based on the above commentary in the evidence base report the baseline information from the EA’s Waste Interrogator records for the years 2020, 2021 and 2022 seems consistent with C,D&E waste movements in the East London Waste Borough’s area.

- 1.13 Mr Thelwell's conclusion also fails to appreciate the benefits of back hauling materials associated with construction contracts.

Paragraph 4.9

- 1.14 No comments.

Paragraph 4.10

- 1.15 The reference to Policy W1 (iii) is noted but not relevant to this appeal. Criterion (iii) deals with the provision of waste facilities within housing, commercial premises and other developments to maximise the reuse, recycling and recovery of waste resources for collection purposes.

- 1.16 As noted by Mr Thelwell, Policy W2 of the JWDP deals specifically with the management of apportioned waste identified by the London Plan. Apportioned waste comprises municipal and commercial waste and neither of these waste streams are managed on the appeal site. Schedule 1 references treatment sites that are permitted (at the adoption of the JWLP) to receive municipal or commercial waste and Schedule 2 identifies locations for future municipal or commercial waste treatment facilities to meet the apportioned waste targets set out in Policy W2. It would not be expected for the appeal site to be listed in either Schedule 1 or Schedule 2 of the JWLP.

- 1.17 The JWLP was adopted in February 2012 which was 4 years prior to the appeal site first receiving material to treat and did not form part of the extant management capacity of the JWLP area.

Paragraph 4.11

- 1.18 The paragraphs of the JWLP referenced in this paragraph are noted and represent the one of only a limited number of direct references to C,D&E waste in the JWLP. There is no specific policy on C,D&E waste in the JWLP.

Paragraph 4.12

- 1.19 For the reason set out in Paragraph 1.10 it is not expected for the appeal site to be listed in either Schedule 1 or Schedule 2 of the JWLP. It is acknowledged that C,D& E is not an apportioned waste in the London Plan and that this is due to the unreliability of securing waste data on the movement and need for this waste stream. Mr Thelwell is referring to Paragraph 9.8.13 of the London Plan. In my proof at Paragraph 3.5.17 I respond to how the appeal site contributes to the recovery/recycling of materials and the circular economy of London.
- 1.20 More up to date information on current recycling rate for C&D wastes in London is set out at Paragraph 6.9.2. (Page 107) of the Evidence Base for the East London Joint Waste Plan. The paragraph states:
- “The London plan sets a target of 95% reuse/recycling/recovery of C&D waste and 95% of excavation waste should be used for beneficial use. Around 69% of C&D waste is currently reused, recycled or recovered however there is currently capacity to manage (reuse/recycle/recover) 95% of C&D arisings”.*
- 1.21 The appeal site, with a 90-95% recovery /recycling rate, is currently contributing to the existing operating capacity for the recycling of C&D arisings (69%) in London. This is below the target set in Policy SI 7, Part A (5) of the London Plan.

Paragraph 4.13

- 1.22 In this paragraph Mr Thelwell concludes that *“there does not appear to be a need for the facility, and especially not for a facility of this size and throughput”.*
- 1.23 The London Plan was adopted in March 2021. Policy SI9, Criterion A, states that *“Existing waste sites should be safeguarded and retained in waste management use”.*

1.24 Paragraph 9.9.1 provides clarification as to which waste sites in London should be safeguarded and states (my emphasis in bold):

*“London has approximately 500 waste sites, defined as land with planning permission for a waste use **or a permit from the Environment Agency for a waste use**. This applies to land used for **any waste stream**. These sites cover a wide range of waste activities and perform a valuable service to London, its people and economy.*

1.25 At the time the London Plan was adopted the appeal site had been operating under an environmental permit for over 4 years and is therefore an existing waste site safeguarded for waste management use by Policy SI 9 of the London Plan.

1.26 As set out at Paragraph 2.5.16 of my proof, I confirm that the appeal site is listed in Appendix 5 of the evidence base for the East London Joint Waste Plan (November 2022) as an established waste treatment facility that manages C,D&E waste with a permitted capacity of 209,000 tonnes per annum.

1.27 Other references in the Evidence base for the East London Joint Waste Plan contradict Mr Thelwell’s conclusion and his Paragraph 4.13, namely:

1.28 In the recommendations section (Page 10), the second paragraph states:

“It is recommended that the Boroughs continue to safeguard existing waste sites (as set out in Appendix 5) through identification of these on the policies map. This includes both operational and vacant waste sites; the exceptions to this are those waste sites with temporary permission”.

1.29 Paragraph 2.4.11 (Page 24) provides guidance on safeguarding sites in the emerging Joint East London Plan. Paragraph 2.4.11 states (my emphasis in bold):

*“The current East London Waste Plan was adopted in February 2012. There has been a significant change to planning policy, waste policy and targets since the ELWP was published. In particular, **the East London Boroughs need to plan for seven waste streams and not just household and business waste apportioned by the London Plan, all existing waste sites must be safeguarded, and Boroughs***

*must work towards net self sufficiency as well as recycling targets of 65% municipal waste, **95% for C&D waste and 95% beneficial use for excavation waste.** In addition the focus has moved away from identifying and safeguarding individual sites to meet the capacity gap towards a more flexible approach of identifying areas, such as industrial land, suitable for new waste facilities”.*

- 1.30 I note that in the last sentence of paragraph 2.4.11 the evidence base report states that the focus has moved away from identifying and safeguarding site to meet the capacity gap. This sentence suggests that the evidence base report’s approach may seek to divert from the provisions of Policy SI 9 of the London Plan. This will be a matter to be confirmed as part of an emerging JWLP which will, in turn, be tested at examination.
- 1.31 Section 6.4 (Page 67) of the evidence base report considers the waste management capacity and capacity gap/surplus specifically for the London Borough of Havering. Table 14 (Page 70) references the appeal site as part of the established waste management capacity of Havering with an applicable capacity of C,D&E waste of 190,620 (as per 2019). The total applicable capacity for Havering (as per 2019) was 319,647 tonnes of CD&E waste.
- 1.32 Table 16 (Page 79) confirms that the management capacity, arising and calculated capacity for C,D&E waste in Havering is a surplus of **191,855** for the years 2021 to 2036. If the appeal site is excluded from the existing capacity then London Borough of Havering will have a negligible surplus of 1,855 tonnes of C,D&E capacity.
- 1.33 Section 8 of the Evidence Base report provides conclusions and recommendations to the Joint Waste Planning Authorities to be considered in the preparation of the emerging JWLP. Paragraph 8.2.3.1 refers specifically to C&D waste and concludes:
“There is currently sufficient capacity to meet the East London Boroughs need for C&D waste, with a surplus of 1.2Mtpa which reduces to 909ktpa tonnes by 2036. It is not necessary to plan for additional facilities for this waste stream”.

1.34 Paragraph 8.2.3.2 goes on to recommend (my emphasis in bold):

“Continue to safeguard existing waste sites through identification of these on the policies map. Consider the potential to release some of these sites, including sites which are currently vacant, taking into account future waste management needs in East London and London Plan policy SI9 which requires the proposed release of current waste sites to be part of a plan-led process. Any plan to release of waste sites will also need to take account of London Plan para 9.8.6 which requires Boroughs with a surplus of waste sites to offer to share these sites with those boroughs facing a shortfall in capacity before considering site release”.

1.35 I note that the reference to paragraph 9.8.6 of the London Plan and the sharing of surplus waste sites with other Boroughs, quoted in the final sentence above, specifically relates to apportioned waste sites and thus is not directly relevant to the appeal site. The reference to a plan-led process considering the loss of an existing waste site accords with Part C of Policy SI9 of the London Plan.

1.36 Based on the above information contained in the London Plan and the Evidence base report, the appeal site is already part of the established operational waste capacity of Havering and the East London Joint Waste Planning area and should be safeguarded for such uses. The appeal site is already making a valuable contribution to meeting waste targets in the London Plan by managing waste from the East London area, other London Boroughs and proximity areas like Thurrock and Essex.

1.37 The appeal site is already meeting a local need and is of a size and throughput that is compatible with that need.