SOUTH LONDON WASTE PLAN
INSPECTOR’S GUIDANCE NOTES

1 Introduction
1.1 The appointed Inspector is Brian Cook. He is a Senior Planning Inspector for the Planning Inspectorate. He is a Chartered Town Planner and holds a BA Honours Degree in Geography, a post graduate Diploma in Town Planning, and is a Member of the Royal Town Planning Institute. He has been appointed by the Secretary of State under Section 20 (4) of the Planning & Compulsory Purchase Act 2004 to hold the Examination into the soundness of the submitted South London Waste Plan. He has been involved in waste and mineral planning since 1988, mostly in local government but also with one of the largest environmental consultancies in the UK for a 3 year period prior to joining the Inspectorate in February 2006. He was the assistant Inspector for the examination of the Surrey Waste Plan during 2007 and examined the Cumbria Waste and Minerals Site Allocations DPD in 2010. He was also the Panel Inspector for the examination in 2009 of the Partial Review of the Regional Spatial Strategy for the South East-policy M3 Primary Land-won Aggregates and sub-regional apportionment.

1.2 The Programme Officer for the Examination is Pauline Butcher, who for the purposes of the Examination, is acting as an independent Officer, under the Inspector’s direction, not as employee of the four Councils. Her contact details are: Pauline Butcher, Programme Officer, South London Waste Plan, c/o Guildhall 2, Royal Borough of Kingston upon Thames, High Street, Kingston upon Thames, KT1 1EU; Telephone: 020 8547 5876; Email: ldfprogrammeofficer@tiscali.co.uk.

1.4 The Programme Officer is responsible for finalising the programme for the Hearing Sessions of the Examination, for maintaining the Examination Library, recording and circulating all material received, and assisting the Inspector with procedural and administrative matters.

1.5 The Programme Officer will be able to advise you on any programming queries, and any procedural queries should be addressed to her in the first instance. Any matters which either the Councils or anyone else wishes to raise with the Inspector should also be addressed to the Programme Officer initially.

2 Pre-Hearing Meeting
2.1 Having completed an initial review of the submitted documents, the Inspector does not consider that a Pre-Hearing Meeting is necessary for the Examination of the DPD. These Guidance Notes therefore contain all the information that those taking part in and/or wishing to follow the Examination should need in order to do so.

3 Scope of the Examination and Inspector’s Role
3.1 The Inspector’s role is to consider whether the DPD meets the requirements of sections 19 and 24 (i) of the 2004 Act and the associated Regulations, and whether the DPD is sound in terms of being justified, effective and consistent with national policy, the London Plan (as the regional spatial strategy) and the
adopted Core Strategies of the four Councils as appropriate. The starting point for the Examination is the assumption that the Councils have submitted what they consider to be a sound DPD, and the Councils should rely on evidence collected while preparing it to demonstrate that it is sound. Representors seeking changes to the DPD have to demonstrate why they consider it to be unsound and how their suggested changes would make it sound.

3.2 Representations made to the submitted documents will be considered insofar as they relate to its soundness, but they will not be reported on individually.

3.3 The Examination will be closed when the Inspector submits to the Councils his report on his conclusions and actions or changes needed as regards the soundness of the document. His recommendations are binding on the Councils.

3.4 There are several possible outcomes of the Examination of the document. The most serious would be a finding of unsoundness in relation to a critically important part of it, leading to a recommendation that it should be withdrawn. However, less serious outcomes may be that:

- Additional work needs to be undertaken before the Examination can be completed;
- Part(s) of the document should be excluded or changed (having regard to the implications in terms of community involvement and sustainability appraisal requirements), and the remainder adopted;
- Part of the DPD should be excluded and subsequently brought forward in a revised form in a fresh DPD, and the remainder adopted.

3.5 Ideally, only a limited number of minor changes should be made to the document, if necessary for soundness, at this stage. The Inspector may only recommend a change to the submitted plan if that change is itself sound and meets the requirements for public consultation and sustainability appraisal.

4 Procedural Questions for the Councils

4.1 The Inspector will need to be assured that the Councils can confirm:

(i) that the submitted document has been prepared in accordance with the statutory procedures under Section 20 (5) (a) of the 2004 Act;

(ii) that the submitted document has been prepared in compliance with the 2004 Regulations (as amended), specifically regarding the publication of prescribed documents, their availability at the Councils’ principal offices and websites, the placing of local advertisements and notification of the DPD bodies;

(iii) that the Councils are not aware of any fundamental procedural shortcomings concerning the submitted document;

4.2 The Councils are asked to prepare a short document confirming this and place it on the Examination web site not later than 27 May 2011. Included in this document should be the way the Councils have dealt with the Planning For Growth Ministerial Statement and the revision to the waste hierarchy, both of which have been issued since the Regulation 27 document was published. At
the opening of the Hearing sessions the Councils will be asked if there is any change to this position.

5 **Representations made on the submitted documents**

5.1 The Councils advise that some 146 representations were made by a total of 64 organisations and individuals during a 6-week consultation period prior to the formal submission of the documents to the Secretary of State. A further 6 representations from 3 different organisations and individuals were made on the Sustainability Appraisal Report. On the basis of either definitive statements made or the nature of the comments the Councils have assessed that the majority of the representations considered elements of the documents to be unsound.

5.2 The representations made under Regulation 28 cover most aspects and policies of the DPD and the site maps published as the Pre Submission documents under Regulation 27. The Councils have confirmed that it is documents SLWP1.1 and SLWP1.2 that are to be examined (see Document ED2). After considering the representations made under Regulation 28 the Councils intend to propose a number of changes. These are listed in SLWP1.11 and helpfully set out as track changes to the DPD in SLWP1.12. Many of them reflect the Statements of Common Ground that have been concluded with various parties (see SLWP1.14 to SLWP1.21 inclusive). While those 8 representors now support those recommended changes proposed by the Councils and may therefore be content to rely on the Councils to advocate and support these at the Hearings, the formal position nevertheless remains that it is SLWP1.1 and SLWP1.2 that are for examination. It will be for the individual representors to determine whether or not they wish to attend the relevant Hearing session having considered the Issues and Questions posed.

6 **Methods of considering representations**

6.1 Those who have made representations on the documents and consider it to be unsound need to decide whether they want their views to be dealt with in writing or if they wish to present them orally at the relevant Hearing session of the Examination. Both methods carry the same weight and the Inspector will have equal regard to views put to him orally or in writing. Attendance at the Hearings will only be helpful if you wish to participate in the debate.

6.2 With reference to the two main ways in which representations on the documents can be considered:

- **Written representation** – Most representations will be considered by this method and will be based on the original representation made under Regulation 28. These will also have helped the Inspector identify the Matters, Issues and Questions to be discussed at the Hearing sessions although some arise from his own consideration of the submitted documents. Those people who wish to proceed by written representations can rely on what they have already submitted in writing and need take no further action. Alternatively, having read the Inspector’s Matters, Issues and Questions Papers they may wish to add a further written representation in support of their position where relevant to those Matters, Issues and Questions. Written representations will not be specifically discussed at the Hearings and attendance at the Hearing sessions is not necessary, although all will be public meetings;
• **Oral representations** – Where Representors have indicated on their Regulation 28 representation form that they wish to be heard, relevant points of their representation will be considered at a Hearing session of the Examination, where the Councils and other participants will be able to debate the main points on the key issues, in a structured discussion led by the Inspector.

6.3 Whichever method you select, please remember that the Inspector’s role is to consider the soundness of the documents in the light of the representations received, rather than considering all the points raised in those representations. Only those parties seeking specific changes to the documents are entitled to attend the Hearing sessions of the Examination. There is no need for those supporting or merely making comments on the plan to attend, unless they wish to, as observers.

6.4 Please note also that the Inspector is unable to consider any representations regarding the waste management procurement process being undertaken by the Councils. This is not part of the DPD proposals although the Councils will need to explain how the DPD addresses the delivery of any waste management facilities that may be required.

7 **Procedure and Programme for the Hearing Sessions of the Examination**

7.1 The Hearing Sessions for the Examination will commence at 09.30 on **Tuesday 12 July 2011**, in **The Council Chamber at the Civic Centre, Morden, Surrey, SM4 5DX**. It is currently intended that all the Hearing sessions will take place there. The Hearing sessions will end on **Tuesday 19 July 2011**.

7.2 The sessions will start as indicated on the Hearing Timetable. Sessions will not start before the advertised time and will finish when the business is completed. On all day sessions there will be a break for lunch each day of not more than an hour and each day will finish at about 17.00. Where sessions are timed to run all morning or afternoon short breaks will be taken mid-session.

7.3 The Hearing Sessions will take the form of a structured discussion, where the Councils and those who have been invited to participate will discuss the key issues, around a table. This will provide a relaxed and informal setting for dealing with the Main Matters, Issues and Questions. Those attending may bring professional representatives with them, who may ask other participants questions, but there will be no formal presentation of evidence, cross-examination or formal submissions. If the Councils or any respondents intend to invite their legal representatives/expert witnesses to any of the Hearing Sessions please would they inform the Programme Officer and provide her with their details so that the necessary administrative and seating arrangements can be made.

7.4 The Inspector has set out a range of Main Matters, Issues and Questions on which he needs information or a response from the Councils and representors. These accompany this note. They will also be on the Councils’ Examination website. The discussion at the Hearing Sessions will focus on the Matters, Issues and Questions identified which may be added to or amended in the light of further submissions (see section 9 below). The Inspector will make a few brief opening comments on the matters he wants covered in the session. He
will then invite the participants to make their contribution in response to the points he has raised. The Hearing Session will progress under his guidance, drawing those present into the discussion in such a way as to enable him to gain the information necessary to come to firm conclusions and recommendations with regards the soundness of the Documents. There will be opportunity in the Hearing Sessions to ask questions, and professional representatives and advocates can also join in the discussion.

7.5 The Hearings will be conducted on the basis that everyone taking part has read the relevant documents, although participants will be able to refer to and elaborate on relevant points, as necessary. The Inspector will endeavour to progress the Hearing Sessions in an effective and efficient manner. As part of that process, he will aim to minimise the amount of material to that necessary to come to informed conclusions on the Main Matters.

8 Hearings Programme

8.1 The draft Hearings Timetable is attached. The representors listed to participate are those who indicated they wished to do so when making their representations and those who the Inspector considers will assist him at the Hearings. Listed participants should confirm to the Programme Officer as soon as possible, but no later than noon on 6 June, that it is their intention to appear. Other representors who wish to participate, and believe they can contribute to the discussion but have not so far been invited, should also inform the Programme Officer by the same date.

8.3 Bearing in mind their associated Issues and Questions, you are invited to contact the Programme Officer not later than noon 6 June 2011 if you consider that there are other main matters or issues that go to the heart of the soundness of the documents and which should therefore be discussed. The Inspector can then consider any changes that may be required to the programme.

9 Preparation and submission of further material

Core Documents

9.1 The Stage 4 web page lists the submission documents and will list other Core Documents and further representations and statements as they become available. The Councils have established an Examination Library on the Stage 4 web page, which includes web links to those documents. A paper copy of this list can be obtained from the Programme Officer and is also available on the Council’s website. Hard copies of all Examination and Core Documents are available for inspection in the Examination Library, which is located in the offices of Merton Borough Council at the Civic Centre, Morden, Surrey, SM4 5DX, subject to prior appointment with the Programme Officer. The Examination web page may be viewed at: http://www.merton.gov.uk/environment/planning/planningpolicy/ldf/wasteplan/wasteplan_examination_2011.htm

Topic Papers

9.2 In response to each of the Inspector’s Main Matters, Issues and Questions Papers the Councils will be asked to prepare a full written response in the form of an individual Topic Paper; each Main Matter Topic Paper will address each issue and question as appropriate. They should include full and precise references to the evidence base to justify the particular approach taken in the
DPD, along with any supporting documentation. They should also include references to any suggested changes considered necessary to make the documents sound, bearing in mind that any further changes suggested at this stage should be assessed against an associated sustainability appraisal and the implications for further public consultation. These Topic Papers will provide the Councils’ detailed answers to the Inspector’s questions and will set the scene for the issues to be debated at the Hearings sessions. The Councils’ Topic Papers should be submitted to the Programme Officer by noon Thursday 23 June 2011. In addition, two schedules of the suggested changes arising from the Council’s responses to the MIQs is required by the same date. The first schedule will be those changes that the Councils consider necessary to make the documents sound while the second will be those minor changes that do not go to soundness but which are nevertheless considered necessary by the Councils to correct errors and omissions. This latter document has already been started and is currently listed as SLWP1.11. Both schedules are likely to be added to following debate during the Hearing sessions and the Councils will keep them up-to-date.

Submission of further written statements and other material

9.3 The representations already made should include all the points and evidence to substantiate Representors’ cases. However, if you wish to submit further evidence in response to the Inspector’s Matters, Issues and Questions Paper that is relevant to your representation, either for the Hearings or for written representations, it should be sent to the Programme Officer by noon Thursday, 23 June 2011. If your representations are to be considered at more than one hearing session, a copy of your further written statement is required for each of the relevant Hearing sessions. If you have not already done so in your representations you must explain how you wish to see the documents changed in order for them to be found sound.

9.4 The Inspector emphasises the need for succinct submissions, avoiding any unnecessary detail and repetition. There is no need for verbatim quotations from the DPD, or other sources of policy guidance. Nonetheless, it is vital that the fundamental elements of cases are set out clearly, since the Hearings are not the place for new points or evidence to be presented for the first time. Please note that it is the quality and substance of the reasoning that carries weight, not the bulk of the documents. Where it is considered essential to refer to a document that has been published since the submission documents themselves were published at the Regulation 27 stage, clear reference should be made to the relevant passage with 4 copies of the document plus any available web link being provided to the Programme Officer.

9.5 Those appearing at Hearings should send sufficient copies of all statements to the Programme Officer for issuing to each participant, plus 4 (for the Inspector, the Councils and Library), eg. If 8 people are listed for a Hearing session, then the Programme Officer will require 12 copies. For written representations only 4 copies of statements need to be submitted.

9.6 A separate statement in response to each of the Inspector’s Main Matters (or individual issues within a Main Matter as appropriate if you do not wish to comment on the whole Main Matter) that you wish to address should be submitted. One copy of each should be left loose-leaf, the remaining copies should be stapled with no spiral binding. In addition, an electronic copy should
be sent to the Programme Officer as an email attachment by the same deadline.

9.7 Statements should:
(i) be no longer than 2,000 words, either for a Hearing session or further written representations. Statements which are excessively long or contain irrelevant or repetitious material may be returned;
(ii) be A4 size in portrait orientation, with any plans folded so as not to exceed that size;
(iii) Technical evidence should be limited to appendices, and should be clearly related to the Main Matter. Any supporting material should be limited to that which is essential and should not contain extracts from any documents that are already in the Examination Library, although these should be cross-referenced if referred to. All statements should focus on the elements of soundness; justification, effectiveness and consistency with national policy, the London Plan and the adopted Core Strategies of the Councils as appropriate, and they should specifically demonstrate how the submitted documents are unsound;
(iv) clearly indicate the change required by the representor which they consider would make the document sound.
(v) There is no need for summary statements.

9.8 Statements should be headed with the representor’s name and be clearly marked, at the top, right hand corner, with the appropriate Main Matter number and representor reference. The Councils’ Topic Papers should be separately referenced SLWP/ followed by the Matter number (e.g. SLWP/Matter 1). Representors’ statements should be referenced: Matter 1/1234 for representor 1234’s statement on Main Matter 1.

10 Site visit arrangements

10.1 The Inspector will visit of all the sites and locations referred to in the both the DPD and the representations and he will make a familiarisation tour of the area prior to the Hearing Sessions, on an unaccompanied basis. If, exceptionally, there are particular reasons for an accompanied visit, participants should discuss these with Programme Officer.

11 Close of the Examination

11.1 The Examination will remain open until the Inspector’s report is submitted to the Councils. However, he will not accept any further representations or evidence after the Hearing sessions have finished, unless he specifically requests further information on particular topics. Any late or unsolicited material will be returned.

12 Submission of the Inspector’s Report to the Councils

12.1 The Inspector will announce the date when he expects to submit his report to the Councils at the last Hearing Session.

Brian Cook
Inspector