



The Planning Inspectorate
c/o Ms Litha Efthymiou
Haringey Council
North Tottenham Customer Services Centre
639 High Road
London
N17 8BD

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Our ref:
JP/NG

& BY E-MAIL: litha.efthymiou@haringey.gov.uk

Dear Sirs

Haringey Core Strategy

Response on behalf of Mr Stephen Brice to London Borough of Haringey's letter of 28 June 2011

A. Introduction

1. We write again to the Inspector on behalf of Mr Stephen Brice, as a member of the Pinkham Way Alliance, and further to the London Borough of Haringey's ("the Council") response of 28 June 2011 to our submissions of 1 June 2011.
2. We are concerned by a number of errors and inadequacies within the Council's response. We do not wish to engage unnecessarily in repetitive submission-making. However, we are concerned that the Council's response may lead the Inspector inadvertently into error in this CS examination. We therefore feel obliged to make the following points, and invite the Inspector to address them in considering the CS as it applies to the Friern Barnet site. We start by making some brief points about the implications of Policy SP13 (nature conservation designation), before focussing on Policy SP8 (Locally Significant Industrial Sites).

B. POLICY SP13 (Biodiversity and Nature Conservation Designation)

3. We are grateful for the Council's confirmation that they "have not removed the nature conservation designation of the Friern Barnet site" (para 2.1), and the Council's admission that Figure 6.2 of the CS which has been submitted and which was consulted on is in error, because it fails to reflect the continuation of the Friern Barnet site's environmental designation (para 2.3). However, two issues arise from this which give us cause for concern.
4. First, we invite the Inspector to ensure that if the CS is recommended for adoption, policy SP13 definitely ensures that the Friern Barnet site's current environmental designation is maintained within the development plan without any change whatsoever.

The site is currently designated in the Council’s development plan as one of 9 Sites of Borough Importance for Nature Conservation (Grade 1). But Policy SP13 (final bullet) of the submitted CS refers to “Sites of Importance for Nature Conservation”, without distinguishing between different Grades. While para 6.3.23 of the supporting text does distinguish between sites of metropolitan importance, Borough Grade 1 importance, Borough Grade 2 importance, and local importance, it is unclear from the CS in which local development document a particular site’s *classification* will be maintained (when it will apparently not be maintained in Policy SP13 itself). We ask the Inspector to clarify this with the Council and to ensure that the Friern Barnet site’s designation as a site of Borough Grade 1 importance continues to be maintained in the development plan itself (and not, say, in an accompanying SPD which is not strictly part of the development plan).

5. Second, confirmation that the Council wishes to maintain the whole of the Friern Barnet site as a site of Borough Grade 1 importance for nature conservation raises the basic question how it can possibly be consistent and sound for the same CS simultaneously to dedicate the whole of the Friern Barnet Site for industrial use. While the site’s existing employment designation under the UDP is expressly qualified so that it only permits employment generating uses “subject to no adverse effect on the nature conservation value of the site”, Policy SP8 as proposed in the Council’s Fundamental Changes (November 2010) does not qualify the proposed industrial use designation in any such way: the only qualification built into the proposed Policy SP8 is that the Council will safeguard the site as an LSIS “where [it] continu[es] to meet demand and the needs of modern industry and business.” There is a fundamental lack of symmetry here, underscored by the complete absence of any evidence base, or adequate SA, which might begin to justify the site’s designation for industrial uses.

C. POLICY SP8 (Locally Significant Industrial Sites)

6. In relation to the Friern Barnet site’s designation as an LSIS, there are numerous errors and inadequacies in the Council’s response to our 1 June submission. They are best set out in tabular form.

Adequacy of Consultation Process

Assertion in Council’s letter	Reasons why this assertion is an inadequate / erroneous response by the Council to our 1 June submission
<p>Para 1.5: “The fundamental changes document (Nov 2010) was consulted on according to planning regulations, and there were no objections to designating this site as a LSIS.”</p>	<p>The fundamental changes document was only consulted on for 4 weeks. This is a clear breach of the 2004 Regulations, Regulation 28(3) of which required at least 6 weeks consultation on the contents of the proposed submission CS.</p> <p>In any event, not only did the consultation process have to comply with statutory requirements under the 2004 Regulations, the public also had a legitimate expectation as a matter of public law that the consultation process would comply with any <i>additional</i> provisions of the SCI which went further than the 2004 Regulations: consider the Court of</p>

	<p>Appeal decision in <u><i>R (Majed) v. Camden London Borough Council</i> [2009] EWCA Civ 1029</u> at paras [12] to [15].</p>
<p>Para 3.4: “The Council’s Statement of Community Involvement (SCI) does not set out specific procedures for consulting on additional regulation 27 documents however”.</p>	<p>This is extremely misleading. The SCI does not specifically refer to <i>additional</i> regulation 27 documents, presumably because the SCI expected that the Council would consult on <i>all</i> its CS policies in one go, rather than (as here) seek to change policies after the original consultation process had ended. But the SCI <i>does</i> contain <i>detailed</i> procedures and methods (and a minimum 6 week consultation period) for consulting on DPDs (i.e. regulation 27 documents) generally. The Proposed Fundamental Changes document sets out policies which the Council proposed to include in the CS; to comply with the SCI, the Council obviously had to consult on those policies in accordance with the SCI provisions relating to DPDs generally. This the Council did not do. See paragraph 15 of our submission of 1 June.</p>
<p>Para 3.4: “... the consultation that was carried out was targeted to the participants who specifically expressed an interest in the initial regulation 27 consultation and those local businesses affected by the changes to the DEAs...”</p>	<p>This positively supports PWA’s case that the consultation methods employed were clearly inadequate, unfair and unlawful. The Council recognises, correctly, that this was a case where it was appropriate to consult <i>targeted</i> groups of people likely to be interested in the Friern Barnet proposals. But to target people specifically interested in the things that <i>were</i> consulted on in the initial consultation is clearly not a sound approach to consulting on the subsequent proposal to designate the Friern Barnet site as an LSIS. The Council has said in its response to our 1 June submission that the originally proposed submission CS (May 2010) <i>did</i> propose that the Friern Barnet site designation should include Class B uses, but admits (para 1.4) that “the wording was not clear enough”. In those circumstances, one clearly cannot expect all individuals who <i>might</i> have been interested in a proposal to designate the Friern Barnet Site for industrial uses (including local residents) to have appreciated that they may wish to respond to the May 2010 consultation process. When consulting on the Fundamental Changes document, the Council should clearly have targeted <i>all</i> people who were likely to be most interested in the Friern Barnet proposals – most obviously, local residents – not simply those who happened to respond to the first consultation process on a different policy whose “wording was not clear enough”.</p> <p>What is more, to consult local <i>businesses</i> affected by the industrial use designations, but not <i>local</i> residents, is clearly partial, unequal, irrational and unfair. If the Council targeted local businesses, local residents were entitled to similarly</p>

	targeted consultation.
Para 3.4: “The four weeks consultation period was deemed appropriate to the type of consultation document, i.e. it was... a proportion of the Core Strategy document and aimed at a target audience.”	<p>As already explained, four weeks was in any event insufficient, because both the 2004 Regulations and the SCI required the Council to consult on proposed CS policies for a minimum of 6 weeks.</p> <p>But the choice of 4 weeks was flawed in any event – the Council seek to justify the limited duration of the consultation on the basis that the CS was aimed at a targeted audience when, not only was the targeting wrong, there is no sensible reason why even a correctly targeted audience should be given less than 6 weeks in which to consider their response.</p>

The Council’s Reasons for designating the Friern Barnet Site as LSIS, and factors taken into account by the Council

Assertion in Council’s letter	Reasons why this assertion is an inadequate / erroneous response by the Council to our 1 June submission
Para 1.5: Designation of the Friern Barnet site as LSIS “... accords well with the concept of sustainable communities. Both of these sites are in the west of the borough where there is comparatively less industrial land availability.”	This is not a reason given in the Council’s consultation documents or submission documents for designating the Friern Barnet site as an LSIS. Nor, in any event, is it an adequate or sufficient reason for designation for this specific site as an LSIS – the mere fact that there is comparatively less industrial land available in the west of the borough generally does not mean the Friern Barnet site, specifically, is a suitable location to take such industrial development or to be designated as such in the CS.
Para 1.7 and 1.8: “The Council when reviewing the designation for Friern Barnet site also took account of the North London Waste Plan preferred options. The designations in the Core Strategy need to provide a planning framework for the next 15 years and should not remove flexibility for other emerging plans or major infrastructure needs. Taking these into account does not mean that the Council has declared the site as a waste management site ahead of the North London Waste Plan	The Council says it has “taken the NLWP preferred options” into account and that it was entitled to do so. This is wrong. The 2004 Act requires the Council to prepare DPDs in the order specified in its local development scheme for good reason. If, in due course, the Inspector examining the NLWP finds that the Friern Barnet site is <i>not</i> suitable to be designated for waste management facilities, the borough will be left with a Core Strategy that nevertheless designates the Friern Barnet site for industrial uses on the basis (subsequently found to be unsound) that the site <i>might</i> be suitable for waste management facilities. That cannot be lawful

<p>adoption, or that it already made its mind up about the site as a waste management site ahead of a planning application.”</p>	<p>or sound accordance with PPS12.</p> <p>In any event, the fact is that – on analysis – the Council does not appear to have taken into account <i>any</i> other permissible considerations besides the NLWP when choosing to designate this particular site as an LSIS: the Council cannot lawfully or soundly base the entire designation on the as yet unexamined NLWP proposals.</p>
<p>Para 1.10: “The Focused Changes Schedule (as submitted in March 2011) was produced to document the <u>changes</u> arising from the additional regulation 27 consultation; it does not provide the reason for changing the employment land designations.”</p>	<p>This is simply wrong. The second column of the Focused Changes Schedule sets out “proposed changes”, and the fourth column of the Focused Changes Schedule is specifically entitled “Reasons for Change”.</p> <p>We are extremely concerned that the Council considers it appropriate to put such a misleading argument to the Inspector in support of its proposals. Either the Council has wilfully misrepresented its case to the Inspector. Or the Council has not bothered to take the time to consider and respond to our serious concerns with the care they deserve. Either way, the Council’s approach is not acceptable.</p> <p>We add that, if the Council was right and the reasons for changing the designation were not set out in the Focussed Changes Schedule, the Council’s approach would still be deficient, because the result would be that the Council had not set out <i>any</i> reasons in its submission documents for changing the employment land designation for the Friern Barnet site.</p>
<p>Para 1.9: “Regarding Mr Brice’s objection in paragraphs 7.7 and 7.8, Haringey’s proposed changes to Friern Barnet site are not based on the GLA response or the one from Nathaniel Lichfield and Partners on behalf of SEGRO. The reference to these consultees in paragraph 7.7 of Mr. Brice’s letter refers to the fact that both parties made comments to SP8 during the consultation, specifically to <u>other</u> sites within the Locally Significant Industrial Sites</p>	<p>This is precisely the point that we make in our 1 June submission. In relation to the “Proposed change” of amending the list of LSISs in SP8 to include (among other additions) the Friern Barnet site, the Focussed Changes Schedule’s expressly stated “reasons for change” say simply “To reflect comments received from the GLA and Nathaniel Lichfield & Partners on behalf of SEGRO”. The point we make – and which the Council’s response confirms, whilst apparently trying to deny it – is that the Council’s stated reasons in the Focussed Changes Schedule for ultimately including the Friern Barnet site as an LSIS are completely irrational and deficient because they do not relate to the Friern</p>

<p>(LSIS) category.”</p>	<p>Barnet site at all. Site-specific allocation requires site-specific reasoning.</p>
<p>Para 3.5: “Paragraph 2.1 of the Council’s additional consultation addendum (document reference CSSD-03) specifically sets out the guidance in which the Council followed when proposing the changes to the Core Strategy. Issues like general conformity with the London Plan, consistency with national guidance, whether the changes were consistent with other relevant plans and strategies and whether they resulted in any further environmental, economic or social implications not already covered in the Sustainability Appraisal were all taken into account.”</p>	<p>It is patently not enough for the Council simply to assert that they took these matters into account. The content of the consultation documents, the (lack of) evidence base, the Council’s stated reasons for changing the Friern Barnet site’s designation to that of LSIS, the deficiencies in the SA, and other inadequacies we have raised in our 1 June submission all demonstrate that – even if the Council asserted that they followed this guidance, and purported to do so – they in fact did not do so.</p>
<p>Para 4.1: “A Sustainability Appraisal was undertaken on the revisions to the employment land designations, and found no significant effects as a result of these policy changes. These changes are supported by the Submission Core Strategy Sustainability Appraisal. Results of this appraisal can be found on pages 138-143 of the Submission Core Strategy SA Appendices.”</p>	<p>The passage which the Council cites from the SA Appendices brings home precisely how inadequate the submitted SA is. The obvious example is its appraisal of whether the CS employment policy will “protect and enhance biodiversity” (page 141). It consists in a mere assertion that “commercial development is not likely to have significant effects on biodiversity”, without any explanation of what evidence (if any) was taken into account, or what assessment methods were used, or what principles were applied when appraising the impact of the policy on this front. This is a matter of particular concern given that the SA takes the view that “it should be ensured that developments are checked for biodiversity potential and appropriate mitigation developed if species/habitats identified”, and suggests that “Any effects of detailed proposals to be considered as part of EIA and Landscape Design Strategy with supporting information at planning application stage.” It cannot be adequate for SA purposes, or for the purposes of strategic environmental assessment, for the SA simply to leave these matters to planning application stage: it cannot be appropriate or sound to build a strategic allocation around a site which proper assessment at</p>

	<p>a later stage may reveal to be environmentally unsuitable or unsustainable</p> <p>In addition, this appraisal is totally generalised and fails to distinguish between potentially different impacts of the policy on different sites which are proposed to be allocated. A generalised approach yielding a single “score” (neutral / no impact) surely means that Hyder, the consultants who undertook the SA, must have aggregated their assessments of all the sites they looked at, offsetting potentially positive impacts at some sites against potentially negative impacts at others. But site specific allocation must require site-specific appraisal and analysis.</p> <p>Certainly, the attribution of a “no / neutral impact” score must be demonstrably wrong in relation to the effect of the Friern Barnet site’s LSIS designation on the protection and enhancement of biodiversity at the site, given its environmental designation.</p> <p>Finally, it is completely unclear whether Hyder were even aware that the Friern Barnet site would continue to have a biodiversity designation under the CS when they appraised it (given the Council has now admitted that figure 6.2 of the CS (open space and biodiversity) wrongly fails to maintain the Site’s designation as a Site of Borough Importance for Nature Conservation (Grade 1) when it ought to do so). Equally Hyder were presumably acting on the wrong basis (set out in para 5.1.10 of the Fundamental Changes (2010) document) that the Friern Barnet site is a “<i>well established industrial area</i>”. Those serious errors by the Council in its description of the site and its history feed through into the SA, and further undermine what is already, for the reasons discussed above, an inadequate piece of work.</p>
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7. Finally, we invite the Inspector to note specifically that the Council has failed to provide an answer to the following points made in our submission:

- 7.1 The proposed allocation of the Friern Barnet Site as a LSIS proceeds on the fundamentally misconceived and deeply misleading basis that the site is already a “*well established industrial area*” (para 6.1 of our 1 June submission).

- 7.2 The proposed LSIS allocation wrongly, and abusively, inverts the plan-led system established in the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) and PPS12, because Haringey’s stated reasons for proposing the Friern Barnet Site allocation in Fundamental Changes (November 2010) make very clear that Haringey has allowed itself to be led by the fact that a developer wishes to develop the site for recycling / waste facilities, rather than considering whether (in accordance with the tests set out in PPS12) the site allocation would be *sound* (para 6.5 of our 1 June 2011 submission).
- 7.3 Haringey’s other stated reason in Fundamental Changes (November 2010) for *proposing* to allocate the Friern Barnet Site as a LSIS (“a change in designation will ensure this DEA is targeted towards more traditional industrial uses”) explains what the *effect* of such an allocation would be – but it fails completely to explain why such an allocation is *justified* and therefore *sound* (para 6.6. of our 1 June 2011 submission)
- 7.4 In any event, contrary to the PPS12 tests of soundness, there appears to be no evidence base at all justifying Haringey’s proposed allocation of the Friern Barnet Site as a LSIS (let alone a robust and credible evidence base) (para 6.8 of our 1 June 2011 submission).
- 7.5 Contrary to the PPS12 tests of soundness, Haringey does not appear to have considered the suitability of allocating the Friern Barnet Site as a LSIS against reasonable alternatives, or if it has, it has not identified any reasons why the Friern Barnet Site LSIS allocation is said to be the most appropriate allocation, compared with those alternatives (para 6.9 of our 1 June submission).
8. In all the circumstances, it will remain fundamentally unsound for this CS to change the Friern Barnet site’s existing designation for “employment generating uses subject to no adverse effect on the nature conservation value of the site”, and to designate the site instead as being suitable for any form of industrial use.

Yours faithfully

