

Pinkham Way Alliance

Representations

Haringey London

Site Allocations and Development Management DPD Pre-Submission Version

Reg 19 Consultation

8 January – 4 March 2016

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These representations are submitted on behalf of the Pinkham Way Alliance in response to the public consultation on the Haringey Local Plan documents; Pre-Submission Site Allocations DPD 2016 and Development Management DPD. They are concerned with the future use and protection of the former Friern Barnet Sewage Works site at Pinkham Way adjacent to the North Circular Road and Muswell Hill Golf Course.

The Pinkham Way Alliance is a community campaign group which came together in early 2011 when residents living in the vicinity of the former sewage works site at Pinkham Way, Muswell Hill became concerned about plans by the North London Waste Authority (NLWA) to develop the site for a large scale MBT waste facility. The PWA considers that the former sewage works site is an ecologically valuable green space within the local area and that it warrants protection both for its nature conservation value and its value to the local community.

The PWA's membership has continued to grow since the NLWA's plans first became public and the Alliance now has approximately 3000 supporters. The membership is drawn largely from the residential areas that would be most directly affected by the loss of this important local asset and by any waste related or other major development on the site, but also includes businesses as well as residents' associations from further afield.

Introduction and summary

1 This submission will argue that the local plan documents are not sound because they are not in compliance with NPPF, The London Plan 2015, Haringey's Local Plan 2013 and planning guidance. In particular, the planning decisions on the Pinkham Way site are not justified because they are not positively prepared and are not based on sound objective evidence. Instead we believe they have been driven by political pressure.

2 The Council is treating this site as if it was a derelict brownfield site suitable for development, rather than a green open space that is an important part of a larger ecological complex and corridor, including other SINC's (Hollickwood Park, Muswell Hill Golf Course, Tunnel Gardens and Bluebell Wood, Albert Road Rec and Rhodes Avenue Spinney).

3 The site has been mainly undisturbed for over 50 years "making it a rare resource for Haringey of high ecological value."¹ As such, it should be given the highest protection in the local plan.

4 The plans are not Positively Prepared. In so far as Pinkham Way site is concerned the Site Allocations DPD and the Development Management DPD have not been positively prepared and are not based on an objective assessment/strategy for development on the site.

5 For example, there are no development plans or indicative development capacity shown for the site in the Site Allocations DPD unlike all the other sites and no cognisance has been taken of the fact identified by LUC in the Open Space Study that there is a deficiency of local open space in the western zone of the borough.

6 The plans are not Justified. There is no justification for this site to be included in the Site Allocations DPD as there are no proposals for its future use. No other site is included simply to protect its planning designation.

7 The Council has produced no evidence to support its inclusion and has not explored reasonable alternative uses for the site.

8 The plans are not Effective. Atkins in their Employment Study 2015 advised that the Pinkham Way site is unlikely to be brought forward for development during the plan period; The GVA viability assessment on the Pinkham Way site found that the site was not viable "there was no analysis of a 100% commercial scheme as this returned a negative residual value under any scenario"; LUC advised in the Open Space Study 2014 that the site was of high ecological value and a rare resource for Haringey, indicating that the site is not deliverable. The Environment Agency advised the Council

¹ Haringey Open Space and Biodiversity Study October 2014 LUC

that the site falls within flood zones 1 2 and 3 classified by the National Planning Practice Guidance as having a low medium and high risk of flooding from rivers.² This increased flood risk affects the deliverability of the site.

Section 1

The Pinkham Way Site and political pressure

1.1 The Pinkham Way site currently has a dual planning designation: Site of Importance for Nature Conservation, Borough No 1 value and Employment Land.

1.2 It is an open green space that has been vacant for over 50 years. Its ecological value is acknowledged by its SINC designation. See Haringey Council's site map of Pinkham Way SINC below.³

1.3 It is part of a larger ecological complex and corridor including other SINCs (Hollickwood Park, Muswell Hill Golf Course, Tunnell Gardens, Bluebell Wood, Albert Road Rec and Rhodes Avenue Spinney).

1.4 A watercourse running in a culvert beneath the site is highlighted in the London Rivers Restoration Action Plan for de-culverting.



²EA letter of 25 March 2015 to LBH

³Haringey Open Space and Biodiversity Study Oct 2014 - Site B7

1.5 There is a substantial amount of sound evidence to support retention of the SINC designation which the Council has accepted. However, there is no sound objective evidence to support retention of the Employment designation. On the contrary, as will be seen later in this submission, there is a substantial amount of evidence to support its removal.

Political Pressure

1.6 The current attempt by Haringey Council to cling on to the employment designation in the absence of sound evidence to support it is, we believe, driven by political pressure, not by sound objective evidence.

1.7 This political pressure arises from Haringey Council's conflicted position as Local Planning Authority for the Pinkham Way site and as a member of the North London Waste Authority. Over the past five years, PWA and residents have watched the Council's losing struggle to manage this conflict.

1.8 The catalyst for the conflict was the NLWA's purchase of the majority of the Pinkham Way site at a cost of more than £12m in December 2009.

1.9 At the time of the purchase the site was a designated Site of Importance for Nature Conservation, and was part of a designated Ecological Corridor. It was also designated for employment but had no planning consent and no established use. It was acquired secretly,⁴ and in haste,⁵ from Barnet Council, in anticipation of a PFI bid to support the major Waste Procurement the NLWA was pursuing at that time.

1.10 Following completion of the purchase in 2011, a joint Barnet/NLWA planning application was submitted to Haringey Council for (a) an MBT Waste Facility for the Waste Authority and (b) a Refuse Collection Vehicle Depot and passenger transport depot for Barnet Council.

1.11 Subsequently, the MBT Waste project was abandoned as unnecessary, the PFI bid and the Waste Procurement failed, and the planning application was withdrawn.

1.12 The Waste Authority is now holding a 4.5 ha open green space, all of which is subject to a *dual designation of Site of Importance for Nature Conservation, Borough No 1 value and Employment Land* and part of which is *designated Ecological Corridor*.

1.13 The importance of retaining the employment designation was pointed out at a meeting of the NLWA last year⁶ "If the employment designation for the site is removed, and the site is only designated as a SINC, it is unlikely to pass any screening

⁴The contract for sale dated 17 Dec 2009 contained a 'no disclosure of purchase' secrecy clause (para 20.01)

⁵The seven London Councils which make up the NLWA were given 24 hours' notice to sign up to the PFI bid

⁶NLWA Report 'Consultations and Policy Update' 25 June 2015

assessment in the North London Waste Plan and it will be very difficult for NLWA to seek a waste use on the site.”

1.14 Haringey Council is unable to produce sound objective evidence to support the retention of the Employment designation on this site. As we will demonstrate in this submission, all the objective evidence provided to the Council (by their own consultants as well as others) supports the removal of this designation.

Identification, size and extent of the site

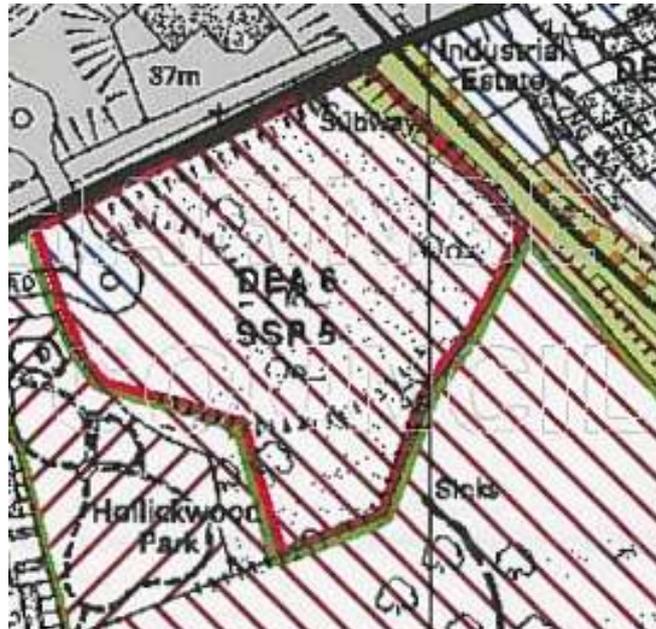
1.15 This site has been given many different identities and references by Haringey Council, and others, over the years. It has been referred to variously as SA 46; SA 49; SA 53; MH3; DEA 6; and LEA 4.

1.16 In the current Site Allocations document it is referred to as SA52: Pinkham Way but its planning designations are set out as; Local Employment Area: Former Friern Barnet Sewage Works employment land and SINC Borough grade I: Friern Barnet Sewage Works.

1.17 Constantly changing references tend to lead to confusion. The site has not been used as a sewage treatment for over 50 years. For the sake of clarity, we propose that the Council simply uses the name Pinkham Way Site and then follows with whatever planning designation applies.

Employment Land designation

1.18 It would appear from comparing the plan of SA52 shown on page 128 of the Council’s Pre-Submission Site Allocations DPD 2016 and the plan identified as DEA 6 on the Council’s proposals map that the area of the designated Employment Land for the Pinkham Way Site has been altered.



Extract of Haringey proposals map showing Pinkham Way DEA6

1.19 The site area on the above plan is given as 6.6 ha. The eastern boundary of the site is shown as part of the designated Ecological Corridor listed No 2 in Schedule 6 of the Reg 19 Site Allocations DPD as: Great Northern Line Railsides from Finsbury Park to Bowes Park and New Southgate stations and Wood Green Tunnel Gardens.

1.20 This was confirmed by the Council on 22 February 2012 when they answered the Inspector's question "Is the site part of a designated green corridor?"⁷

1.21 The answer given was "A small portion of the north-east corner of the site forms part of a designated ecological corridor. This can clearly be seen on the UDP map dated 2006 in the middle of the eastern side of grid reference E4. The portion of the site that is a designated ecological corridor forms part of the embankment of a railway line. That part of the site that forms part of the ecological corridor comprises 2544 msq".

1.22 However, the map in the Site Allocations Pre-Submission 2016 version no longer shows the site as part of the Ecological Corridor and the size of the DEA appears to have shrunk from 6.5ha to 5.95ha.

⁷Haringey Councils list of written Inspectors Questions for EiP hearing on 22 February 2012



1.23 The description has also changed. The DEA is no longer referred to as part of the Ecological Corridor but we are now advised that “The area in the vicinity of the north eastern corner of the site (along the rail line) is an ecological corridor and any development should serve to enhance this function.”

1.24 No explanation is given for this change and we can find no reference to it. If there is a sound planning reason for changing the area of the DEA it should be set out. If there is no sound planning reason then it should not have been changed. Either way, it should have been flagged up as a proposed change in the Site Allocations DPD.

1.25 The Council is proposing to delete SSP5 as part of the current local plan review. The protection given to the Pinkham Way site in this policy is stronger than the protection given in the new SP13 and we would object to its removal in the event that the Employment Land designation is retained on the site.

1.26 A core principle of the NPPF is that planning should be genuinely plan led. Planning authorities should objectively balance assessed needs against adverse impacts that would significantly and demonstrably outweigh the benefits.

1.27 A policies map must illustrate geographically the application of policies in a development plan. The policies map may be supported by such other information as

the Local Planning Authority sees fit to best explain the spatial application of development plan policies.

1.28 The National Planning Policy Framework (NPPF) (2012) sets out the Government's national policies on different aspects of planning in England. Section 10 paragraphs 109 to 125 detail planning policies on the conservation and enhancement of the natural environment.

1.29 Circular 06/2005 provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system. In summary, it states that the planning system should contribute to and enhance the natural and local environment by:

- *'minimising impacts on biodiversity and providing net gains in biodiversity where possible,*
- *contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.*
- *opportunities to identify land where development would be inappropriate, for instance because of its environmental or historic significance; and*
- *contain a clear strategy for enhancing the natural, built and historic environment, and supporting Nature Improvement Areas where they have been identified.*

1.30 Each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area.

1.31 There is no evidence that the Council gave any consideration to the implications of changing the boundaries of this DEA or to the implications of changing the boundary of the designated Ecological Corridor.

1.32 It appears that this change has not been made on proper planning grounds but rather at the request of the NLWA. We set out our reasons for taking this view below.

1.33 In its response to the Call for Sites in 2013, the NLWA enclosed an extract the map of DEA6 (see above) and identified certain points of the DEA 6 site boundary which were contiguous with the surrounding MOL boundary.

1.34 They also stated that "The adjacent railway line and cutting to the east of the site forms a designated Ecological Corridor."

1.35 The NLWA referred to an enclosed plan (Pinkham Way Site Ownership MOL Plan) and proposed that the DEA boundaries “be redrawn to remove such anomalies”.

Conclusion

1.36 Unless this change was made for sound planning reasons and unless the Council can justify it, the delineation of DEA 6 should retain its original boundary.

Section 2.

The Site Allocations DPD Pre-Submission version is not sound for the following reasons:

Not Positively Prepared

2.1 In so far as Pinkham Way site is concerned this document is not positively prepared. It is not based on an objective assessment/strategy for development on the site.

2.2 Under the heading Proposed Site Allocation, it states “protection of the site for employment use, subject to appropriate protection of nature conservation status.” Under Indicative Development Capacity, none is identified.

2.3 All other sites include proposals for various types of redevelopment and have indicators of indicative development capacity expected from the site – even sites such as Alexandra Palace and Tunnel Gardens which also have no indicative development capacity identified have proposals for a range of additional uses, improved connections, renewal/replacement of defective housing etc.

2.4 There are no proposals whatsoever for the Pinkham Way site other than to protect its employment designation. No anticipated indicative capacity is shown. For what purpose is it allocated in the SA DPD? If the Council can identify no other purpose than protecting the employment designation then it should be removed.

Not Justified

2.5 There is no justification for this site to be included in the Site Allocations DPD as there are no proposals for its future use. No other site is included simply to protect its planning designation.

2.6 The Council has produced no evidence to support its inclusion and has not explored reasonable alternative uses for the site which it might reasonably have been expected to do given that

the Biodiversity Study advised that the site was “of high ecological value and a rare resource for Haringey”

the Open Space study identified deficiency of local open space in the vicinity of the site,

the Employment Study advised that the site was not suitable for the type of employment uses anticipated in Haringey over the plan period and that it was unlikely to be brought forward anyway during the plan period because of its location and contaminated state.

the GVA Viability Assessment of Pinkham Way, even with its sympathetic approach which we discuss elsewhere, found that a development that was purely employment would not be viable under any scenario on this site.

2.7 Reasonable alternatives to explore might have been its potential value as local open space or as a Local Nature Reserve, or as natural green space providing educational value and access to nature for local people and schools.

2.8 To support such a proposal, PWA submitted a Five Year Site Management Plan to Haringey in 2014. This had wide community support and over 100 people gave their commitment to ensure its practical implementation. The Plan remains with the Council pending consideration.

2.9 Enfield Council, in its response to the Site Allocations DPD consultation 2014, requested discussions with Haringey about future uses of the site in the context of the Enfield Action Area Plan. That plan includes the development of a significant number of additional residential dwellings close to the boundary of both boroughs, a large number of which have already been erected with no provision for local open space. PWA considers this a lost opportunity for cross borough cooperation which could have provided some natural green space for the wider community.

Not Effective

2.10 Atkins advised it is unlikely to be brought forward during the plan period and LUC advised it was of high ecological value and a rare resource for Haringey – presumably they did not have in mind its development as a waste transfer station, for example.

2.11 The only joint working we are aware of is the participation of Haringey in the North London Waste Plan preparation where the site has been identified as a potential waste site although any reference to this possibility has been positively avoided in this document and throughout the consultation process.

Not Consistent with National Planning Policy

2.12 The document is not consistent with National, Regional or Local planning policy and we have dealt with this in some depth on pages 25-26.

Section 3

Local Plan Documents are not in compliance with the Statement of Community Involvement (SCI) 2015

3.1 Page 9 of the SCI sets out a list of Aims for the Haringey Planning Service. This section will comment on the first, second and fifth aims.

First Aim is to ‘Ensure Consultation is Effective’:

- *By providing relevant information and sufficient reasons for any proposal to permit intelligent consideration and response by all affected parties.*

3.2 The Council concealed material evidence prepared by their consultants, GVA, about Pinkham Way’s non-viability as employment land during the consultation process, and failed to include it or refer to it at any of the Council Committees during the process of considering changes to the Local Plan.

3.3 The council was finally forced to disclose it under FoI, in May 2015, several weeks after the consultation period ended, and it continued to try and diminish its importance by claiming it was not ‘evidence’ but a ‘think piece’, ‘presentation slides’ etc. it is however listed on the Council’s website as supporting evidence for the local plan documents.

3.4 When the Council passed PWA’s response to the Regulation 18 to the NLWA in May 2015 with an invitation to make further post-consultation comments, it again concealed the document, as it was not passed to NLWA, nor was it passed to Atkins when they undertook the Employment Study. The Council also failed to disclose to NLWA both PWA’s critique of the GVA viability assessment and the ongoing correspondence about it and about other matters relevant to the local plan evidence. Thus NLWA only received part of the picture.

3.5 The resulting response from NLWA, prepared by ARUP at public expense, was therefore compromised as they were unable to address the material issues of the viability evidence and our critique of it and of other matters.

3.6 As a result of this, the Council is not in a position to give full consideration to the viability evidence produced by GVA. See pages 34-35, where we discuss the reliance of the Council on the landowner's claim that the site is viable⁸.

3.7 It is clear to PWA that the assessment was concealed because it did not provide the evidence the council was hoping for; it did not support the decision to retain the Employment designation on the Pinkham Way SINC.

3.8 On the contrary, it confirmed the site's non-viability in that "there was no analysis of 100% commercial scheme as this returned a negative residual value under any scenario"⁹

Second Aim is to 'Ensure Consultation is Transparent

- *By being up front about any potential conflicts of interest and how these are to be appropriately managed to meet public expectations of integrity.*

3.9 During the last review of the local plan in 2010 the Council responded to NLWA's urging by re-designating the site as Locally Significant Industrial Land, with the justification that it: *'Complies with pre-application discussions which have already taken place to use part of site for recycling centre and other part as waste station,'* leaving a revealing image of bullying by a powerful developer towards a subservient planning authority that has resonated ever since.

3.10 PWA challenged the re-designation and the Inspector refused to allow it on the grounds it was not justified by supporting evidence.

3.11 After the publication of the EiP Inspector's Report rejecting the redesignation, the Council felt obliged to issue a public statement on Pinkham Way in March 2013, in which it committed itself to openness and transparency, thus setting out, in the words of the SCI, the 'integrity the public should expect' as far as its dealings on the Pinkham Way site were concerned. The reality, as this submission illustrates, has been quite the opposite.

3.12 The Council has been less than 'upfront' about the link between the North London Waste Plan and the Site Allocations DPD in so far as the Pinkham Way site is concerned.

3.13 Section 1.3 of the LUC Open Space and Biodiversity Study 2014 states that it is to 'inform and support' the Local Plan **and the NLWP**. Of all the Haringey sites in the NLWP, Pinkham Way alone required Open Space assessment. It is thus the only link between the Open Space study and NLWP.

⁸Letter from LBH to PWA dated 6 July 2015 from Assistant Director of Planning

⁹Email from LBH to E Ryan 26 May 2015 (Gavin Ball LBH)

3.14 Haringey's conflict was how to avoid assessing as open space a site whose status was a matter of fact and not a matter of judgement. We discuss how it dealt with that conflict, whilst simultaneously concealing it, in the section on Open Space.

Fifth Aim is to 'Ensure consultation findings are Accountable'

- ***By publicising the responses and providing feedback to participants***

3.15 The Council undertakes that '*All responses will be made available online*' (SCI 5.3.1). However, it omitted PWA's submission from the consultation responses uploaded on June 30th 2015. PWA had to ask twice before the Council finally uploaded it some two weeks later and were unable to give a satisfactory reason for this omission. (The variety of explanations from the planning officer, Mr Goldberg, became known within PWA as "The Goldberg Variations"!) During that two weeks it had been unavailable for inspection by Regulatory Committee and Cabinet members preparing to consider the draft North London Waste Plan. When we raised this we were told that "members had been fully briefed on PWA's concerns."

Consideration of Local Plan - Regulatory Committee (21 September 2015) and Cabinet (20 October 2015)

3.16 We believe that the reports to both these committees deliberately concealed the extent of concern felt by local residents about the site and the strength of support for the PWA submission by referring to it as a '*petition*'.

3.17 We pointed this out, and, at the full Council meeting on 23rd November 2015 a verbal correction was made. However, this correction was omitted from the Council minute of that meeting. So there is still no formal record of our submission and supporting evidence or of the extent of support for it in the local community.

- ***By explaining how the responses to consultation have been conscientiously taken into account***

3.18 At a meeting between the Council and PWA¹⁰ the Council admitted to not having read PWA's March 2015 submission, a 26-page document of substantive and detailed evidence with 10 appendices. The Council also told PWA at the same meeting that the site had been included in the forthcoming draft NLWP, which was published shortly afterwards. So far from being '*conscientiously taken into account*', PWA's evidence (and presumably evidence from other respondents) had not even been opened before the Pinkham Way Site was offered up as waste site fodder.

¹⁰ Meeting 20 May 2015 between PWA and council officers

3.19 Subsequent to that meeting, the Council advised PWA that ¹¹

We have now had sufficient time to digest and consider the submission, including seeking the views from the Council's Nature Conservationist and it is our conclusion that the evidence submitted does not support automatic exclusion of the site and therefore it is reasonable to test the site through the development plan process and allow all parties to express their views before taking a decision on the future of the site.

3.20 What the Council is effectively saying here is that 'evidence submitted' is insufficient to reverse a decision which breached the established consultation rules and was anyway based on evidence the Council would reasonably have known to be wholly unsound.

3.21 No evidence was produced on the Conservation Officer's views. Thus PWA cannot comment except to say that, were they as described, their emphasis would have differed from his views written on behalf of the Council's Parks' Service a few months previously where he said that

"if employment uses were not economical for this site then it should remain undeveloped for its ecological importance and the employment designation should be removed".

3.22 And in response to the proposed relocation of businesses from regeneration areas in other parts of the borough to improved premises on Pinkham Way he said

"this is not acceptable as if existing or alternative sites exist for development then a SINC should not be developed".¹²

- ***By linking decision-making to robust, consistent and sound grounds.***

3.23 Since the March 2013 public statement on Pinkham Way, the Council has repeatedly said both publicly and in meetings with PWA that decisions will only be made that are 100% 'evidence-based' and that the process would be 'open and transparent'. As is shown elsewhere in this submission, the Council either simply ignored inconvenient material evidence or refused to seek it.

It has:

a) ignored unambiguous evidence from its professional advisors on the site's unsuitability for employment and recommendations for such sites whilst itself having offered no positive evidence;

¹¹Email from LBH to E Ryan PWA 29 May 2015

¹²Ian Holt's internal response to Haringey's Site Allocations DPD Reg 18 consultation Document October 2014

- b) as a basis of its strategic policy, relied on claims of viability from one site-owner, evidence for which is apparently unavailable
- c) failed to assess properly the site's Open Space value as it had promised, and in particular failed to apply both its own definition of Open Space and relevant Local Plan commentary;
- d) quoted other specious grounds to support its decision that the site is not Open Space;
- e) distorted its own Open Space & Green Grid policy DM20 to exclude Pinkham Way SINC from the Haringey Green Grid as a SINC/natural green space,
- f) regarding the culverted water course, has failed to apply its own policy properly

Section 4

Open Space Status

4.1 PWA considers that the Pinkham Way SINC, shown in the picture below, is open space. We set out evidence below to show that not only does it fall squarely within the definition of Open Space given in the NPPF, the London Plan 2015 and the Council's own Local Plan glossary, but that it has been used as open space for recreation by local residents and others over a long period.

4.2 Haringey Council does not agree that the site is open space and set out the following reasons for that view in a letter last September 2015: ¹³

- (i) its secure enclosure,
- (ii) the remains of existing structures,
- (iii) the outcome of the Village Green Application and
- (iv) the adopted designation in the Development Plan

4.3 These reasons are unsound. The Council has produced no evidence to support them and therefore is not justified in its refusal to acknowledge and protect the Open Space status of the site in the Local Plan and has no justification in refusing to undertake a proper assessment of the quality of its open space value.

Definition of Open Space

4.4 The Council defines Open Space in the glossary to the Local Plan as "All land in London that is ***predominately undeveloped*** other than by buildings or structures that

¹³Letter dated 21 September 2015 to E Ryan PWA from Haringey Council's Assistant Director Planning

are ancillary to the open space use. The definition covers the broad range of types of open space within London, ***whether in public or private ownership and whether public access is unrestricted, limited or restricted.***” (our emphasis).

4.5 The definition does not support the Council’s view.

LBH Reason (i) “its secure enclosure”.

4.6 In a letter dated 6 July 2015 the Council stated that “Pinkham Way was excluded from the LUC Open Space Study in October 2014 because it was not publicly accessible – a key requirement of the study.

4.7 The open space definition is quite specific on accessibility. A site may be completely fenced off and completely inaccessible to the public and still be classified as open space. As it happens, the public had access to the site and used it for recreational purposes up to 1994¹⁴.

4.8 SP13 sets out the Council’s policy for Open Space and Biodiversity. Paragraph 6.3.4. states that “the level of public access is not a criterion for definition. Where desirable, and where the open space in question has identifiable value, the council will resist any development that results in a net loss of this open space”

4.9 It is difficult to see why the Pinkham Way site was singled out for exclusion from the review since the following sites were included in the LUC Open Space Study even though they had no public access either. Plevna Crescent/Ermine Rd; West Junction, Markfield Railway Triangle; The Park/Southwood Lane Wood; Station Road (Palace Gates Embankment); Tile Kiln Lane covered reservoir; Railway Line; Cranford Way and Tewkesbury Close.¹⁵

4.10 In our view the Council has not justified the exclusion of Pinkham Way from the open space study.

LBH Reason (ii) “the remains of existing structures”

4.11 This reason is more relevant to the issue of brownfield land which we deal with later but for the purposes of this section we will address it here also.

¹⁴Report of Independent Assessor – Philip Petchey, 30 May 2013

¹⁵Appendix 3 Open Space Study October 2014 LUC

4.12 The open space definition requires land to be **predominately undeveloped** except for buildings or structures that are **ancillary to its use as open space**, for example, benches, pavilions, huts, sheds etc. Pinkham Way SINC is totally undeveloped and the site has been vacant for over 50 years.

4.13 The fact that there are no buildings on the site was accepted by the Council when it agreed to remove the Pinkham Way site from a proposed Article 4 Direction aimed at protecting the Council's strategic employment sites from unsuitable development.

4.14 The recorded minutes of the Regulatory Committee meeting on 21 September 2015 state;

"Pinkham Way Alliance had made a representation seeking the removal of the Pinkham Way site from the Article 4 Direction. Officers had subsequently agreed to this removal on the basis that there were no buildings on the site to which the permitted development provisions would apply. The map at appendix A of the report would be amended to reflect this".

4.15 In the Environmental Statement for NLWA in 2011¹⁶ Arup's set out the history of the site. It explains that by 1968 the sewage works had gone, the majority of structures having either been removed from or buried on the site and **the site was shown as open land with trees**.

4.16 Atkins listed the Pinkham Way site as Open Space in Figure 1-0 – Open Spaces Sites. See site No 89 - Former Friern Barnet Sewage Works.¹⁷

4.17 For the purposes of the Open Space definition we would argue that remnants of buried structures and foundations - now absorbed by nature, do not amount to buildings, nor can they be said to constitute predominantly developed land. This reason is therefore not justified.

LBH Reason (iii) "the outcome of the Village Green Application"

4.18 An application to register the Pinkham Way Site as a Town or Village Green was made in 2011 by local residents. The application was unsuccessful on two grounds. It was submitted too late, and it failed to provide sufficient evidence to show that a 'significant number of people' used the site for recreation.

¹⁶NLWA and LBB Development at Pinkham Way – Environmental Statement Vol 2 Main Text Rev A May 2011

¹⁷Haringey Open Space and Sports Assessment October 2003 - Atkins,

4.19 However, the Assessor found, and the objectors accepted, that there was sufficient evidence to show that there was “reasonably open access to the site up to 1994.”

4.20 Evidence was given by a number of witnesses at the hearing of the type of activities that used to take place on the site when it was accessible. Children met up and hung out there, played ‘run out’, people picked flowers, searched for golf balls (from the adjacent Muswell Hill golf course), some people liked to observe nature, eg watching birds, frogs and newts, looking for foxes. Some people picked fruit (there were apple and cherry trees) and blackberries. Some people used it for motorbike scrambling. It had always been popular with dog walkers. It was used for quiet reflection.

4.21 Dr Oliver Natelson gave evidence that David Bevan, (who had been an Environmental Officer for Haringey Council) told him that a number of unusual and rare plants had been recorded on the site. They visited the site and found golden dock, a very rare plant. Dr Natelson also explained that he sometimes gave guided tours of the site. In the summer of 2011 he had led a party looking for bats, and the previous April he had gone there with bird experts. His last visit to the site was in Summer 2011.

4.22 Barnet Council gave evidence that the fencing around the site was not secure at all points and due to fear of occupation by third parties (particularly by travellers) decided to secure it. In May 2009 Barnet commissioned the work for the fence to be secured.¹⁸

4.23 The outcome of the application for registration of the site as a town or village green does not affect a decision about whether this site should be designated open space or not, except in so far as it provides evidence (given under oath) as to the uninterrupted access to the site over a long period and the use of the site by local people and others for recreation.

4.24 The photo below, taken from Google Earth, shows the site with tracks throughout. Clear evidence that people were accessing the site and using it as recreational open space.

¹⁸Village Green Application Inspector’s report



Pinkham Way site showing evidence of access and use (Google Earth)

LBH Reason (iv) “the adopted designation in the Development Plan”

4.25 The current designation for this site in the adopted Local Plan 2013 is SINC Grade 1 Borough Importance and Employment Land. But the previous Examination in Public had left a proviso that the site be assessed for its open space value amongst other features.

4.26 Evidence had also been given at the hearing about the value of the biodiversity and open space on the site. The outcome was a recommendation by the Inspector in his report that the Council should take the opportunity at the next Site Allocations DPD review, to consider the status of the site taking into account as necessary, the outcome of the Village Green Application and other evidence including considerations of its open space value, its biodiversity and its specific site features such as the culverted water course.

4.27 The Council has wilfully ignored the Inspector’s recommendation to review the Open Space Value of this site. When LUC were commissioned to undertake a review of the borough’s biodiversity and open spaces, the Pinkham Way Site was conspicuous by its absence.

4.28 The Council's Open Space strategy summarises the benefits of open space and the important contribution it makes overall to quality of life.

"It provides a sense of freedom and relief from our built environment, somewhere to relax and leave behind the strains and pressures of day to day life, somewhere to play, enjoy flora and fauna, to meet with our friends and family, to exercise and to learn about our natural environment."

"In developing the Open Space Strategy, Haringey Council is seeking to provide a framework for the future management and development of open space within the borough which will enable the whole community – residents, community organisations to work in partnership in order to obtain the maximum benefit from our open spaces."

"... we want to particularly stress the importance we will place on our desire to involve the whole community in shaping the future of our open space."

4.29 The Council advised PWA in July 2015¹⁹ that "the LUC Open Space Study identified a primary deficiency in the east of the borough. Pinkham Way is not well placed to address this deficiency effectively."

4.30 What the Council omitted to mention was the finding by LUC that in fact large parts of the borough are deficient in access to local open space, especially the Western zone of the borough.

4.31 On page 85 they state:

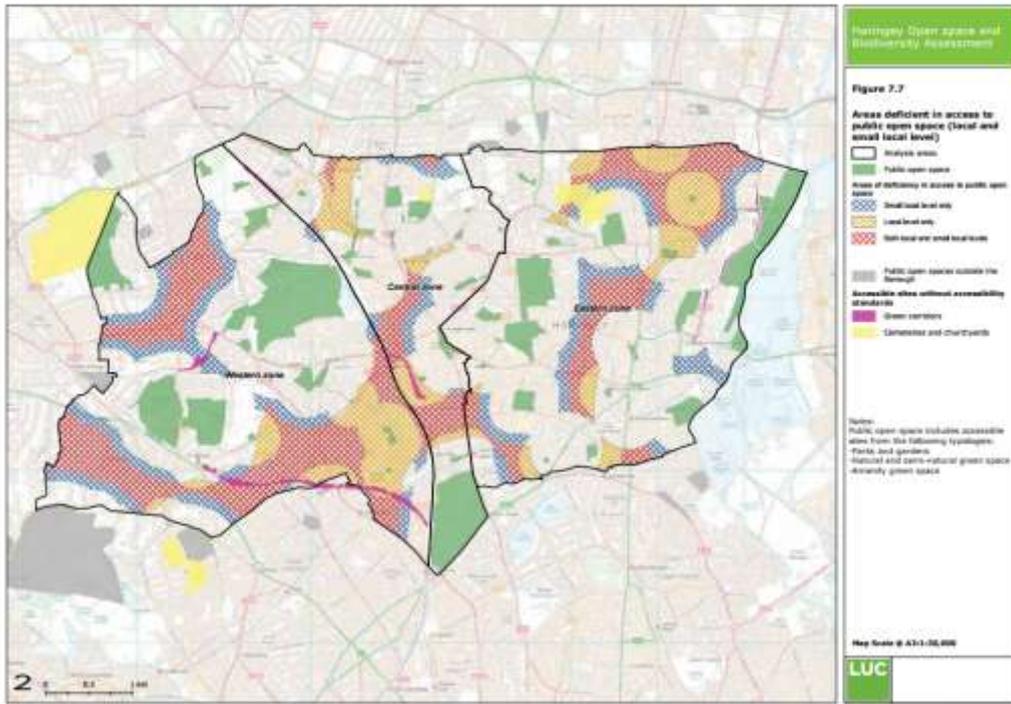
Local open space

7.31 Large parts of the borough are deficient in access to local open space. The Western zone has large areas of deficiencies at this level of the hierarchy"

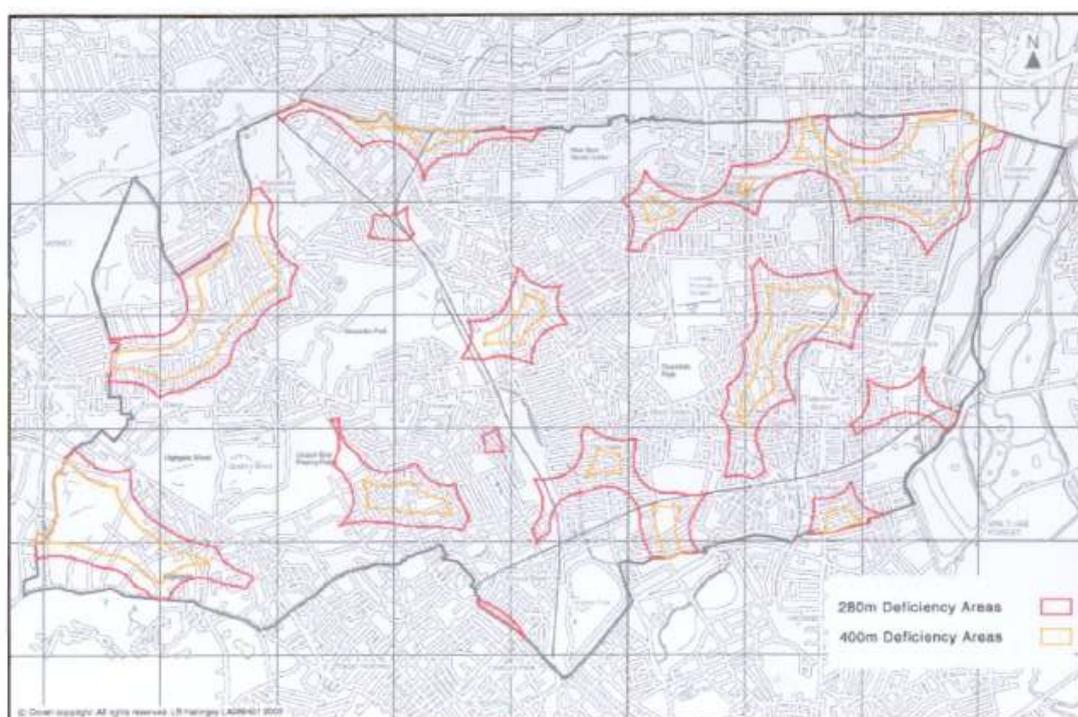
4.32 Among the areas in the western zone LUC identified the Eastern parts of Alexandra Ward and in the Central zone they identified central parts of Bounds Green Ward (para 7.32) as being deficient in local open space Fig 7.7 below.

4.33 The Pinkham Way site is very well placed to address these deficiencies.

¹⁹Letter dated 6 July 2015 from Haringey's Assistant Director of Planning to Stephen Brice Chair of PWA



4.34 In 2003, Atkins also found there was open space deficiency in the northern part of Bounds Green. Since no new open spaces have been identified in this area since then we presume that this deficiency persists. See extract from Atkins 2003 Open Space and Sports Assessment below.



Excludes sites under 0.25ha or where access is restricted. This includes private sports grounds and private playing fields.
 Source: Atkins, 2003. *Haringey Open Space and Sports Assessment*. (Volumes 1 and 2).

4.35 PWA is certain that the Council’s wilful decision to avoid assessing the open space value of this site, and its subsequent disregard of LUC’s evidence of deficiency in the western zone, were driven by concern that the aspiration to set the site aside for waste use would be thwarted.

4.36 The evidence for this is the Council’s decision to include the Pinkham Way site in the emerging North London Waste Plan where it is identified as a potential Area for a wide range of waste facilities.

4.37 The Council included the site in the NLWP without considering evidence submitted as part of the Local Plan Site Allocations consultation²⁰, without having properly assessed the site, and in full knowledge that to carry out such an assessment of its open space value was not within the remit of the NLWP, which can only assess sites against specific criteria for sifting out those suitable for waste.

²⁰Email from Haringey’s Assistant Director Planning to E Ryan PWA 20 May 2015

4.38 It is Haringey Council's job as local planning authority to properly review this site before any consideration is given to whether it can be developed, for waste or for anything else. By shirking its job the Council falls foul of national and regional policy.

4.39 Paragraph 73 of the NPPF requires planning policies to be based on robust and up-to-date assessments of the needs for open space and opportunities for new provision. The assessments should be qualitative as well as quantitative. No up to date assessment of the open space value of Pinkham Way exists.

4.40 Paragraph 74 of the NPPF prohibits building on existing open space unless an assessment has been undertaken which has clearly shown the open space to be surplus to requirements or that the loss would be replaced by equivalent or better provision in a suitable location or the development is for sports or recreational needs that clearly outweigh the loss.

4.41 Retention of the Employment Land designation on the site and Including it in the Site Allocations DPD exposes this open space to development likely to be detrimental to its open space and biodiversity value. The whole of the designated employment land site is a SINC of high ecological value as the LUC study found. Any development on any part of it will result in the loss of that particular part of the open space contrary to national and local policies set out here.

4.42 Paragraph 74 of the NPPF was considered by Mrs Justice Patterson in the case of *Anne Marie Loader v Rother DC*²¹ in June 2015, where it was found that "the criteria in paragraph 74 of the NPPF need to be interpreted to include the quality of the open space. In that case no assessment of the amenity value of the open space had been undertaken and no assessment had been undertaken to show it was surplus to requirements and that was found to be a material error."

4.43 The NPPF states that the planning system should contribute to and enhance the natural and local environment and at paragraph 114 directs local planning authorities to set out a strategic approach in their local plans, planning positively for the creation, protection, and enhancement and management of networks of biodiversity and green infrastructure.

4.44 Policy 2.18 of The London Plan requires Local Planning Authorities to identify priorities for addressing deficiencies and should set out positive measures for the design and management of all forms of green and open space.

²¹The Queen on the Application of Anne-Marie Loader v Rother DC v Churchill Retirement Living Ltd [2015] EWHC 1877 (Admin)

4.45 Policy 7.18 of The London Plan which deals with Protecting Open Space and addressing deficiency states that Local Development Plans should ensure that open space needs are planned in accordance with green infrastructure strategies to deliver multiple benefits.

Haringey's Green Grid

4.46 In the ALGG SPG 2012, the All London Green Grid is defined as a 'network of high quality, well designed and multifunctional green and open spaces'.

4.47 Aim 3 of the ALGG (section 1.4, p 14), is:

To secure a network of high quality, well designed and multifunctional green and open spaces to establish a crucial component of urban infrastructure able to address the environmental challenges of the 21st century – most notably climate change.”,

4.48 The aim is not about increasing access to open space. Every one of the 12 Green Grid Area Maps includes 'Private Open Space' in its legend. The map for GGA1, Lee Valley and Finchley Ridge, includes the Pinkham Way site under this category.

4.49 The Council's determination to avoid declaring the site as Open Space does not end with its contradiction of its own OS policy, but extends to Development Management policy DM20 'Open Space and Green Grid', which has, absurdly, enabled it to exclude the Pinkham Way SINC from its own GG map.

4.50 The commentary on that policy, at 4.16 on page 42, says that 'Haringey's network of open spaces should be regarded as integral infrastructure which will contribute to the 'London wide Green Grid'. This, as far as it goes, is 100% correct.

4.51 Misleadingly, however, the omission of any mention of Haringey's **green spaces** in the ALGG is asking the reader to infer that Haringey's contribution to the Grid begins and ends at 'its network of open spaces'. Consequently, the Council's 'Green Grid' policy makes no mention of the inclusion in that grid of Haringey's Green Spaces/Nature Conservation sites.

4.52 These contradictions and convolutions in policy mean that the Council has excluded on two criteria a site which qualifies for inclusion in the Green Grid on both.

4.53 PWA notes Natural England's submission to the SA consultation that highlights Haringey's lack of Green Infrastructure policy. PWA also notes the Council's subsequent belated inclusion in the Site Allocations Sustainability Assessment of a list of Green Infrastructure sites, among which is Pinkham Way (Section 10.15.3).

4.54 That will take the Council some way, at least, to fulfilling NPPF Section 114.

4.55 However, DM20 is still left as an unsound policy that requires wholesale redrafting.

Section 5

The Culverted Water Course

5.1 The previous Inspector recommended the Council to consider ‘... *site specific features such as the culverted water course*’. In its March 2013 statement, the Council promised that ‘*Decisions taken on ... the Pinkham Way site will take into account the findings and recommendations of the Haringey Local Plan: Strategic Policies Inspector’s Report.*’

5.2 Haringey’s BAP states that ‘... *other opportunities to restore water courses exist on the former Friern Barnet Sewage Works site.*’ The 2010 draft Core Strategy listed as options for the site: ‘*Employment generating uses & opportunity to deculvert stream*’(LBH, BAP 2009, Page 42)

5.3 Our detailed Risk Assessment submitted in 2015 included evidence on the development constraints imposed by the culvert.

5.4 As we have said above, the Council’s comments in the 21st September 2015 report to the Regulatory Committee would have left members none the wiser. In answer to its own summary of PWA’s evidence about the culvert

‘Culverted watercourses make the site unsuitable for development’,

the Council says this:

‘Specific requirements to consider the impact upon the culverted watercourse are contained within the policy.’(DM28)

5.5 If members had studied ‘the policy’, DM28, they would have found it comprehensive and robust, and exactly the quality of strategic planning a LPA should aim at. It is an extension of the Harrow policy so admired by the Environment Agency in its 2015 submission. If members had then looked to see how it had been applied to Pinkham Way, the substantive policy is missing. The Development Guideline about the Pinkham Way culvert says this:

Evidence that the development will not prejudice or compromise the integrity of the culverted stream will be required as part of any planning application.

5.6 In the commentary on DM28, the Council says:

Culverts are considered flood defences. Sites with existing culverts will be expected to investigate the feasibility of deculverting within the Flood Risk Assessment. Where the implementation of measures to restore section of the watercourse is not considered possible, clear and robust justification must be provided. (DM – 4.101)

5.7 The result of robust and sound application of DM28 on Pinkham Way would have been stringent development guidelines in line with local, regional and national policy. The Council chose only a diluted version of part of Section 4.101, having apparently already decided that the problem of de-culverting should not trouble the developer. Once again it has failed to apply its own policy.

Section 6

The site should no longer be considered as Brownfield Land

6.1 The Council asserts this site should be treated as brownfield land suitable for development.

6.2 The NPPF defines PDL as follows:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.”

6.3 The NPPF focuses explicitly on “permanent structure” and “associated fixed surface infrastructure”, and the exclusion depends on the extent to which these things have or have not blended into the landscape in the process of time. It does not refer

to ground levels and contours, and the authors of the policy have been careful to be specific about what it is that is to be assessed.

The site accords with the exclusion from the definition of PDL in the NPPF.

6.4 Only a very small element of the permanent structures remain, on a very small portion of the site, and even those structures – whilst still visible from certain vantage points – have effectively blended into the landscape when the site is considered as a whole.

6.5 Pinkham Way is just the sort of site the authors of the NPPF had in mind when formulating the exclusion from the definition. The site is now in a condition which is positively beneficial in planning terms (both in terms of its ecological value, its open space value and as a visual amenity), and thus it is no longer:

- a. the sort of site that requires redevelopment in order to be put to beneficial use; or
- b. which ought to be preferred for redevelopment over sites which have never previously been developed, because of the harm associated with developing green field sites – the same harms would arise on Pinkham Way.

6.6 Similar considerations apply to the London Plan 2015 definition of Brownfield land and are analysed in the table below

<p>“Both land and premises are included in this term, which refers to a site that has previously been used or developed and is not currently fully in use, although it may be partially occupied or utilised. It may also be vacant, derelict or contaminated. This excludes”²²</p>	
<p>Exclusion</p>	<p>Is this exclusion applicable to Pinkham Way?</p>
<p>Open Space open space is defined in The London Plan as: “All land in London that is predominantly</p>	<p>Clearly applicable: The land is predominantly undeveloped. The last use ceased in the early 1960’s. There are no buildings on it. The previous development (sewage works) commenced in 1883 and ceased in the early 1960s. Prior to 1883 the site was undeveloped agricultural land. There were allotments in the western corner of the site</p>

²² London Plan 2015 Glossary p387

<p>undeveloped other than by buildings or structures that are ancillary to the open space use. The definition covers a broad range of types of open space within London, whether in public or private ownership and whether public access is unrestricted, limited or restricted" (London Plan)²³</p> <p>land where the remains of previous use have blended into the landscape,</p> <p>or have been overtaken by nature conservation value</p> <p>or amenity use and cannot be regarded as requiring development</p>	<p>up until the early 1950's Attached plans show the site prior to construction of sewage works, fully developed sewage works, post sewage works, and as it is today (Appendix A)²⁴</p> <p>There is no requirement that the site should have public access and therefore it is irrelevant whether it has or has not GOT public access.</p> <p>When the sewage works closed in the early 1960's, most of the structures were removed from the site or were buried on the site. The remaining vestiges of the previous use have long since blended into the landscape and are no longer identifiable to the passing observer as sewage beds.. See photos attached at Appendix B²⁵</p> <p>In 2014 a Biodiversity Study for Haringey Council described Pinkham Way as a "Mosaic of semi-natural woodland, scrub, tall ruderal vegetation, ephemeral habitats and rough grassland. A small part of the site was recorded in the study as MOL and the remainder as SINC.</p> <p>Pinkham Way is designated a Site of Importance for Nature Conservation No 1 Borough Importance in Haringey's Local Strategic Plan 2013. In 2014 its ecological value was confirmed by the LUC Biodiversity Study in which it was referred to as "... a rare resource for Haringey of High ecological value."²⁶The site supports a large number of birds, insects, invertebrates and bats</p> <p>Pinkham Way acts as a visual amenity for Hollickwood Park, Muswell Hill Golf Club and for passing traffic on the busy NCR. It acts as sound buffer from the NCR for the local residents and also as a 'lung' absorbing pollutants etc from the heavy passing traffic..</p> <p>The site therefore falls into the London Plan definition of Open Space as being "predominantly undeveloped", indeed wholly undeveloped in this case</p>
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²³ London Plan 2015 p397

²⁴ OS old map 1951-2 <http://www.old-maps.co.uk/maps.html> (coordinates 528736 191624)

²⁶ Haringey Open Space and Biodiversity Study Final Report Oct 2014 – Appendix 7 Site B7

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Section 7

Employment Designation not appropriate

7.1 Haringey has had to isolate Pinkham Way's employment designation in a planning 'clean room', protecting its fragility and lack of substance from the contaminating reality of proper site appraisal, rigorous planning policy, and the deadliest threat of all – sound evidence. As though it was Miss Havisham's disintegrating wedding dress.

7.2 Section 4 of Atkins (Employment Land Study 2015) analyses the potential demand for space in Haringey. It is in the context of the growing demand it forecasts for B1/B2 that Atkins emphasises the need to safeguard sites. **Atkins 4.19**

7.3 Both Atkins and GVA Grimley (Workspace Viability Assessment 2015) dismiss the site's suitability for employment generally, with Atkins emphasising its unsuitability for B1/B2 uses.

7.4 This mirrors Further Alterations to the London Plan Policy 4.4(e) that LPAs should '*...take account of quality and fitness for purpose of sites.*' GVA dismisses the site in 9 words: 'Some of the sites such as Pinkham Way ... *have limited workspace drivers to support future workspace delivery.*' (PWA italics) **Atkins 5.40-5.41; GVA 6.4**

7.5 Atkins' logic can be traced easily through Sections 4 and 5 to Section 8, where it states the need to safeguard suitable sites, adding that 'there is little benefit' in safeguarding unsuitable, which should be considered for release for alternative uses. **Atkins 8.6, 8.17, 8.19**

7.6 In reports to members and in draft DPDs, as well as in correspondence with PWA, Atkins has been misrepresented; Atkins advice at 4.19 has been quoted out of context whilst Section 8's recommendations have simply been omitted; GVA's dismissal of Pinkham Way is conveniently forgotten.

7.7 The clear sense in reports and DPDs is that Haringey must protect all employment sites irrespective of suitability. The Council appears to rely on Key Performance Indicator 9 in FALP Table 8.2 '*Ensure that there is sufficient employment land available*', while disregarding Policy 4.4(e) quoted above about the suitability of that land.

7.8 The Regulation 19 SA DPD says about Pinkham Way:

This site can play an important role in providing employment floorspace capacity to meet the borough's objectively identified employment needs, as set out in the Employment Land Study

7.9 What 'important role'? There is no floorspace and no potential for it according to the two consultants who looked at the site, GVA and Atkins. The site is vacant open green space with no buildings. If this site is to be listed under Employment at all, it should be listed under vacant land as it was last time round when Atkins did the 2012 update to the Employment Land Study 2009.

7.10 The same consultants who objectively identified employment needs also, objectively, judged the site unsuitable to meet those needs. Pinkham Way was the only site among the 22 assessed that Atkins judged 'unlikely to meet future business needs.'

Atkins – Viability of Pinkham Way

7.11 The clarity of Atkins' report makes the appearance of Sections **5.42** and **5.43** so incongruous that PWA believes them to be a later addition, some trundling retrospective acknowledgement of the suppressed October 2014 GVA viability assessment on Pinkham Way.

7.12 **5.43** rolls condition into condition, its tortured syntax reminiscent of Groucho Marx: *'If we had some eggs we could have eggs and ham if we had some ham.'*

7.13 It mentions 'suitable mitigation' as a pre-condition for retention of the employment designation. In six years, Haringey has taken not a single step to address the site's irreconcilable dual designation. 'Suitable mitigation of nature conservation issues' has therefore never entered the discussion. This cat's cradle of conditions means nothing.

GVA Viability Assessments

7.14 A number of viability assessments were undertaken by GVA Grimley for the Council during the preparation of the plan documents. The viability assessment for Pinkham Way in particular used less demanding financials compared to the wider study. The Council has not been able to explain why there was such a discrepancy. We therefore recalculated scenarios in the Pinkham Way viability study, applying the difference in the cost figures used in GVA's borough-wide viability study.

The GVA Grimley Haringey Borough –wide Site Viability Assessment February 2015

7.15 This borough-wide study of 12 sites factored in the following development costs: Residential £1800 per M2, employment £1500 per M2.

7.16 GVA gave the figures their full professional endorsement:

Standard construction and development costs have been applied - 1.7

These assumptions are based on BCIS, alongside evidence from comparable schemes and in-house expertise – 4.14

The GVA Grimley Pinkham Way Viability Assessment – October 2014

7.17 For the Pinkham Way study, the respective development costs were: residential £1600 per M2, employment £1000 per M2 (respectively 16% and 33% less than the Haringey study). GVA offers no in-house endorsement of these different development costs is, just the stark 'BCIS'.

7.18 The Council maintains that GVA supplied no background documentation; without this, both the lower costs per se, the rationale for using different costs within the same borough, and the existence of two BCIS indices offering conveniently different statistics, remain a mystery. For public consultation purposes the study exists in a vacuum.

7.19 Tellingly, the Council stated that '*There was no analysis of a 100% commercial scheme as this returned a negative residual value under any scenario*'.

7.20 PWA believes that, given the many ecological constraints on the site which needed consideration, a realistic assessment would have tended to factor in higher development costs than the borough wide study rather than significantly lower.

7.21 As part of our analysis, we drew up a simple spreadsheet factoring into the Pinkham Way calculation the development costs used in the Haringey study, and profit on almost all scenarios disappeared. The Gilbertian result was that employment on Pinkham Way could only really be viable with 100% residential development.

Contamination costs underestimated

7.22 We have looked at the 2008 guidance used by GVA, and the more recent H&CA's Guidance on Dereliction, Demolition and Remediation (March 2015) which updates the 2008 document, and we consider that the cost figure used by GVA should have been substantially higher. We have assumed GVA have based their figure on Site Category B, Low water risk, with proposed end use Residential and Employment (Table 1).

7.23 GVA estimated £250k per hectare

7.24 We consider that the more appropriate category should be Site Category C, High water risk (Moderate Sensitivity). The figures for this category are:

£485 - £1,305k per ha (residential flats without gardens) or

£540 - £1,460k per ha (residential with private gardens)

7.25 We say this because the 2015 guidance explains on page 13 that a long unused site, with old contamination, is likely to be worse and therefore nearer the top end of the range [of cost]. In Annex B it also identifies **landfill waste** in Site Category C (Annex B, Fig 10 p26). As you are aware, the former sewage works closed in the early 1960's (50 years ago). This length of time qualifies it as 'long used'. Subsequent to closure, Environment Agency records show that the Pinkham Way site was used for **landfill waste** up until 1980. The site also has a history of sporadic fly tipping. Therefore the range of contamination falls within Category C, a more expensive category than allowed for by GVA's figures.

7.26 Lead and asbestos have been found on the site, Jacobs Report (2008). The 2015 guidance states, on page 6, that the presence of asbestos, even at low levels, may significantly increase costs.

7.27 As to whether the calculation should be within the Low or High Water risk category, PWA considers the High Water category is more appropriate because the Environment Agency considers the site a major aquifer and a Source Protection Zone 2 (EA response to NLWP1, 2009).

7.28 Also, the EA response to the Council's 2014 SA consultation advised that the water course under the site should be de-culverted – it laid out clear guidelines re 8 metres access space on either side etc. We have set out in some detail the implications of these guidelines in the Strategic Risk Assessment attached at Appendix 1

7.29 If the higher remediation figure is accepted as more appropriate, and we consider it should be, it will have the effect of exacerbating the unviability of cross subsidising Employment on the site.

The NLWA 'evidence' on viability preferred

7.30 The Council has dismissed the GVA viability assessment on Pinkham Way and has made no response to our analysis save to tell us that it prefers instead to rely on a statement subsequently made by the NLWA, saying that:

“Representations received from the landowners to the local plan consultation claim a viable employment use is deliverable under its current and proposed designation (SINC and Employment). ... The site could be used for owner occupier purposes which represents a different viability picture to those faced by a speculative developer.”

7.31 When we asked the Council for evidence supporting the NLWA’s assertion, we were advised to **“approach NLWA directly for the information that they are basing their response to the Council upon. Officers are satisfied that the submission from NLWA is sufficient.”**

7.32 If the Council has not seen the information on which the NLWA has based its assertion about the viability of the site, and we believe it has not, then the Council has no justification for relying on that assertion.

7.33 It is unclear whether Barnet Council, the Landowner of the other part of the site has come up with any viability evidence. Presumably the NLWA viability assertion applies to its own area of ownership.

7.34 Whether NLWA has factored the original £12m purchase price into its claim, as required for VfM considerations, is another issue where no information is available.

Section 8

Employment designation is contrary to the Council’s own Policies

(1) Employment

8.1 Policy SP8 Employment: The Council will ... protect the borough’s hierarchy of employment land, Locally Significant Industrial Sites (LSIS) and Local Employment Areas (LEAs)

Para 5.1.12 LSISs are well established industrial areas

Para 5.1.14 [LEAs] ... In principle, mixed use development including residential, employment and community facilities may be appropriate ...

8.2 Haringey’s Draft DMP advises potential developers to “ensure that development proposed is appropriate to the location ...²⁷

8.3 The Pinkham Way SINC does not fall within the definition of a LSIS and therefore is not suitable for uses within this designation as set out in the London Plan (see later). Nor is it suitable for designation as a LSIS because it is not an established industrial area. The site has been unused for almost 50 years and has developed into an established open green space.

²⁷ Draft DMP Section 1 Getting the right development in the right place

8.4 We do not consider it is any longer suitable for employment use for the reasons set out below, and that the Employment Use designation should be removed because it leaves the site vulnerable to inappropriate development proposals coming forward which could irreparably damage the nature conservation and/or biodiversity value of the whole site.

8.5 Of all the nine Borough Grade 1 SINCs in Haringey, Pinkham Way is the only one to have a dual designation. All the others are simply designated Borough Grade 1 Site of Importance for Nature Conservation.

8.6 The Pinkham Way site lies within the Muswell Hill Area Neighbourhood²⁸. The Council has identified the policies that take priority in this neighbourhood as 'Design, Town Centres, Open Space and Biodiversity; Community Facilities and Housing²⁹'.

8.7 Note that employment is not identified as a priority policy because the Council considers unemployment in this area as being well below the borough average³⁰. The number of currently vacant units on the Bounds Green Industrial Estate indicates a lack of need for (or surplus of) employment land in the vicinity.

8.8 Haringey Council conceded at the public examination into the Local Plan (February 2012) that the Pinkham Way site was not a well established industrial area as it had remained unused for almost 50 years. Nor is it necessary to retain this site as a vacant employment site.

8.9 In the course of the hearing, Richard Coburn, a Senior Economic Planner at W S Atkins, consultants to the Council on their employment policy, spoke on the Council's behalf. The Inspector asked whether removing the Pinkham Way site from the pool of vacant employment land would result in the policy being unsound. Mr Coburn advised the Inspector that removal would make little difference, since the vacant land remaining would still be within the accepted frictional rate for employment land vacancy.

8.10 We notice the site is no longer listed as vacant land. It is vacant, why is it not listed as such?

(2) Poor Site Accessibility

²⁸ Fig 1.10 page 27 Local Plan – Strategic Policies 2013

²⁹ 1.3.64 p26 Local Plan – Strategic Policies 2013

³⁰ 1.3.57 p26 Local Plan – Strategic Policies 2013

8.1.1 The Council's own advisers say that sustainable modes of transport should be a key consideration with any major regeneration of a DEA site.³¹ Although part of the Muswell Hill Area Neighbourhood is reasonably well served by buses, this particular site is not.

8.1.2 It is identified as being badly provided for by public transport. It is scored as 1a – 1 being the lowest possible level of scoring in the Local Plan.³² The reasons that the public transport score is so low are a) because the nearest station is more than 900m from the site boundary and b) only one bus route operates within 460m of the site and that is the 232 which runs every 20 minutes.

8.1.3 This lack of public transport is a major obstacle to employment use on this site. It would encourage car use (for those who could afford it) and as demonstrated, access would be difficult for those who could not afford cars.

8.1.4 In November 1998, lack of transport accessibility was given as one of the reasons for refusing a planning application for housing development on the site. Another reason for refusal was loss of ecological value. In the 15 years since refusal, the transport accessibility has not changed but the ecological value has been retained as confirmed by the ecological survey (attached).

(3) 40:20 Carbon Commission Report

8.2.1 Working towards a low carbon borough is now a key challenge for the Council – indeed Haringey has taken the initiative in setting itself targets with its own 40:20 Carbon Commission Report. The Council's policy now requires the efficient use of land and buildings in order to reduce car dependency.³³ The encouragement of car use on this site is contrary to this policy³⁴

8.2.2 The Council's overall strategy for managing future growth in Haringey is to steer new development with high transport demand to areas with significant redevelopment opportunities at, or near, transport hubs in order to discourage car use.

8.2.3 The key growth areas identified in the Local Plan are Haringey Heartlands and Tottenham Hale. It is in these areas that the most significant amount of houses, jobs

³¹ p22 (Point No 11) of The Strategic and Environmental Assessment and Sustainability Appraisal – Post Adoption Statement

³² Fig 3 page 85 Local Plan – Strategic Policies 2013

³³ 4.1.6 p71 Local Plan – Strategic Policies 2013

³⁴ Policy SP4 of the Haringey Local Strategic Plan 2013

and infrastructure will be delivered during the life of the Plan, not in the Muswell Hill Area Neighbourhood.³⁵

8.2.4 The Council's Air Quality Action Plan³⁶ aims to ensure that "new development does not have a negative effect on local air quality and that public exposure to air pollutants is reduced in areas which breach the government's air quality standards". Air pollution is regarded as a material planning consideration.

8.2.5 PWA has, under the aegis of Barnet Council, sponsored an air quality measurement device at the Alan Day car showroom opposite the Pinkham Way site. Readings are provided annually; the readings for the final 6 months of 2012 showed an average of 91.5ug/m³.

8.2.6 This contrasts with the EU permitted upper limit of 40ug/m³ and therefore breaches it by 130%. Any development on this site is likely to further add to the pollution levels and therefore pollution should be considered a material planning consideration and given appropriate weight in light of the very high existing levels of pollution at this location.

(4) Open Space and Biodiversity

8.3.1 The Local Plan sets out the following targets for its policies on Biodiversity and Open Space.³⁷

SP 13a: no loss of any areas of open space

SP13b: no loss of the 60 SINCS in the borough

SP13d: enhance areas of identified open space deficiency

The target for the London Plan Key Performance Indicator No 18 (Protection of Biodiversity habitat) is "no net loss of SINCS".

8.3.2 All of these policies and statements favour the protection of Pinkham Way SINC as a green open space, not as an employment site.

8.3.3 Open Space and Biodiversity have been identified as priority policies for the Muswell Hill Area Neighbourhood.³⁸ The Pinkham Way site is a verdant open space that is recognised as having high nature conservation value. Haringey has designated it a Borough Grade 1 SINC.

³⁵ Paras 2.1.4 and 3.1.6 of Haringey's Local Plan – Strategic Policies 2013

³⁶ Haringey Air Quality Action Plan 2010-2018 section 3.3 Non Transport Measures

³⁷ Strategic Policies 13: Open Space and Biodiversity (p177 Local Plan – Strategic Policies 2013)

³⁸ page 26 Local Plan – Strategic Policies 2013 para 1.3.64

8.3.4 The definition of open space covers “all land that is predominantly undeveloped other than by buildings or structures that are ancillary to the open space use. The definition covers a broad range of types of open space within London, whether in public or private ownership and whether public access is restricted, unrestricted or limited”³⁹ so the site qualifies for protection as open space.

8.3.5 The site forms part of an ecological chain from Alexandra Palace through Rhodes Avenue Spinney, Albert Road recreation, Tunnel Gardens, Bluebell Wood and Muswell Hill Golf Club and thence to Coppetts Wood and Glebelands Local Nature Reserve (LNR).

8.3.6 The site is bounded on two sides by adjacent open space, Hollickwood Park and Muswell Hill Golf Course, both recognized as important green spaces and SINC in their own right. Because of this particular juxtaposition, the sites gain additional value from each other. Atkins Consultants advised Haringey in December 2010 that **“Strategic landscape and open space resources should be maintained, enhanced and, where possible, linked.”**⁴⁰

8.3.7 “Despite being located off the A406 which receives high traffic densities, mature trees at the boundaries of the site as well as woodland habitat provide screening from traffic noise and disturbance which creates a feeling of being outside an urban area.

8.3.8 Views over the adjacent Muswell Hill Golf Course can be seen from areas of higher ground, towards the southern boundary. The diversity of bird and invertebrate species in particular butterflies as well as the rich diversity of wildflowers adds to the aesthetic appeal of the site.”⁴¹

8.3.9 Development of any significance on the Pinkham Way SINC would, we believe, have a detrimental impact on the SINC itself and on the perception of greater space and openness, and enhanced views which benefit the adjacent SINC.

8.3.10 The Mayor of London recognizes the current and potential value of open space to London communities, and The London Plan 2015 requires London boroughs to protect local open space and address local open space deficiencies.⁴²

³⁹ London Plan Glossary p305

⁴⁰ Appendix 4 Extract p4 Haringey Atkins LIP Strategic Environmental Assessment 2010

⁴¹ P 24, box 2, Aesthetic appeal - Preliminary Ecological Appraisal – Report for PWA October 2013 Ref:2013_012

⁴² London Plan Policy 7.18 p304

8.3.11 The Council has stated that development will not be permitted on designated and other open spaces, and on suitable land with the potential to be used as open space, unless it is for limited small scale development ancillary to an existing use on the land and for which there is demonstrable need.⁴³

8.3.12 Employment is not one of the Council's priorities for this part of the borough and the Local Plan states that "There is no major development planned for the area, however, preservation and enhancement of conservation areas and green spaces are important issues"⁴⁴

8.3.13 The Pinkham Way site is an open space and therefore according to Haringey's own policy is not suitable for employment use. The current dual designation of SINC/DEA is therefore not in line with this open space policy.

(5) SINC

8.4.1 The Council states in its Local Plan that it will not permit development on SINC unless there are exceptional circumstances and the importance of the development outweighs the nature conservation value of the site; in such circumstances appropriate mitigation measures must be taken and, where practicable and reasonable, additional nature conservation space must be provided.⁴⁵

8.4.2 The London Plan Policy requires planning authorities to "avoid adverse impact to the biodiversity interest" when considering proposals that would affect SINC:

8.4.3 It is difficult to see how any significant employment use on the Pinkham Way site could be implemented without its having a serious adverse impact on the nature conservation value of the site itself and on the adjoining open spaces and SINC. Indeed, the employment policy is seen as one of the policies in the Council's Local Plan "to have the most potential for negative impacts mainly related to environmental objectives"⁴⁶

8.4.4 Given that Haringey Council has been advised of this, and given that the priorities in its own Local Plan for this location do not include employment,⁴⁷ and given no major developments are anticipated in this neighbourhood, it is difficult to see how the retention of a dual designation of employment/SINC can continue to be justified for the life of the Plan.

⁴³ 6.3.3 page 199 Local Plan – Strategic Policies 2013

⁴⁴ Local Plan – Strategic Policies 2013 p26 para 1.3.61

⁴⁵ 6.3.24 Local Plan – Strategic Policies 2013

⁴⁶ Page 25 The Strategic and Environmental Assessment and Sustainability Appraisal – Post Adoption Statement

⁴⁷ 1.3.64 p26 Local Plan – Strategic Policies 2013

8.4.5 Loss of habitat and biodiversity and the potential for fragmentation would appear to be at odds with the Council's Objectives relating to Ecology, Biodiversity, Climate Change and Accessible Open Spaces

(6) Preservation of Woodland

8.5.1 The NLWA Tree Survey carried out in November 2012⁴⁸ found more than 1,500 trees of various species and ages on the site, some covered by Tree Preservation Orders. The Council considers that Trees play a significant role in improving environmental conditions and people's quality of life. The Council's Tree Strategy 2008-2011 aims to ensure that trees within the borough are managed in a pro-active and systematic manner.⁴⁹

8.5.2 The Council states in its Biodiversity Action Plan that it aims to conserve and enhance Haringey's woodland for the benefit of both current and future generations. It has set itself the target of increasing the extent of woodland habitat in Haringey by 0.5 hectares by 2015⁵⁰. 55% (3.6ha) of Pinkham Way is covered by woodland (ie 55% of 6.5 hectares); the council cannot afford to lose this extent of woodland when it is simultaneously trying to increase woodland in the borough. All of the older trees and most of the rest would be lost if, for example, a waste facility were permitted on the site.

(7) Watercourse – opportunity to deculvert

8.6.1 There is potential to deculvert the watercourse under Pinkham Way (thought to be approximately 300m in length). This flows into Bounds Green Brook and thence into the Blue Ribbon Network at Pymmes Brook. A recent ecological report prepared for PWA noted that "If current conditions allow, the reinstatement of this watercourse would further enhance the biodiversity value of the site"⁵¹

8.6.2 The Environment Agency has advised that all development on sites with culverted watercourses will be expected to investigate the feasibility of de-culverting⁵²

8.6.3 Moreover, the opportunity to deculvert is recognised in Haringey Council's Biodiversity Action Plan, " ... opportunities to restore water courses exist on the former

⁴⁸ Tree Survey Report, CBA Trees for NLWA November 2012

⁴⁹ Para 6.3.30 Haringey Local Plan Strategic Policies

⁵⁰ LBH Biodiversity Action Plan 2009 p29

⁵¹ Preliminary Ecological Appraisal Report October 2013 for PWA: Table 7 Box 1 p24

⁵² EA letter to LBH 25 March 2015

Friern Barnet Sewage Works site ... ”.⁵³ Development on this site would therefore be contrary to the Council’s aim to protect water courses.

8.6.4 The EA has also identified SA52 as lying in Flood Zones 1, 2 and 3 and has recommended that the Council’s guidelines should be amended to reflect this⁵⁴.

(8) Potential to create Cycle path/walkway through the Pinkham Way site

8.7.1 It is physically possible to create a cycle path/walkway to the Pinkham Way site from the top of Cline Road, and/or Blake Road, along the railway land. The site has potential for access to be provided to the area of Bounds Green shown as deficient in open space (280m).⁵⁵ The cycle path/walkway could also provide access through the Pinkham Way site and over the bridge to the Retail Park on the other side of the NCR.

8.7.2 There is potential also to open access from the Bounds Green Industrial estate to the Retail Park and vice versa for residents and businesses on the retail park side of the NCR. There is sufficient land along the side of the railway to create a comfortable path and it is possible to access the railway land from Cline Road or from Blake Road via Tunnel Gardens SINC. See Council’s Policy SP7⁵⁶

8.7.3 Haringey’s monitoring arrangements in its Local Strategic Plan are intended to identify adverse effects of various policies so that remedial action can be taken. Logically this can be only after any damage has been done. In the case of a valuable SINC like Pinkham Way that has developed its biodiversity value over 50 years, the likelihood is that the damage would be irreparable.

8.7.4 The Council will note from the Ecological Report⁵⁷ that “ ... the site is positioned along an ecological corridor and offers an important greenlink between other sites. This is noteworthy within the context of inner London where well connected sites are becoming increasingly rare.”

8.7.5 It is also worth noting here that “Given the geographical context of the site which is situated in a heavily urbanised area, the number of notable species recorded is considered significant.”⁵⁸

⁵³ BAP Haringey 2009 para 9.3.3

⁵⁴ EA letter of 25 March 2015 to LBH

⁵⁵ Page 126 Fig 6.4 Local Plan – Strategic Policies 2013

⁵⁶ Local Plan: Strategic Policies 2013-2026 SP7 p83 paras 4.4.13 - 4.4.21

⁵⁷ Preliminary Ecological Appraisal Report (Oct 2013) for PWA p23 Box 6 Recreatability

⁵⁸ Preliminary Ecological Appraisal Report (Oct 2013) for PWA p23 Box 2 Species Richness

Wider Ecological Importance of SINC's and Biodiversity

8.8.1 The first White Paper on the natural environment for over 20 years was published in April 2012. Introducing the White Paper, The Secretary of State said *“by properly valuing nature today, we can safeguard the natural areas that we all cherish and from which we derive vital services this White Paper aims to strengthen connections between people and nature, to the benefit of both”*.⁵⁹

8.8.2 In May 2013, a groundbreaking report was published by a coalition of leading conservation and research organisations. Scientists working side-by-side from 25 wildlife organisations have compiled a stock take of our native species – the first of its kind in the UK. The State of Nature report reveals that 60% of the species studied have declined over recent decades. In the Foreword to the report, Sir David Attenborough said *“This important document provides a stark warning: far more species are declining than increasing in the UK, including many of our most treasured species.*

8.8.3 Alarming, a large number of them are threatened with extinction. The causes are varied, but most are ultimately due to the way we are using our land and seas and their natural resources, often with little regard for the wildlife with which we share them. The impact on plants and animals has been profound.

8.8.4 Dr Mark Eaton, a lead author on the report said: *“These declines are happening across all countries and UK Overseas Territories, habitats and species groups, although it is probably greatest amongst insects, such as our moths, butterflies and beetles. Other once common species like the lesser spotted woodpecker, barbastelle bat and hedgehog are vanishing before our eyes”*.⁶⁰

8.8.4 The 2013 Preliminary Ecological Appraisal carried out for PWA found that the Pinkham Way SINC *“is used as a breeding site by no less than six notable bird species (UK BAP Priority Species or RSPB Red or Amber Status). Priority Species, Slow worm and Cinnabar moth caterpillars were also identified.*

8.8.5 The site is likely to provide roost sites for common pipistrelle bats and mature trees at the boundary of the site have the potential to provide roost sites for a diversity of bat species.

8.8.6 There is clearly growing awareness of the importance of protecting our biodiversity and open spaces including in Haringey. The Pinkham Way Alliance

⁵⁹ The Natural Choice <http://www.defra.gov.uk/environment/natural/whitepaper/>

⁶⁰ <http://www.wildlifetrusts.org/news/2013/05/22/state-nature-60-uk-species-decline-groundbreaking-study-finds>

commissioned an independent Ecological Report on the Pinkham Way site which is attached. This confirms that the Pinkham Way site continues to meet the criteria for Borough Grade 1 Site of Importance for Nature Conservation.