

Comment on Responses by London Borough of Haringey (The Council) to further submissions received during the Revised Consultation on Core Strategy Fundamental Changes 22 September – 3 November 2011

From:

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1. The Council has revealed through its responses to the various submissions that the proposed change to the designation of Pinkham Way is not only unnecessary but mistaken and that there is no evidence to support it. The Council has misdirected itself when classifying Pinkham Way as '**brownfield land**' or '**previously developed land**'.

Pinkham Way is Greenfield Land

2. The Council is incorrectly treating Pinkham Way as brownfield land. See its comments "***FBSW is a brownfield site.....***" at 383/7/5.1 and "***Friern Barnet is still considered previously developed land and is not a Greenfield site...***" at 383/16.51. (Summary of Representations references)

3. It is not brownfield land, it has grown into greenfield land because nature has reclaimed all traces of the original sewage works, they have blended into the landscape in the process of time and have disappeared. The London Plan 2011 and PPS3 positively exclude sites such as Pinkham Way from the definition of brownfield and previously developed land and therefore the element of SP8 which relates to Pinkham Way is unsound because it is not in compliance with the London Plan or with national planning guidance.

4. The definition of Brownfield land in The London Plan 2011 excludes "***open spaces, and land where the remains of previous use have blended into the landscape, or have been overtaken by nature conservation value or amenity use and cannot be regarded as requiring development.***" (Page 297)

5. The definition of Previously developed land in the London Plan and in PPS3 excludes "***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 (to the extent that it can reasonably be considered as part of the natural surroundings).***" (London Plan 2011, Page 306 and PPS3 June 2011 Page 26 Annex B)

<http://www.communities.gov.uk/publications/planningandbuilding/pps3housing>
<http://www.london.gov.uk/sites/default/files/The%20London%20Plan%202011.pdf>

6. The Sustainability Appraisal by Hyder has also been done on the basis that Pinkham Way is brownfield land, see third bullet point on page 6 of the Hyder Addendum to the CS Sustainability Appraisal "***the Friern Barnet site is a brownfield site***". This means that the basis on which the appraisal was done

by Hyder on this site was fundamentally flawed and all findings relating to Pinkham Way in this report should therefore be disregarded as it does not comprise proper supporting evidence.

Atkins Employment Study misinterpreted

7. The many and varied reasons now being given for the change in designation demonstrates that the Council is no longer confident that the two original reasons in CSSD 03 can be supported. Indeed, the Council is trying hard to back away from the second reason given for the change, ie **compliance with pre-application discussions to use the site for a waste station and recycling centre** (see more later). The additional reasons now being put forward by the Council are not based on proper or any evidence and don't stand up to any real scrutiny. Since the original reasons for redesignation were challenged at the earlier Examination in Public, the Council have added a number of others. Those set out in a) – i) were added by way of responses to the re-consultation submissions.

- a) ***“Findings of Atkins Employment Study state that all designated defined employment areas should be protected which strongly encourage the intensification and improvement of existing employment areas”*** (70.1/5.1)
- b) ***“necessary to protect the site from over-expansion of retail uses and other non B uses”*** (71/1/5.1)
- c) ***“safeguarding fit for purpose employment sites and maintaining strong portfolio to attract businesses – reflects CS objectives to protect employment land and provide more jobs and training opportunities”*** (71/5/5.1)
- d) ***“represents an opportunity in the West part of the borough to develop a well planned modern industrial employment area”***
- e) ***“LSIS is a stronger designation than Employment Land”*** (89/2/5.1)
- f) ***“The site remains suitable for development entirely for B class employment uses”*** (89/2/5.1)
- g) ***“change in designation reflects the recommendations set out in the 2009 Employment Land Study in terms of meeting future employment needs”*** (89/2/5.1)
- h) ***“the change in designation does not hinder or reduce the scope for attracting B use employment generating activities to the site”*** (92/1/5.1)
- i) ***“the existing designation of Pinkham Way as an Employment Location being changed to LSIS has no material effect on an application for a waste management site as both designations include B1, B2 and B8 or Sui Generis use classes”*** (78/6/5.1)

8. Our Comment: When referring to intensification and improvement of existing employment areas Atkins was referring to employment areas which were already occupied and in existence. They were not referring to vacant land or derelict sites. On page 24 of Atkins they summarized the core message for Haringey in relation to optimizing the development of Opportunity Areas and Areas of Intensification. These included areas like Haringey Heartlands, Brent Cross, Tottenham etc. It did not include Pinkham Way.

http://www.haringey.gov.uk/haringey_employment_study_2009.pdf

9. The London Plan also lists areas of intensification and opportunity in Haringey (page 60). They do not include Pinkham Way. At para 2.58 the London Plan helpfully explains what Opportunity areas and Intensification areas are. Pinkham Way does not fit into either of the categories.

10. The only reference in Atkins to the Pinkham Way site (apart from listing it in the various tables as one of the 22 DEAs) was on page 70:

“ Including DEA6, this represents a land vacancy rate of around 8% (or 3% when excluding DEA6). As for vacant premises, this frictional element of un-occupied land is important to maintain an element of choice for businesses and developers and to ensure that the market does not become over-heated”.

11. There was no reference to intensification or improvement of Pinkham Way as there is nothing to intensify or improve on a derelict site. There is no threat from over expansion of out of town retail uses in this part of Haringey. The existing Retail Park which has been in business for some years is struggling to survive. Wood Green, Muswell Hill, Edmonton Ravenside, and Brent Cross are the retail magnets. Part of the problem with the existing retail park is the difficulty of access. This would be no better on the south side of the NCR as the access would be exactly the same. If the Council was concerned that the Employment Location designation would attract unwelcome retail, it could easily include appropriate advice about what is and is not envisaged for the site in the Development Management and Site Allocations DPD. See current information about Pinkham Way on page 53 of that document

http://www.haringey.gov.uk/site_allocations_dpd_-_may_2010.pdf

12. In a **letter of 27 July 2011** from the Council to The Planning Inspectorate the Council set out a lengthy explanation as to why it decided to change the designation of Friern Barnet. (Document library Haringey CS)

“as part of this review, the Council considered that the Friern Barnet and Bounds Green sites needed stronger employment land (sic)(and were inappropriate for strictly non-B type employment uses)”. (para 3.3)

13. Our Comment: The UDP 2006 Employment Location designation did not exclude B uses, it allowed a more flexible approach by the council as to what uses might be permitted. It did not restrict the Council to allowing ***“strictly non-B type employment uses”*** on the site. (para 2.2). See also the Council’s more recent

comment at h) above which indicates that in fact there is no need to change the designation at all in strictly planning terms as according to the Council all the uses that could be permitted under its Employment Location designation could be permitted under the proposed LSIS. For a site that has been vacant for almost 50 years a more logical approach might be to widen the range of uses permitted on the site not reduce them, or better still, accept the fact that nature has dictated the policy direction and designate the site MOL. The original designation allows more flexibility whereas the LSIS has a more restricted range of uses. It is not true to say there is no difference.

NLWA ISSUES (Consultation Response to the Haringey Core Strategy, Proposed Submission, May 2010 From the North London Waste Authority)

14. Did the NLWA's response of 21 June 2010 unduly influence the Council to re-designate Pinkham Way to LSIS and make other changes to their policy documents? From the contents of the letter it appears that the intention of the NLWA was that it should do so. **Appendix A**

15. the Council states: ***“Although aware of pre-application discussions for Pinkham Way, the Council did not propose re-designation because of this”*** (78/5/5.1)

16. In his Agenda for February 22nd, the Inspector asks the following at 2b(x):

“What is the rationale for the change? What prompted the alteration following the pre-submission draft Core Strategy?”

17. At the time the May 2010 pre submission draft was prepared, Atkins had already produced their Employment Report and so it can be assumed that the Council had taken on board the recommendations in Atkins and interpreted them to mean that Pinkham Way should be designated DEA Employment Land. The Atkins Report had not changed by the time the November Fundamental Changes document was produced so the Council can not rely upon Atkins for the re-designation.

18. We believe the only reason for the decision to change the designation was the letter from the NLWA and the pre application meetings. We do not know what exchanges took place in the pre-application meetings, but we do know that at least two meetings took place, one in November 2009 and another in January 2010.

19. The tone of the letter in June 2010 would indicate that the NLWA were not satisfied that sufficient had been done by the Council following those two meetings

20. The letter was lengthy and contained details about irrelevant matters in planning terms, but which were clearly designed to induce pressure. For example it stated that

“Additionally, given the planning history of the Pinkham Way site as a sewage treatment works, that the North London Waste Authority has now exchanged contracts for the Pinkham Way site, that it is listed within the Authority's Outline Business Case for PFI credits and that the North London

Waste Plan has set out proposals for potential waste management sites including Pinkham Way, the Authority considers that the site should be clearly listed as a waste site within the Core Strategy” (para 5.1.20).

21. None of these reasons are relevant planning reasons. The fact that the site was a sewage treatment works almost 50 years ago is not relevant in the context of developing strategic planning for the borough for the next 15 years. However, the Council has some fiduciary interest in the activities of the NLWA being one of the seven North London boroughs comprising the North London Waste Authority. These comments could arguably give rise to a question about conflict of interest and whether the Council allowed itself to be influenced by those matters. We believe it was improper for the NLWA to raise them in the context of the planning consultation. They were irrelevant to the planning issues so what purpose was there in putting them in the letter? It would also have been improper for the Council to have allowed itself to be influenced by them, but given the timing of the letter and the subsequent change in designation of the Pinkham Way site, it is hard to resist the conclusion that that is exactly what happened.

22. The fact that the Council are now saying they were ***only aware of the pre application discussions*** rather than the discussions being a reason for changing the designation is not persuasive. The reason given on page 24 of the November 2010 re-consultation CS document clearly states “complies with pre-application discussions which have already taken place

23. This is not a proper planning reason in the context of strategic plans. Nor do we accept that the change of designation for Pinkham Way was supported by Atkins, see above. We would therefore respectfully urge the Inspector to reject the proposed redesignation.

De-Culverting

24. The NLWA also sought to influence the Council to devalue the potential for de-culverting the stream which flows across Pinkham Way because the existence of the stream and its importance would potentially be yet another obstacle to overcome at the later planning application stage for NLWA and Barnet’s waste facilities. Pages 9-10 of the letter (responding to the Site Allocations DPD) comments

“In addition, the Authority considers that it is inappropriate for the site description of Pinkham Way to refer to the ‘opportunity to de-culvert stream’. The Authority is unsure why this has been specifically included, particularly when the site is identified within the North London Waste Plan as a potential site for future waste facilities and as a Defined Employment Area. We request therefore that this reference is removed” Page 10, para 1)

25. The tone of this paragraph can only be described as ‘bullying’ and is not appropriate. It is not yet known whether the Council caved into this demand but we would urge the Inspector to recommend that this reference be retained as it is in line with the policies in the London Plan and with the Council’s own biodiversity policies. (LBH, BAP 2009, Page 42). We have dealt with de-culverting in our earlier submissions so will not go into that issue any further.

26. Another reason we believe NLWA wanted the designation to be changed was related to the emerging North London Waste Plan. They wanted to make sure that their selection of Pinkham Way as a waste site in that Plan fell within the relevant policies in the emerging London Plan and the Mayor's SPG on industrial land.

27. Policy 4A. 27 of the London Plan identifies broad locations suitable for recycling and waste treatment facilities including SILs (both Preferred Industrial Locations and Industrial Business Parks), local employment areas (including Locally Significant Industrial Sites) and existing waste management sites. (SPG, Industrial Capacity, March 2008, Page 44, section 6.3). However, it is clear from reading the London Plan and the SPG that first call would be on industrial land.

28. The NLWA realized that an Employment Land designation might give rise to uncertainty about whether it fell within the SPG/London Plan category of sites suitable for recycling and waste treatment facilities and so wished to ensure that the designation fell unambiguously into the industrial land category. The letter stated

“The Core Strategy does not explicitly refer to the use of the Pinkham Way site as a waste management site; instead paragraph 5.1.20 refers to the Mayor’s Industrial Capacity Study SPG urging boroughs to make employment land available for uses including waste management facilities and to the emerging North London Waste Plan as the document which will identify sites for future waste management facilities. Whilst the Authority anticipates that the protection for existing and future waste management sites as outlined in the London Plan will be referenced and included within the North London Waste Plan, it would be legitimate and helpful for all if the specific use and protection to be afforded to the site could be included here within the Core Strategy document.” (page 5, para 3)

29. Applicants should not have this level of influence over a planning authority. It is not how the planning system is designed to work, it is undemocratic.

30. **Update on NLWA.** On 6 December 2010 DEFRA announced withdrawal of the PFI funding for a number of local authorities, including NLWA funding for the Pinkham Way waste plant, on the grounds that “on reasonable assumptions, these projects will no longer be needed in order to meet the 2020 landfill diversion targets set by the European Union....” <http://www.defra.gov.uk/news/2010/10/20/changes-to-pfi-programme/>

31. The North London Waste Plan is due to be submitted at the end of February 2012. There have been major objections lodged against this NLWP during the consultation period, particularly against the technical report supporting the selection of Pinkham Way as a waste site. The response from the GLA dated 6 July 2011 indicated that they considered Edmonton as the preferred location for waste in North London, and whilst they did not disagree in principle with Pinkham Way being selected as a waste site they raised some reservations about delivery of Pinkham Way (Appendix B)

Pinkham Way

20. The site is designated as a defined employment area in Haringey's UDP and as a locally significant industrial site in Haringey's Core Strategy (submission version). However, the site is also designated as a site of importance for nature conservation (SINC). This dual designation presents challenges and it is accepted that the site cannot be developed for employment use without some impact on biodiversity. The level of impact should however be mitigated. It is understood that an outline planning application for a waste management site and vehicle depot has recently been submitted, but not validated, by the North London Waste Authority for this site. The vehicle depot element will not count towards apportionment.

Dual Designation can not be reconciled

32. The council is clearly unable to reconcile the dual designation of Pinkham Way. This is demonstrated by the number of contradictory statements it has made about how this might be managed. Also, the Council does not appear to have taken into account the advice of its own Conservation Expert as to the extent of loss a potential development would involve. The Council's Conservation expert advised the council that a significant part of the SINC would be lost were a development such as the NLWA proposal to be permitted. Hyder did not address this in any detail in the EA even though they were aware of all the details of the proposal.

“The Council will continue to protect this site as a Site of Importance for Nature Conservation. The designation has not been removed.”

“ This dual designation presents challenges and it is accepted that the site cannot be developed for employment use without some impact on biodiversity. The level of impact should however be mitigated.”

“The site maintains a dual designation for employment use and as a SINC, subject to no adverse effect on the nature conservation value of the site.” (73/3/5.1)

“The location of FBSW is outside of a defined area of open space deficiency The adjacent Hollickwood Park and the Muswell Hill Golf Course, as well as the adjoining Allotment Gardens, Albert Road Recreation ground and Bluebell Woods ensures that the local area is not deficient and that there is already a well preserved and effectively managed network of local green spaces to meet the provisions of the consultation draft All London Green Grid SPG.” (83/4/5.1) (UDP map 8.1).

33. In their Sustainability Appraisal Report April 2003 Atkins described Pinkham Way not only a SINC of No 1 Borough Importance but as part of the ***‘natural greenspace provision for Bounds Green’*** and as ***‘private recreational open space’*** (Fig 3.2 Open Space by Type) **Appendix x**
<http://www.haringey.gov.uk/sustainabilityappraisalreport.pdf>

34. Atkins also advised the Council that an ecological corridor was located on the North East boundary of Pinkham Way, The council's policy is to protect these corridors.see Figure 3.1 **(appendix C)**

35. Our Comment: This site is a No 1 Borough wide SINC. What happens to it affects the whole borough, including those parts of the borough which are deficient in open space, indeed it could be argued that for those parts of the borough it is even more important to keep it protected. It can be seen on map 8.1 that in fact one of the areas of deprivation abuts directly on to the Pinkham Way site. Allowing a massive MBT waste plant (or any similar development) to be erected on this site would have a major detrimental impact on that particular area of deprivation. Mitigation in such circumstances is mythical.

36. In his introduction to The London Plan the Mayor outlines the importance of

“protecting and improving London’s natural environment and habitats and its general environmental quality at both local and London-wide levels” p28 and

“recognizing and actively realizing, the whole range of benefits which networks of green and open spaces and waterways bring” p28

“encouraging urban greening – protecting, enhancing and expanding the city’s stock of green space to help cool parts of the city” p30

37. At paragraph 1.51 on page 31 the Mayor states that

“The spatial and locational policies underpinning this Plan are set out in detail in Chapter 2”

Policy 2.18 Green Infrastructure: the network of open and green spaces A

“The Mayor will work with all relevant strategic partners to protect, promote, expand and manage the extent and quality of, and access to, London’s network of green infrastructure.”

38. We believe that insufficient consideration was given to the Biodiversity and open space policies in the London Plan when redesignating Pinkham Way. There are site specific considerations required on Pinkham Way. It is not enough to use a broad brush and lump it in with all the other employment sites (be they operational or vacant). Pinkham Way has particular benefits not only for its immediate vicinity, but borough wide. We do not believe these have been taken properly into account when the Council decided to re-designate this site.

39. The inclusion of Pinkham Way in SP8 renders the policy unsound. Consideration should be given to alternative uses for Pinkham Way that are more suitable to an area of green open space, for example, we understand that a Village Green application has been, or is about to be, made to the Council. The former protection of the SINC should be reinstated as part of any policy for this site, ie no adverse impact on the conservation nature of the site.

40. The site should be strongly protected in line with the open space policies in the London Plan and in line with the Council’s own biodiversity and open space policies.

41. Defra has raised the question about whether there is any need for this proposed waste plant at Pinkham Way. The withdrawal of PFI funding must raise doubts about the wisdom of Haringey skewing its strategic plans to accommodate something that Defra thinks is unnecessary.

8 February 2012