

Objection to the Framework Core Strategy – Further Supplement

6th February 2012

Further Supplement to Submission from Barry James - dated 19th January 2012

It has been entirely unclear what objectives are being sought by Haringey Council with the re-designation of Friern Barnet Sewage Works N10. Public explanations by council officials are wholly unconvincing. The purpose of this further supplement is to inform the Inspector that the unreasonable and unhelpful conduct of Haringey Council officers continues even to this day.

Context:

Haringey Council published the Local Development Framework Core Strategy Submission document in May 2010. In November 2010 it published a further document for a secondary public consultation exercise, the conduct of which has been seriously questioned leading to a rerun of the public consultation.

In the November 2010 follow-up document, the reference to a change of designation for Friern Barnet Sewage Works is accompanied by a comment “*Complies with pre-application discussions which have already taken place to use part of the site for recycling centre and other part as waste station*”.

The use of the term ‘complies’ is strange. In normal use ‘comply’ means “*to obey or conform to something such as a rule, law, regulation, or wish.*” It seemed not unreasonable for me (as a local resident) to seek to understand what ‘rule’, ‘regulation’ or ‘wish’ that the change of designation, as proposed by Haringey Council, was trying to obey or conform to!

Activity & Conduct:

1. On 24th July 2011 I submitted the following Freedom of Information Request.

Dear Haringey Borough Council,

Mr Dorfman, senior planning officer at Haringey Council, stated at a recent meeting that there had been a number of meetings between the Haringey Planning Department and the NLWA about the inclusion

of Pinkham Way in an outline planning application:

How many such meeting were held?

On which dates were they held?

Who attended such meetings?

Please provide copies of minutes of the meetings referred to above.

Yours faithfully,

Barry James

2. The FoI request was acknowledged by Haringey Council on 25th July.
3. The FoI Request subsequently ran out of time without any response, in other words, my FoI was ignored.
4. On 21st September 2011, I asked for an Internal Review as to why my request was being ignored.
5. My request for an Internal Review was acknowledged by Haringey Council.
6. On the 24th October I received a response from Haringey Council which seemed to merely acknowledge my complaint without any indication that the Council was intending to respond to my request. **The effect of the Council’s response was to continue to ignore my request.** The full text of this response is set out below.

Objection to the Framework Core Strategy – Further Supplement 6th February 2012

Dear Mr James,

Your complaint that the Council breached the Environmental Information Regulations (Enquiry reference: 810004157 & 810004155)

Thank you for giving us an opportunity to review our response to your Environmental Information Regulations request, and make sure that we have done all we can to put things right for you.

Although initially your request was dealt with under the Freedom of Information Act, as this relates to a Planning issue we now consider the relevant regime is the Environmental Information Regulations. I apologise for any confusion this may cause.

You submitted your requests on 25 July 2011. The responses to both requests were due on 22 August 2011.

I sincerely apologise that we did not meet our deadline for responding to your enquiry, and I would like to explain what we do internally to ensure responses are sent on time.

The Feedback and Information Team log most cases upon receipt by the Council, and allocate to a service or individual officer for a response. In this case both of your requests were allocated to Planning Officer, Jill Warren.

This team produces a weekly report of all open cases which is circulated to relevant officers. Your case has been showing on this list since it was logged. We have also sent repeated reminders to the Planning Team and Jill Warren to remind them of the duty to respond within the set timescale.

Unfortunately your request was received at a time when our Planning Team officers were under extreme pressure due to the volume of the workload. Further delays resulted from the emergency move of Planning Team from Tottenham to Wood Greed after the riots and burning down the Planning Office. This has caused significant delays in accessing our historical information on planning policy.

Both of your requests are awaiting responses from a number of staff involved in the pre-application process for Pinkham Way. The information will be collated shortly and a response sent within the next 10 working days.

I apologise for this delay and uphold your complaint about our failure to respond to your request on time. We will be raising the issues arising from this case with the officers involved with the aim of avoiding such delays in future.

To conclude:

Section 5 of the Environmental Information Regulations 2004 states that “a public authority that holds environmental information shall make it available on request.

2. Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request”.

We have therefore failed to comply with Section 5 of the Environmental Information Regulations as we have failed to respond to your request within the 20 working days.

At present, once again, I can only apologise for the delay you have experienced and for any inconvenience this has caused you.

I hope that you are satisfied with my response to your complaint. If you are dissatisfied, you may complain to the Information Commissioner, who may be able to help you. Please note that if you wish to refer this case to the Information Commissioner, they ask that you do so within two months of our response to you.

7. On the 8th November, I formally complained to the Information Commissioner about Haringey Council's failure to respond appropriately to my FoI request.
8. Soon after 13th December I received a response from the Information Commissioner (a copy of the response is attached) which stated that the Information Commissioner had written to Haringey Council to remind it of its responsibilities.

Objection to the Framework Core Strategy – Further Supplement 6th February 2012

9. On 22nd December I received a formal response for my original request from Haringey Council (a copy is attached to this document). The essence of the response is that I am not allowed to see a copy of the minutes of the three pre-application meetings [20th November 2009; 18th January 2010 and 3rd March 2011] on grounds of “commercial confidentiality” and the potential economic threat to NLWA’s procurement. I have attached my further response which asks for an internal review of this communication from Haringey.
10. The Haringey Council response is wholly unacceptable for a number of reasons:
 - a. Haringey wish to withhold the minutes of the three meetings since they are in draft form and not approved. It is wholly unacceptable for the minutes of meetings, associated with such important matters, to be kept in draft condition. Using this argument, Haringey can make sure that no minutes of important meetings can be released into the public domain by deliberately keeping the minutes in draft form.
 - b. The meetings were held (*as started in the response – line 6*) to provide pre-application advice to the applicants. In this context, commercial confidentiality cannot possibly apply and the use of the ‘commercial confidentiality’ excuse is inappropriate.
 - c. Since Haringey Council is the independent Planning Authority for Pinkham Way, the Council’s planning officials are obliged to maintain the Planning Authorities independence and therefore should have ensured that commercially confidential information was not disclosed by the NLWA. If commercially sensitive information was disclosed by the NLWA (and recorded in the minutes) then the Planning Authority’s independent position may have been seriously compromised.

Request to Planning Inspector

Haringey Council appear committed to withhold the relevant pre-application meeting minutes from public view. Since Haringey Council’s conduct in this matter has clearly been inappropriate since July, one can only surmise that the meeting minutes contain information that Haringey Council wishes to keep from public scrutiny. Insofar as this matter has obvious importance to the Inspection on 22nd February, Haringey Council appear to close to success in their attempt to prevaricate long enough for the response to my FoI to become meaningless. In the circumstances, I respectfully suggest that the three sets of meeting [Pre-application meeting between Haringey Council and the NLWA on 20th November 2009; 18th January 2010 and 3rd March 2011] should be considered by the Inspector as part of the hearing’s evidence. Given that the published consultation documentation (the subject of this inspection) refers to ‘compliance’, it appears appropriate that the formal inspection should include a consideration of the nature of the term “compliance” as stated in the November 2010 document.

Given the Council’s determination not to allow public scrutiny of the written record of the three meetings, it seems reasonable to deduce that the meeting minutes contain something which suggests that the NLWA’s desire (or “wish”) to build a waste plant at Pinkham Wood has become the driver for this proposed change to the Core Strategy Policy rather than the Core Strategy Policy itself being the arbiter of whether the NLWA’s ‘wishes’ are fair and reasonable.

*the paper it goes on the less useful it becomes
It is imperative for the Govt Inspector to satisfy himself
that nothing is being hidden.
It is now better nice the request was first formulated*

**Objection to the Framework Core Strategy – Further Supplement
6th February 2012**

***Attachment: Copy of Request for Further Internal Review to
Haringey Council 23rd January 2012 From: Barry James***

23 January 2012

Dear Haringey Borough Council,

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of Haringey Borough Council's handling of my FOI request 'Pre-Submission Meetings with the NLWA'.

In July 2011 I submitted an FOI question to Haringey Council.

Following considerable prevarication, and a complaint to the Information Commissioner, Haringey responded to my question with a partial rejection. The basis of the partial rejection is unacceptable. I have asked for copies of the minutes of three meetings between the Council and the NLWA. I am refused sight of these minutes on the following basis:

(a) The minutes are draft and therefore not approved.

(b) Since the meetings were held to provide pre-application advice to the applicant (NLWA) the advice provided relates to pre-validation and therefore to positions which may not reflect what might be in the final application.

(c) Disclosure would adversely impact commercial confidentiality.

(d) The information provided information that was commercial in nature.

(e) Disclosure would be significantly detrimental on the legitimate economic interest of the NLWA.

(f) The information supplied by the NLWA was commercial in nature.

Response to Point (a): It is inconceivable that the Council would not record the conduct of meetings held given a subject matter that was obviously of considerable public interest. The meetings were held in November 2011, January 2010 and March 2011. There is no logical reason for these minutes not to be approved given the elapsed time since the meetings were held.

Response to Point (b): The stated purpose of the meeting (see rejection response) is to provide pre-application advice to the applicant. It is inevitable that some of the advice supplied by council officials will not translate into features in the final application. It is difficult to see how this can comprise confidential information.

Response to Points (c) – (f): The basis of all these points is supposed "commercial confidentiality". Given the stated purpose of the meetings (to provide pre-application advice), how can the supply of impartial planning advice by the Council (based on legal planning regulations and guidelines) constitute commercially sensitive information.

If the judgement of Haringey's legal counsel is that the minutes contain commercially sensitive material then the conduct of the meeting has gone far beyond the stated purpose of the meeting. This suggestion undermines the established claim by Haringey Council that the Council's role in this situation is entirely impartial and that the council continues to be an independent planning authority for the purposes of determining the NLWA's application for Pinkham Woods.

I don't think that the Council can have it both ways. Either the meetings were entirely as stated, in which case, there can be no basis for further refusal to release the meeting minutes or the conduct of the meetings with the NLWA do contain a record of commercially inappropriate discussions and the Council's position as independent planning authority has been compromised.

Please reconsider your decision not to release the minutes of the three meetings or advise that the minutes contain information which will compromise Haringey Council's position as the independent planning authority for Pinkham Way.

A full history of my FOI request and all correspondence is available on the Internet at this address:

<http://www.whatdotheyknow.com/request.pr...>

Yours faithfully, Barry James

P Please consider the environment before printing.

show quoted sections

**From: Selby Jane
Haringey Borough Council**

20 February 2012

Dear Mr James

Thank you for your email dated 23 January 2012, in which you requested an Internal Review of the Freedom of Information request response, reference 0810004155.

You remain dissatisfied with the Council's decision not to release copies of the minutes of three meetings between the Council and the NLWA.

I'd just like to clarify that although you requested the information under the Freedom of Information Act (FOIA), we consider the relevant legislation is the Environmental Information Regulations (EIRs).

I have reviewed the previous response provided to you and note the exceptions which were applied. The refusal notice explained that we considered the information requested was exempt under EIR Regulations 12(4)(d), 12(5)(e), and 12(5)(f) and provided reasons why this was. The response also considered the public interest test.

I'm sorry to disappoint you but my decision is to maintain the exceptions previously applied and continue to refuse to supply the minutes of the meetings as requested.

If you are dissatisfied with the outcome of this Internal Review you may complain to the Information Commissioner, who may be able to help you. Please note that if you wish to refer this case to the Information Commissioner, they ask that you do so within two months of our response to you.

You can contact the Commissioner at:

Postal address: Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Phone help line: 0845 6306060 or 01625 545745

Fax: 01625 545510

Website: [1]www.ico.gov.uk

Yours sincerely

Jane Selby | Feedback Review Officer | Haringey Council | Feedback &
Information Governance Team | 020 8489 1971

P Please consider the environment before printing.

[show quoted sections](#)

We don't know whether the most recent response to this request contains information or not – if you are Barry James please sign in and let everyone know.