

Stephen Brice
Chair PWA

By email to sb.sacco@gmail.com and
eiblin1@btinternet.com

Date: 10 January 2019

Your ref:

Our ref: LEG/PP/60082/BXB

Direct dial: 020 8489 4631

Email: Ben.Burgerman@haringey.gov.uk

Dear Mr Brice

Regulation 19 Submission NLWP (Pinkham Way site)

Thank you for your letter dated 11 December 2018 addressed to the Monitoring Officer and also copied to the Chief Executive and all Cabinet and Overview and Scrutiny Members.

In your letter in point 3 you suggest that there has been a pattern of concealment and misrepresentation about the site's true planning status, the extent of the representations received and the openness and transparency of the process. In my assessment that is neither an accurate nor a fair assessment.

The officers responsible for the regulation 19 submission of the NLWP have considered the points raised in the rest of your letter, and the response to your points raised is set out below where a response was requested. They are numbered in accordance with the numbering in your letter.

5. Please let us know what arrangements the Council has put in place to deal with the acknowledged conflict of interest between the roles of NLWA member and the role of Haringey Councillor, particularly where a Cabinet member is involved. You may recall that you advised us in December 2012 that "their duty as a member of NLWA is to that body and not to their constituent council and vice-versa".

Councillors are aware of the requirements of their role and will be given appropriate advice on complying with their duties.

Regulatory Committee report 18 October

7. The report to the Regulatory Committee on 18 October comprised two scant paragraphs about the NLWP process and a two and a half line recommendation that the committee "notes the contents of the NLWP and associated documented (sic) in the appendices and puts forward any comments for consideration at Cabinet". That was the only reference to the bundle of 328 pages attached - without even an index.

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The draft cabinet report was appended to the Regulatory Committee covering report and this report contains 5 pages specifically addressing the background to the plan, results of consultation, how that changed the draft plan, the revised policy context and the content of the plan and the revised timetable. Further, the report is the covering report to the document and other supporting documentation. As such it is not appropriate or necessary to repeat everything contained within the supporting documentation. For clarity the document and supporting information is what the members are asked to consider, and not to give approval to the covering report or the Regulatory Committee covering report.

- 9. Had it not been for the information that PWA provided to Members before and during the Regulatory Committee meeting, the degree of omissions and misleading information was such that the committee would not have been in a position to come to its decision to recommend that the site be removed from the Reg 19 NLWP.**

The report must be read with the draft plan and the supporting documentation. When read in context, there was nothing materially misleading and any inadvertent errors have been picked up in the revised Cabinet report.

Draft Cabinet report for 13 November 2018

- 11. The draft Cabinet report attached to the Regulatory Committee papers was a disgrace, not only omitting or misrepresenting important information about the Pinkham Way site but containing falsified figures and tables from the NLWP document. We should be grateful if you could explain why the Cabinet draft report was signed off by the Director of Housing Regeneration and Planning, and on your behalf, by Mr Burgerman, when it contained so much misleading information. See Appendix 1 paragraphs 5.23 and 5.26 and 5.31 and Appendices 1(A) and 1(B).**

The report is written to an informed readership who know that it is to be read with the draft plan and the supporting documents. These include the site/area assessments which set out all the relevant site specific information. It is not the function of the report to rehearse the detail of the history of all areas for new waste management facilities or the number or detail of all the representations received. That is neither necessary nor appropriate when resolving to publish a pre-submission plan. We acknowledge that there was a mistake with some of the figures on the tables and these have been corrected. Officers did not falsify information this was a genuine error for which we apologise.

- 12. The Report contained no reference to the Pinkham Way site issues or to the fact that the majority of Reg 18 representations received about the proposed areas and sites in the plan came from Pinkham Way supporters (1,067) and others opposed to Pinkham Way's inclusion in the NLWP. (see our comments in Appendix 1 para 5.5 and 5.8)**

See response to point 3 above

- 13. The lack of relevant information and the distortion of information in the report is insupportable. The Council's Appendix 8 attached to the agenda papers**

purports to show the Council's response to comments received during the Reg 18 Consultation. However there is no information in it about the extensive comments received showing why the inclusion of Pinkham Way is not justified.

The report must be read in the context of the draft plan and the supporting evidence base. This includes the site/area assessments where all the relevant detail in terms of the sites/areas is summarised. This includes consideration of all of the issues raised by PWA.

Appendix 8 is required only to provide a summary of the main issues raised by the representations and how these have been taken into account which it does. It is not a requirement that individual objections are identified, summarised and responded to.

14. The only reference to Pinkham Way is on page 6 of the said Appendix 8 which states that 'the site was put forward by the NLWA for delivery of the NLWA's Waste Strategy' and this is followed by the Council's justification for including the site "Following the NLWP site assessment, it is considered as suitable for waste management and is in the list of new areas under policy 2".

Your assertion is correct the site was independently assessed for its suitability for waste in the context of the assessment of all suitable waste sites across North London. The conclusion to this is the stated position that the site is suitable for waste management.

15. There is no Waste Management Strategy. The Council and the NLWP officers know this and acknowledged this in a response to those who commented on the Sustainability Assessment in January 2016 stating that 'The absence of an up-to-date Joint Waste Management Strategy is acknowledged this is an issue for the plan preparation process...' Why is the Council insisting on pretending one exists?

There is a waste management strategy and it can be accessed on the following link - <http://www.nlwa.gov.uk/media/1755/north-london-joint-waste-strategy.pdf> It is acknowledged that this strategy was adopted in 2009 however it remains extant. The reference to the strategy must be read in its full context. The Waste Strategy is not the reason the site is identified in the submission draft. It is the reason why it was put forward by NLWA in the call for sites. Since then, it has been independently assessed and the issue of the need for waste management facilities has been re-visited as part of the preparation of the pre-submission draft. The area is part of the strategy to address the capacity gap which is why it is identified.

16. Andrew Dismore, London Assembly member for Barnet and Camden, also responded to the Reg 18 consultation and amongst many points he made was the very relevant point about the dangers of including the Pinkham Way site as an Area "Sites" are "safeguarded for waste use" 'Areas' on the other hand are not safeguarded in the NLWP. It would be difficult to oppose a planning application for a waste use if the site is already found 'suitable' for that use. By not "safeguarding it" the planners are ensuring that it can be offered as a replacement site if there is a wish to relocate an existing waste facility. A site that is not safeguarded would have potential as a replacement site. To protect the site from development as a waste use Pinkham Way must be removed from the draft plan altogether'.

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The area has been assessed as suitable for waste management use provided that this is undertaken sensitively. It is needed as to ensure that adequate provision will be made to meet the need for waste management facilities and, therefore there is no justification for its removal from the plan. All the issues raised by PWA have been considered in the including the area in the draft plan.

- 17. We can find no reference to this in the report or any other document and no comment from the Council about its view on the unnecessary exposure of the Grade 1 SINC in the NLWP as currently constructed. Members should be aware of this danger to the site before making a decision to include it.**

The designations and decisions thereon were taken in identifying the site within the Strategic policies of the Local Plan. The Council has always held the view that that development on a portion of the site could be acceptable where this assisted with the management of the SINC. The assessment of the site for the Waste Local Plan has considered all relevant designations including the SINC and found a waste use not to be incompatible or undeliverable due to these designations.

Dual 'Employment Land' designation no longer credible

20. The Pinkham Way site is a green open space covered mainly in woodland. It was designated Grade 2 SINC of local value in 1979 and was upgraded to Grade 1 SINC of Borough-wide value in 1998. Part of the site is designated MOL and part Ecological Corridor. For almost 40 years therefore, the site has been fulfilling its designated planning purpose as a nature conservation site. Nature has completely reclaimed the site, which is the reason why it is excluded from the definition of PDL/brownfield land (NPPF and London Plan).

21. The Employment Land designation was added in 1999, creating the only dual SINC/Employment designated site in the UK. Not once in the 19 years since then has it been used for employment. The Council has been advised by its consultants that the site is undeliverable. The last Planning Inspector advised that the EL designation is not in line with national planning policy. The Employment designation is no longer credible, let alone justified.

The NLWP is not the place to seek to challenge the employment area designation of the area. That is settled by the strategic policies and the Site Allocations DPD. The only issue for the NLWP is whether the identification of the site for waste management purposes is sound. Whilst the policy designation of the site is relevant, it has not been determinative in the selection of the site. The site is under-used urban land of some local nature conservation value worthy of designation as a SINC. Against this must be weighed the sub-regional need for additional waste management facilities.

22. In October 2014 GVA carried out a viability assessment of the site and advised that it was not viable for employment use. In February 2015, following an Employment Land review, Atkins advised the Council that it was unlikely the site would be brought forward for employment during the plan period because of its isolated location and contaminated state and emphasised to the Council the

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need for ‘a supply of good quality, well located employment sites’. None of this appears in any of the reports to Members. See Appendix 1 paras 5.13 and 5.16.

In 2014 the Council commissioned GVA to conduct a viability study on key sites and this study concluded that the remediation cost impacted heavily on site viability on the PW site. However, viability & therein residual land value, is not a relevant factor in ‘deliverability’ when it is the existing landowner, the NLWA, intending to bring forward and operate any new development proposed for this site. In this respect, the site is considered deliverable in a planning context. The sites suitability for waste management provision has been the subject of detailed assessment through the NLWP, which concludes that the area is of sufficient size, has good access provided that an acceptable entrance/exit point could be made off the Orion Road roundabout, to enable robust boundary treatment to provide a buffer zone to the nearest residential properties, the park and the golf course; The area is suitable for a wide range of waste management uses and, through a legal agreement, could provide an opportunity to decontaminate the area and enhance biodiversity.

Haringey’s Employment Land Review 2016 assessment of the site was in respect of the wider range of employment uses for the site. In this respect, it treated its isolation as a negative factor, whereas this is a significant positive benefit of the site in respect of its potential for waste management use. The employment land review was focused on evidenced demand for B class employment floorspace, and so waste uses were not specifically assessed.

23.NLWA has no plans to develop the Pinkham Way site for waste management and there is no current Waste Management Strategy – why is it in the plan?

See reply to point 15

24.In January 2016 during the Reg 18 Consultations, the NLWA advised the Council that ‘... Assuming that the Authority can secure planning permission for suitable residual waste management facilities at the Edmonton EcoPark site it now has no immediate plans to develop the Pinkham Way site in Haringey for such use. However, Pinkham Way will remain an asset for the North London Waste Authority due to its strategic location and planning designation as an employment site’.

25.In August 2016, during the EiP of the Site Allocations DPD, the NLWA confirmed it had received the requisite planning permission for the Edmonton EcoPark and that it had no plans to develop Pinkham Way site. At the same hearing, the Council admitted that the site would not be required for the Council’s employment needs over the plan period and the Inspector insisted that the Pinkham Way site should be removed from the SADPD.

While the DCO has been granted for the Edmonton EcoPark site, the constituent boroughs are yet to agree to substantial cost of the redevelopment. The need for the identification of areas for waste management uses is set out in the draft NLWP and the Frien Barnet Sewage Works site is still required. In particular it may be required to manage north London’s waste needs, should the Edmonton redevelopment not take place.. It should also be noted that the Inspector did insist that the site be removed from the SADPD but that was because there

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was no prospect of it coming forward for employment use in the plan period. Its designation for potential waste use is a separate issue.

26. The Inspector commented on the persistence of the campaign surrounding the site's use, "The site is now of nature conservation importance and the subject of a long campaign by local residents to remove the employment designation. The [National Planning] Framework, at paragraph 22, advises that Councils should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of employment." The inclusion of the site in the NLWP on the basis that it might be available for some type of waste use at some time in the future is no justification for retention of the Employment designation. The inclusion of the site in the NLWP is dependent solely on its Employment designation and that designation is no longer credible.

The NLWP is not the place to seek to challenge the employment area designation of the Site which is, in any event, not determinative of the identification of the site for waste management uses. The site scores highly on the site selection appraisal for numerous other reasons including its access to the primary road network, and its buffer to any residential or sensitive receptors. It is in the control of the NLWA and therefore available for waste uses.

29. Before making a decision about whether to include Pinkham Way in the NLWP or otherwise, Members are entitled to know what the justification is for including it; that its inclusion is contrary to the Council's local plan policies (SP13 and others) and contrary to policies in the London Plan and the NPPF and that it is against the wishes of the local community which has been arguing against its inclusion for the past eight years. They also need to know that a decision which departs from a local plan requires substantial and special justification. There is none here. Members should be made aware of that.

This is not a planning application. The report introduces the substance of the draft plan and its supporting evidence base and appends the summary of the main issues raised in the consultation process. This is all that is required. For the avoidance of doubt Officers do not consider that the inclusion of Pinkham Way is contrary to Local Plan, the London Plan and the NPPF.

Our responses to the matters that you raise in Appendix 1 and 1 (C) are attached in a table.

We acknowledge the inaccuracies that you point out in Appendix 1 (A) and 1 (B) for which we apologise and these were an officer error. I can confirm that these were not deliberate as you have suggested. These will be corrected in the forthcoming cabinet report.

Yours sincerely,

Ben Burgerman
Planning and Regeneration Spec. Lawyer
For Assistant Director of Corporate Governance

