

Haringey Local Plan
Site Allocations DPD Examination

Hearing Statement
Matters 2&3

The Pinkham Alliance

Representor No: 235

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1. Introduction

- 1.1 This Hearing Statement is submitted on behalf of the Pinkham Way Alliance (PWA). The PWA has played an active part in representing residents' interests in the preparation of the Haringey Local Plan documents having attended numerous meetings with officers and members of Haringey Council, made several representations and appeared at the previous public examinations.
- 1.2 As a consequence of its work over the last six years, the PWA has a detailed knowledge and understanding of the Pinkham Way SINC (the Site) and of how greatly it has been, and still is, valued by residents in the surrounding area.
- 1.3 The ecological value of the Site is not in dispute. The Council has designated it as a Site of Importance for Nature Conservation of Grade 1 Borough Importance. Its status as an ecologically valuable site has recently been confirmed by ecological surveys undertaken by recognised experts, independently commissioned, by both the Council and by PWA¹.
- 1.4 Atkins have advised the Council that the Site is not suitable for its projected employment needs² and the Council has stated that it is not required to contribute towards meeting Haringey's housing target".³ At the last examination into the Local Plan Atkins advised that removal of the site from the Employment Land vacancy list would not make the Plan unsound as the frictional vacancy rate would still be acceptable.
- 1.5 Any development on the site is likely to result in significant irreversible harm to biodiversity and nature conservation objectives.
- 1.6 The site is not deliverable. Its location is not easily accessible⁴ and development would be contrary to a number of important strategic Council policies, the NPPF and the London Plan which support sustainability and nature conservation. It should be considered a greenfield site and sequentially less preferable for development to brownfield sites⁵.
- 1.7 The Site is considered a valuable resource by local residents⁶. It was recently the subject of a local school class project. The teacher reported that the children "were extremely engaged... and became very passionate about what they felt should not happen within their local area."⁷ At a recent public hearing, local residents told how much they enjoyed using the site for recreation until access was restricted in 2009 by the erection of secure fencing.⁸

¹ LBH LUC Open Space and Biodiversity Study Oct 2014, PWA Preliminary Ecological Appraisal (Huma Pearce BSc MSc MCIEEM & Denis Vickers BSc FLS MCIEEM CBIol MBS)

² Atkins Employment Study 2015 page 25 paras 5.40 and 5.41

³ Appendix 1 LBH letter to PWA 06 July 2015 page 2 para 5

⁴ Appendix 2 Access constraints

⁵ NPPF 111 and The London Plan March 2015 page 387 "Brownfield Land"

⁶ Appendix 3 Inspector's Report, Village Green Application, Pinkham Way page 38 para 216

⁷ Appendix 4 Statement by Ms Callaghan, teacher St Martin of Porres School plus 4 samples of work

⁸ Appendix 3 Inspector's Report, Village Green Application and page 41 para 224

1.8 In 2014 PWA submitted a five-year site management plan to the Council⁹ prepared by Denis Vickers (MCIEEM), previously Habitat Wildlife Manager for the London Wildlife Trust. The plan sets out a long-term scheme of positive management, and some 130 local residents signed up to commit practical help in implementation.

⁹ Appendix 5 Management Brief 2014 to 2019: Pinkham Way Borough Grade 1 Site of Importance for Nature Conservation

2. General Issues

(2) How does Scale, type and distribution of the allocated sites conform to the London Plan etc?

2.1 As explained in our response on Matter 3 the proposed allocation is inconsistent with the overall Spatial Strategy of the Strategic Plan.

2.2 There is no mention in NPPF or London Plan about sites which are of importance for nature conservation being considered as being suitable locations for industrial or wider employment uses.

(3) How have social and transport requirements be taken into account?

2.3 The PWA has not seen any evidence which suggests that the Pinkham Way SINC is accessible and is an appropriate location to locate major trip generating development.

(8) Are the locations the most appropriate?

2.4 Our representations clearly demonstrate that the proposed allocation of Pinkham Way is not the most appropriate when considered against alternatives.

3. SA52 – Pinkham Way

(A) Is the purpose of the designation consistent with National Planning Policy Framework paragraph 22?

- 3.1 Paragraph 22 of the National Planning Policy Framework is clear that where there is no reasonable prospect of land allocated for employment uses in the Local Plan coming into use, such land should not be subject to long term protection.
- 3.2 The SA DPD does not provide any detailed justification as to the proposed employment allocation for the Pinkham Way SINC other than it has “the potential of employment land to meet long term economic needs of the borough”. To protect the site for employment purposes for the long term is the antithesis of national planning policy.
- 3.3 PWA considers the proposed allocation is not one which is not justified by need but as a necessity to protect the Pinkham Way SINC as an asset for the landowners.
- 3.4 The PWA wish to raise the following points:
- (a) How long does the Pinkham Way SINC need to be identified for employment uses?

The site has been vacant for over 60 years.

Over a period of circa 40 years a number of proposals have been considered for development including housing, industrial, warehousing and waste management. All but one were refused or withdrawn. The most recent application (2011) for waste use was withdrawn after two years without being validated¹⁰.

The main justification the council has given for including the Site in the SA DPD is that the owner of part [NLWA] has asked for it to be included in their response to the Call for Sites dated 10 May 2013¹¹. The NWLA has publicly stated that it has no immediate or medium term plans to develop the Site. The proposed site allocation is a result of the landowner simply wanting to protect a land asset for the future (whenever that may be). This is not sound planning.

(b) Viability

The proposed intention to allocate the site ‘for the long term’ is largely a result of the Council repeatedly being informed by a number of external and independent consultants that employment development on the Pinkham Way SINC is simply unviable.

In October 2014 GVA advised the Council that employment development alone on the site would be “undeliverable” because of cost.¹² PWA believes that this is the evidence that was concealed during the subsequent Reg 18 consultations and was only disclosed

¹⁰ Appendix 6 planning history

¹¹ Appendix 7 Letter to PWA from LBH para 6 line 5 “the council is confident ...”

¹² Appendix 8 Agreed minutes 11 Dec 2014 para 2 (drafted by LBH) para 2 line 7 “made such development undeliverable”

under an FoI request in May 2015¹³. The Council later attempted to underplay the importance of the GVA viability assessment and claimed that it had not influenced their review of the employment designation.¹⁴

Further viability comments by Arup for the landowner have been scrutinized and found to be flawed. See Section 3 of PWA's Regulation 19 Representations.¹⁵

PWA respectfully asks that the Inspector pays particular attention to the letter of 5 June 2015 from PWA to the Council, the Council's responses of 6 July 2015 and 21 September 2015 and the NLWA's comments on PWA Reps of 5 June 2015 produced by Arup.

(B) How does the allocation relate to strategic and development management policies and their supporting documents in terms of demonstrating that additional land is needed to meet the employment needs of the Borough?

- 3.5 The PWA are unclear as to how the proposed allocation relates to the associated Strategic Plan and Development Management DPD as there is a significant lack of justification which supports the allocation.
- 3.6 The Council's own evidence does not justify that Pinkham Way is required to deliver employment needs and the Council acknowledged during the last Local Plan examination that the removal of the site from the Employment Land vacancy reserves would not have a material effect on employment land supply. In other words, the allocation is a 'punt' at the behest of the landowners.
- 3.7 The Strategic Plan is the higher order plan in the Council's planning framework and the SA DPD should be prepared in accordance with the spatial aims and strategic priorities of that plan.
- 3.8 The Strategic plan strategy's main focus is for new housing and employment being in Haringey Heartlands and Tottenham. The Pinkham Way SINC does not fall within either of the key growth areas or fall within any part of the borough identified for significant change. Rather it falls within an area identified for 'limited change'. The Strategic Plan states "*Council envisages that development will be of an incremental nature and that it should not change the character of these areas*" (paragraph 3.1.46) and "*will ensure development ... will conserve....other important features and provide other environmental improvements and other benefits where appropriate*" (paragraph 3.1.47).
- 3.9 It is the PWA's submission that the allocation of a 5.95ha site which has been successfully blended into the landscape, and which has acknowledged conservation value, for employment development would be wholly contrary to the spatial strategy of the Strategic Plan. The allocation of the site for employment would also be contrary to a number of strategic policies in the Strategic Plan and Development Management Policies; namely:

¹³ GVA Viability Assessment – Pinkham Way October 2014

¹⁴ Appendix 7 Letter LBH to PWA dated 21 September 2015 page 1 para 3 opening line

¹⁵ Arup Comments on PWA reps to LBH SA DPD dated 5 June 2015 page 4 para 2.4

- SP7 relating to transport matters and seeks to locate major trip generating development in locations with good access to public transport. The Pinkham Way SINC does not enjoy direct access to the site – it is a circuitous route through one-way local slip roads with residential properties adjacent and via 4 sets of traffic lights and through a very busy B-road¹⁶. The average distance by road from the NCR to the Site is the equivalent of driving from Marble Arch to Hyde Park Corner.
- SP13 relating to open space and diversity including the importance of ‘green chains’ both for nature conservation and public access. The Pinkham Way SINC forms part of an ecological chain from Alexandra Palace through Rhodes Avenue Spinney, Albert Road recreation, Tunnel Gardens, Hollickwood Park and Bluebell Wood/Muswell Golf Course (both SINCs) and thence to Coppetts Wood and Glebelands Local Nature Reserve.
- Associated Biodiversity and Open Space targets as set out in SP13a-13d – all of which favour the protection of the Pinkham Way SINC as green open space, not as an employment site/allocation.
- DM20 (Open Space) – the PWA consider the Pinkham Way SINC is a verdant open space that is recognised as having conservation value

(C) Can it be demonstrated that the site can be developed without harm to diversity and nature conservation objectives?

- 3.10 The Pinkham Way SINC and its protection should be the primary objective for the Council. Future protection and proper management of the site is critical if its nature conservation value is to be sustained and enhanced.
- 3.11 Policy intention is a continuation of a long standing anomalous dual designation which is a significant outlier in policy terms and is unwarranted. Pinkham Way SINC is the only site within Greater London which has been under threat from development and one which has a dual ‘designation’. This is an unprecedented approach therefore requires a clear and special justification. No justification has ever been made nor has it been argued that the conservation value of the site is materially less than that of other Grade 1 SINC in Haringey such as to warrant a lower level of protection.
- 3.12 The development of the site is incompatible with the site’s importance for nature conservation and as open land. The assertion made that delivering built development could preserve, or indeed, enhance the site’s Grade 1 SINC status is made without foundation and is against the grain of numerous ecological studies undertaken on the Pinkham Way SINC which suggest that any development of the site will only result in significant irreversible harm to bio-diversity and nature conservation.
- 3.13 In July 2015, consultants Urban Vision (for the NLWP) advised Haringey Council and the other six North London participating boroughs that ‘although the area has previously been a sewage works, the remains of the permanent/fixed surface structures have seemingly blended into the landscape in the process of time, and, as such, it is unlikely

¹⁶ Appendix 2 – Access site constraints photo

to be considered previously developed land' and weighing the effects of possible development against sustainability objectives, they stated the following that built development could result in:

- the loss of a site that has potential to form part of the green infrastructure network; a significant number of trees and could have some impact on the local landscape and habitat
- an increase the proportion of the area that is covered by impermeable surfaces and therefore increase surface water runoff¹⁷
- the loss of Greenfield land

3.14 Natural England's response to the NLWP draws attention to the rare species noted in the PWA surveys. It concludes: 'Although the site itself is not an International, European or Nationally designated site, it does provide a very good example of a brownfield site which over decades of being left to be reclaimed by nature has formed a rich biodiverse mix of habitats, which would be a loss to Haringey as well as more widely to London itself if developed.'

3.15 In 2013, Denis Vickers, MCIEEM, prepared a Preliminary Ecological Appraisal of the site.¹⁸ Mr Vickers was previously Habitat Wildlife Manager for the London Wildlife Trust. The Appraisal confirmed the status as SINC Grade 1 Borough Importance, and was shared with Haringey shortly after completion. At a meeting with PWA in March 2014, Haringey confirmed that their consultant had reached the same conclusion. The assessment underlined the difficulty in re-creating habitats and the tree cover, and pointed out Pinkham Way's position as a green link. Development of any scale would seriously threaten if not break this link.

3.16 Over 18 months in 2014/15, Edward Milner, MIEEM, Recorder of Spiders for London, conducted an invertebrate survey on an area of rough grassland near the Orion Road entrance. Even in what he points out is a short period for such a survey, he found several rare species - the site is particularly rich in spiders - and commented: '*... it is clear that the site has considerable conservation value and should be protected*'¹⁹. He concluded by stating that "*it should be an urgent matter to conserve the site, as well as extending the survey area to include the northern bank.*"²⁰

3.17 Site access and egress via Atlas Road an Orion Road would require the destruction of the invertebrate survey area described above. The Council has stated that access must be via these existing slip roads. The boundary with the A406 has many mature trees with TPOs.

¹⁷ See also Halcrow - NLWP SFRA 2011 p 25, Table 4.1, Sequential Testing: '*PPS3 requires the preference to be to redevelop previously developed land before considering greenfield sites ... Whilst this is not a true greenfield site, redevelopment will have a similar effect in regard to runoff.*' (the adjoining A406 is Flood Zone 3b)

¹⁸ Appendix 5 Management Brief 2014 to 2019: Pinkham Way Borough Grade 1 Site of Importance for Nature Conservation

¹⁹ Preliminary Invertebrate survey 2014-15, Edward Milner, MIEEM p4 last para 1st sentence

²⁰ Preliminary Invertebrate survey 2014-15, Edward Milner, MIEEM p5 last sentence

- 3.18 It is clear to any observer that any form of major development would result in significant losses of woodland and other habitat vegetation that physical land-use development cannot be reconciled with the nature conservation value of the site as a Grade 1 SINC.

(D) Is it a deliverable site?

- 3.19 The PWA firmly believes that the Pinkham Way SINC is not a deliverable site for employment uses, or indeed any other built use. It currently fulfils a useful planning function as a SINC.
- 3.20 The SA DPD and its underlying evidence does not justify the allocation of the Pinkham Way SINC for employment uses in the short, medium or long term. On the contrary the evidence suggests that the site is an inappropriate one and no compelling evidence has been provided which demonstrates that it is needed for employment purposes, suitable for employment purposes, viable for employment purposes or that employment uses and can be successfully delivered whilst ensuring the Grade 1 SINC is maintained and /or enhanced.
- 3.21 The Council variously refers to the landowner's aspirations, beliefs, intentions and potential long term vision for development of the Site²¹ but nowhere is there a shred of evidence that the site is deliverable over the plan period and land-owner's aspirations beliefs and intentions are not a good basis for developing strategic planning policy. The planning history spanning over 40 years demonstrates that. The fact that the site is owned by two public authorities is irrelevant as to the suitability and deliverability of the site.

²¹ SA DPD Reg 22(1)(c)(v) Statement of Consultation (Pre Submission) pp 1182-3,1183 and 1190.

Appendix 1: Letter LBH to PWA



Date: 06/07/2015

Contact: Planning Policy Team

Direct dial: 020 8489 1479

Email: ldf@haringey.gov.uk

Dear Ms Ryan and Mr Brice

Pinkham Way and the Local Plan Regulation 18 Consultation

Thank you for your letter 'Disclosure of Local Plan Evidence – Pinkham Way' received by email on 5th June 2015.

We have now considered all the points you raise in the letter and all previous correspondence and evidence Pinkham Way Alliance (PWA) have submitted to the Council, as well as the representations received from all interested parties.

It is the Council's contention that the proposal to retain Pinkham Way for employment in the Regulation 18 consultation draft of the Local Plan was 'sound' and in accordance with the relevant tests set out in the National Planning Policy Framework. New employment development in Haringey (B use Class) is generally not viable anywhere in the borough, which is why this type of development does not attract a Community Infrastructure Levy Liability. Nevertheless, there is a need to protect existing employment sites in Haringey and this need has never been more important, particularly with the increasing pressure from high value generating uses. Job provision in Haringey is equally important in creating sustainable communities.

The employment land study prepared by Atkins in February 2015 suggests a conservative approach to any further release of employment sites and a lack of suitable B1 light industrial and B2 general industrial space in the borough. The Strategic Policies Local Plan adopted in 2013 includes specific employment policies for protecting employment sites. Removing a designated employment site prior to consulting on the Council's Regulation 18 consultation on the Local Plan would in our opinion have jeopardised the retention of all land currently in employment use across the borough.

In response to your concern regarding the viability of an employment use on Pinkham Way, it is true that there are risks to all new development in Haringey. Development viability is determined by how a scheme is delivered, for which there is a range of scenarios and mechanisms and until a detailed planning application is received, it is impossible to understand the type and form of employment use. There is a difference between viability testing to ensure the broad application of planning policies does not render development unviable at the borough-wide level and the viability appraisal of a detailed specific development proposal through the planning application process.. Borough-wide assessments are based on benchmark costs and values which may not fully reflect local variations across different parts of the borough. These assessments are never

carried out to test site specific viability; they represent a 'point in time' broad assessment of new development viability in Haringey to meet the policy aspirations of the Local Plan.

Using the results of a borough-wide assessment of viability to justify site specific viability alone is therefore insufficient. 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 is already owned partly by the North London Waste Authority for which the site could be used for owner occupier purposes which represents a different viability picture to those faced by a speculative developer. This is just one example of a scenario which would not have been taken into account in the borough-wide assessment of viability.

You have suggested that the work underestimates development costs. You refer to, as an example, the de-culverting cost. De-culverting is not a policy requirement but rather a consideration on a case by case basis. Any detailed proposals need to engage with the wider site circumstances including all the relevant policies of the Local Plan and consider issues that determined viability carefully.

The Council's position regarding the open space value of Pinkham Way was emailed to you on 5th June 2015 following a review of your evidence. I have attached a copy of this email to this letter. This email also confirms the Council's position on the evidence which Mr Brice wrote to the Council about on 1st July 2015. The only additional point to add is 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. The Open Space Study identified a primary deficiency in the east of the borough. Pinkham Way is not well placed to address this deficiency effectively.

Including Pinkham Way in the North London Waste Plan (NLWP) is not an expression of the Council's intention for the site. The Regulation 18 consultation on the NLWP is a reasonable statutory opportunity for testing the sites suitability for a waste use which is compatible with its current designated use and the use proposed by the Regulation 18 Site Allocations DPD. We will be seeking the views of all stakeholders including PWA and we will give full consideration to all the representations received. The Regulation 18 DPD confirms at present, despite the business case being made by the GLA/TFL for the possible extension of Crossrail Two to New Southgate and the possible decking of the A406, that **the site is not required to contribute towards meeting Haringey's revised housing target** but is required to meet employment needs. Waste management is not an inappropriate use of employment land and is not incompatible with a dual employment and SINC use.

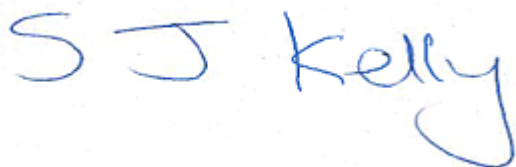
We do not believe there is any conflict of interest with Neil Goldberg representing Haringey on the Planning Officers Group of the North London Waste Plan Group and working on the Local Plan. All members of the planning policy team work with the supervision of senior officers in the Council on the development of all planning policy documents. Planning Policy is of course determined by the members, not the Council's officers. The Planning Members Group of the NLWP oversees the plan preparation process and is responsible for the recommendations made to borough cabinets/full council for approval where necessary.

Following on from your letter sent on the 5th June 2015, you submitted another letter to the Council on 1st July 2015 reiterating the concerns outlined above and raising concerns that a waste use designation imposes severe obstacles to alternative future uses and blights the site. I understand that PWA is maintaining the position that no development is appropriate for Pinkham Way. Until such a time that the proposals for development at New Southgate station are fully expressed and the outcome of the Regulation 18 consultation has been agreed by our

members, the proposal for Pinkham Way remains as designated in the adopted Local Plan. The Council can also confirm that there is no “deal” concerning future use for Pinkham Way. In response to separate correspondence, and as a result of the recent PWA release, our enquiries of LB Barnet have not suggested that there is any confirmed commitment for Barnet to relocate its Waste Transfer Station to the site.

For the reasons outlined above, the Council believes the inclusion of Pinkham Way in the Local Plan Regulation 18 consultation was ‘sound’. We continue to digest the Regulation 18 consultation responses and we will be in a position in the near future to advise members of our recommendations for the next iteration of the plan. The decision on the Regulation 19 document requires the approval of full Council. It is not a matter that officers can determine. This response does not pre-empt or prejudice any recommendation officers will be making to Cabinet on the Regulation 19 version of the Local Plan.

Yours sincerely

A handwritten signature in blue ink that reads "S J Kelly". The signature is written in a cursive, slightly slanted style.

Stephen Kelly
Assistant Director – Planning

CC Nick Walkley – Chief Executive
Bernie Ryan – Monitoring Officer
Cllr Ali Demirci – PH

Appendix 2: Access Constraints

ACCESS CONSTRAINTS - PINKHAM WAY

The average distance by road from the NCR to Pinkham Way site is the equivalent of driving from Marble Arch to Hyde Park Corner



View of Orion Road (right) and junction with B550 Colney Hatch Lane. All vehicles would need to use two local roads and one very busy B road to get to the site or leave it. There is no direct access to or from the NCR.

Vehicles leaving Pinkham Way site to go East along NCR need to exit Orion Road passing 2 sets of traffic lights, turn right onto very busy B550 passing another set of traffic lights and turn right onto Atlas Road passing another set of pedestrian traffic lights to access NCR going East.

Traffic coming from the East would exit NCR via Orion Road and access the B550 passing 2 sets of traffic lights, pass another set of traffic lights to turn on to Atlas Road to access Pinkham Way site.



Pinkham Way site is top right – Orion Road runs from Pinkham way to B550. Atlas Road runs from B550 to roundabout on retail park. Need to access Pinkham Way by using bridge from retail park to Pinkham Way

**Appendix 3: Village Green Independent
Assessors Report (redacted)**

**APPLICATION BY CHRISTOPHER FAULKNER TO REGISTER LAND
KNOWN AS "THE DUMP" N10 AS A TOWN OR VILLAGE GREEN**

INDEPENDENT ASSESSOR'S REPORT

Introduction

1. This is my report to the London Borough of Haringey in respect of an application to register land known as "the Dump" N10 as a town or village green.
2. I am a barrister in independent practice, with experience and expertise in the law of town and village greens. I have frequently advised registration authorities and have often acted as an Inspector or Independent Assessor, holding a public inquiry before making a report and recommending the registration authority whether to register a particular piece of land as a town or village green. Also I have advised applicants seeking to register land as town or village green and landowners and others seeking to oppose such registrations. For both groups of person, I have appeared as an advocate at public inquiries and in challenges to registration brought in the Courts.
3. In the present case, on 4 February 2013 I was asked by the London Borough of Haringey to act as an Independent Assessor in place of Mr Alun Alesbury, another barrister in independent practice with expertise in the law of town and village greens. The London Borough of Haringey is the public authority which has the duty under the Commons Act 2006 of maintaining the register of town and village greens in Haringey, and the authority to which the application was made. At the time I was instructed the dates of the public inquiry had already been fixed, following consultation with the principal parties: 4 – 8 March 2013.
4. Under section 15 (2) of the Commons Act 2006, land is registrable as a town or village green if:

a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and they continue to do so at the time of the application.
5. Accordingly there are five matters which an applicant has to show¹ if land is to be registered as a town or village green under this provision, namely use
 - by a significant number
 - of the inhabitants of a locality or neighbourhood within a locality;

¹ The burden of proof is on the applicant: see *R v Suffolk County Council, ex parte Steed* (1996) 75 P & CR (CA) per Pill LJ at p111. That the burden rests on the applicant is not a matter of dispute in the present case.

- as of right;
 - for a period of at least 20 years; and
 - that use continued until the date of the application.
6. *As of right* means that - in the time honoured Latin phrase - use must be *nec vi nec clam nec precario*. These words were translated by Lord Hoffmann in *R v Oxfordshire County Council, ex parte Sunningwell Parish Council*² as *not by force, not by stealth, nor the licence of the owner*³.
 7. Under section 15 (3) of the Commons Act 2006, land may also be registrable as a town or village green, despite the fact that qualifying use had ceased before the date of the application. Sub-section (3) provides that such land is registrable if the application is made within 2 years of the cessation of that use.
 8. The present case is in respect of an application made under section 15 (3). The application states that qualifying use ceased in July 2010.
 9. The applicant in the present case is Mr Christopher Faulkner of 119b Sydney Road, Muswell Hill, London N10 2ND. He has been represented since an early stage in the proceedings by Mr Chris Maile of the Campaign for Planning Sanity.
 10. The land which Mr Faulkner seeks to register as a town or village green was defined on a plan. It comprises the bulk of the site of the former Friern Barnet sewage works. This is land which - as the name that has been applied to it indicates - was subsequently used for tipping. I describe the site in more detail at paragraphs 48 - 50 below.
 11. The locality or neighbourhood relied upon was indicated on a plan. It was not perhaps clear what the Applicant's position was about this aspect of the application from the application form.
 12. The application was supported by 67 statements. These represented the completion by the people who made the statements of the following pre-printed form:

*I (please print name in full) of
(address)..... have been a resident of the Freehold
Community since ...*

*I declare that I used The Dump on a regular basis between and for
the following recreational pursuits (please list uses below):*

.....

² [2000] 1 AC 335.

³ See p350H. By licence is meant revocable licence: see *R (Beresford) v Sunderland City Council* [2004] 1 AC 889.

I further declare that, at no time, during my recreational use of The Dump, was I given permission to do so nor was my access ever presented by any obstruction or barrier. I never saw any sign or notice advising that I could not access or use The Dump and at no time did anyone ask me to leave or advise me not [to] enter the site.

I believe that I have always used The Dump as of right.

I have provided this statement willingly, to the best of my memory and in full support of The Dump being registered as a Village Green so that it may continue to provide a much needed and valuable open recreational space for the Freehold Community.

Signed..... Date.....

13. An application was received by the registration authority on 14 October 2011. It was not however validated under the regulations until 24 February 2012⁴. I was then publicised in accordance with the regulations (and, indeed more widely) and the following objections were received:

- received on 20 June 2012, by Ronald Boucher of Silvercliffe Gardens, New Barnet EN4 9QT
- dated 17 July 2012, by Transport for London
- dated 20 July 2012, by the London Borough of Barnet and the North London Waste Authority
- dated 20 July 2012, by the London Borough of Haringey in its capacity as local planning authority
- dated 23 July 2012, by Eversheds LLP on behalf of Network Rail Infrastructure Limited.

The registration authority also received several hundred e mails in support of the application.

14. The objections from Transport for London and Network Rail Infrastructure Limited related in each case to a parcel of land on the edge of the site owned by those bodies (a parcel on the west owned by Transport for London and a parcel on the east owned by Network Rail). Without objection, the Applicant has modified his application by deleting these two parcels of land and, in the light of these amendments, Transport for London and Network Rail Infrastructure Limited have withdrawn their objections.

⁴ See regulation 4 of the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007.

15. Before the inquiry began, I had to deal with a number of applications by Mr Maile on behalf of the applicant for rulings and I issued a number of directions in response to those applications. Copies of these directions are at Annex 1 to this Report.
16. The applications related to three matters:
 - an application for the postponement of the public inquiry because of Mr Faulkner's jury service
 - an application to amend the neighbourhood relied upon
 - an application to amend the date shown in the application form at which qualifying use ceased.

Application for postponement of the public inquiry because of Mr Faulkner's jury service

17. Although I accepted that Mr Faulkner's jury service may have made preparation for the inquiry more difficult than it otherwise would have been, he did have the assistance of Mr Maile. Accordingly, I rejected the first application for reasons more fully set out in the directions annexed to this Report. At the beginning of the public inquiry, Mr Maile did not renew his application that the beginning of the public inquiry should be adjourned. He did indicate that it might from time to time be necessary for him to seek short adjournments to take instructions from Mr Faulkner and, for my part, I indicated that I would not be unsympathetic to this should it prove necessary. In the event the inquiry ran smoothly and I think that Mr Maile would have had the opportunity to take the instructions that he needed during the ordinary adjournments that occurred in the course of the inquiry.

Application to amend the neighbourhood relied upon

18. As regards the neighbourhood and locality relied upon, as explained above, the application form defined the relevant locality or neighbourhood relied upon by reference to a map. In a letter dated 13 September 2012 to the Registration Authority, Mr Faulkner said:

It is clear from the comments of the various objectors that there is some confusion as to what I state is the locality neighbourhood. Indeed the wording of Part 6 of Form 44 could have been better formulated. Therefore for clarity I formally apply to amend Part 6 of Form 44 to reflect the following:

The localities are the Coppetts Electoral Ward of the London Borough of Barnet and the Alexandra Electoral Ward of the London Borough of Haringey. The neighbourhood within those localities that I am relying upon is that of the Freehold which for the avoidance of doubt is bounded by the following roads: - A 406 (Pinkham Way), Colney Hatch Lane and Goodwins

Vale together with the western and northern boundary of the Muswell Hill Golf Course and the boundary of the section of Network Rail land between the golf course boundary and the A406.

19. There was no objection to this amendment, and I permitted it to be made. The neighbourhood thus defined was helpfully drawn on a large scale map and that map was available to the parties at the inquiry and to the witnesses.
20. I can here note that it was not contended that Mr Faulkner could not rely upon the localities which he had identified and I do not refer to this matter further⁵.

Application to amend the application form by the substitution of 15 October 2009 for July 2010 in Part 4 of the application form

21. The third matter was more complicated. By my direction dated 23 February 2013, I had rejected Mr Maile's application to amend Part 4 of the application form as set out above before the beginning of the public inquiry. Mr Maile then renewed his application to amend the application form at the beginning of the public inquiry. I again rejected it for essentially the same reasons. I need in my Report to explain this decision, although my reasons will be apparent from my direction.
22. As explained above, the application is made under section 15 (3) of the Commons Act 2006. The date that Mr Faulkner entered in Part 4 of the Form as indicating the date on which he considered use as of right ended was July 2010.
23. In Part 7 of the Form, Mr Faulkner said

The land has been used by the inhabitants of the localities as described and set out in section 6 ... for a period of more than 20 years from 1988 to 1st July 2010 (and for many years prior to that period) ...

and

The Applicant and others will and do aver that they have used the land as a town or village green as of right without let or hindrance until July 2010 when a fence was erected which excluded public access to the land.

24. By a letter dated 13 September 2012, Mr Faulkner wrote to the Registration Authority as follows:

The Commons Act 2006 at section 15 allows for the back dating of an application for the registration of a town or village green by up to 2 years from the date of the submission of Form 44. I entered a date of July 2010 when the land first became a village green. This was clearly an error in

⁵ It is possible to rely upon a neighbourhood (singular) in localities (plural): see *Oxfordshire County Council v Oxford City Council* [2006] 2 AC 674 per Lord Hoffmann at paragraph 27.

calculating the dates as I did not fully understand the concept of the provision set out in section 15 (3) of the 2006 Act. Therefore, for clarity, I formally request that Part 4 of Form 44 should be amended to that of the full two year's concession to the 15 October 2009 and that consequently that date should be entered into Part 4 of Form 44.

In making this application I submit that there is no prejudice to any of the objectors, indeed this is clear from the words of Lord Hoffmann at paragraph 61 and others on the panel of judges in the House of Lord's decision in the Trap Grounds case. Therefore in my submission there are no grounds in law for the Registration Authority not to grant this application to amend Part 4 of Form 44 ...

25. In order to understand the application for the amendment, it is necessary first to appreciate that it was made on the basis that the application for registration was effectively made on 15 October 2011. On the back of this, Mr Maile then argued that the effect of section 15 (3) was that Mr Faulkner was able to take advantage of a "concession" made by the sub-section that an applicant had only to show qualifying use down to two years before the application i.e. 15 October 2009.
26. The Objectors' position was that the application was made on 24 February 2012. If this be correct, the effect of Mr Maile's amendment would have been to make it impossible for Mr Faulkner's claim to succeed because, on the face of the application, qualifying use would have ceased more than two years before the date of the application.
27. It seems to me that I cannot go behind the date on which the application was validated: I have to accept this as a given. If Mr Maile wanted to pursue the point that the application was in effect made earlier he would need to pursue that as a separate matter. But it seems to me that the date on which the application was received is likely to be a side issue. This is because I consider that Mr Maile has fundamentally misunderstood section 15 (3). It does not entitle an applicant to measure qualifying use down to a date two years before the application; rather if, as a matter of fact, **qualifying use has ceased** it enables an application to be made for a period of up to two years after the cessation.
28. It seemed to me that, first and foremost, the inquiry was concerned with what were the facts of the case. On the face of it, that use had ceased in July 2010. If the evidence showed it to have ceased at some other time, then that would be the occasion to consider the implications for the application – potentially giving the parties the opportunity to make further representations at that stage.
29. Accordingly I rejected the application to amend because it seemed to me that no proper basis for making it had been advanced at that stage.
30. In the event it will be seen from my report I have found that qualifying use ended in about June 2009: in short, that fencing was put up more than two years before the application. The effect of this is that the application must fail because the application post dates the cessation of qualifying use by more than two years. In the light of this,

it should be noted that if I had permitted Mr Maile's amendment (and if, also – in Mr Maile's favour - the date of the application were taken to be 15 October 2011), I would still have found that qualifying use had ceased more than two years before the date of the application.

Irrelevant matters

31. I should emphasise that I am not concerned with whether it would be a good idea that the application site be registered as a town or village green, so that it would be preserved for use by local people for informal recreational use; and not developed for any other purpose. I am aware that the North London Waste Authority do have proposals for a waste plant the site, and that those proposals are controversial. The merits of those proposals are irrelevant to the matters I have to decide; I am concerned solely to make an assessment of the historic use of the land in order to determine whether the requirements of section 15 have been met.

Procedure

32. I should also add that the decision as to whether the land should or should not be registered is not mine but remains that of the registration authority. I make a Report and recommendation to the registration authority; the registration authority could reject my recommendation if they had good reasons for doing so.
33. This is an appropriate place for me to set out the procedure which I suggest that the registration authority should adopt after receiving my Report. I consider that the Applicant and the Objectors ought to be given a reasonable period - say 21 days - to comment on my Report. If there is any matter of substance that arises, it will be appropriate for me to have the opportunity to comment on the comments by way of an Addendum Report. I would prepare this within 21 days of the expiry of the initial 21 day period. Thereafter the matter can be put before the appropriate committee, and a decision reached. The advantage of this procedure is that if there are legitimate concerns as to the correctness of any matter of substance in the Report, I will have the opportunity of considering them. This will, I hope, both ensure that the eventual decision is correct and also reduce the possibility of judicial review.

The inquiry

34. The inquiry was held on 4, 5, 6, 7 and 8 March 2013 at the Cypriot Community Centre, Earlham Grove, Wood Green, N22 5HJ. As I have indicated, the Applicant was represented by Mr Chris Maile. The London Borough of Barnet and the North London Waste Authority were represented by Miss Morag Ellis QC and Miss Clare Parry. The London Borough of Haringey as local planning authority did not appear.

35. The evidence was given on oath, in accordance with the directions for the inquiry given by Mr Alesbury⁶.
36. I held an evening session of the public inquiry on 5 March.
37. I carried out a site inspection, accompanied by the representatives of the parties on 22 March 2013. I walked around the area, unaccompanied by the representatives of the parties, on 29 May 2013.
38. In addition to Mr Maile's application to amend the application form two other preliminary matters were raised, one by Mr Stephen Brice on behalf of the Pinkham Way Alliance.

Submission by Mr Stephen Brice on behalf of the Pinkham Way Alliance

39. Mr Stephen Brice is Chairman of the Pinkham Way Alliance, a company limited by guarantee. The Alliance was formed after the disclosure of the plans of NLWA for development of the site and has around 3,500 supporters. It represents residents, residents' associations and businesses in Haringey, Barnet and Enfield and several of its supporters live in the Freehold and Redbrick Estates.
40. Mr Brice pointed out that in its capacity as registration authority, Haringey LBC had received a large number of representations by way of support by e mail. He considered that, following receipt of these representations, a data base of consultees should have been set up so that, in due course, these consultees would have received notification of the public inquiry.
41. Mr Brice wanted his objection "placed on the record"; he did not ask me take or recommend any action in the light of his concern. It may nonetheless perhaps be helpful for the registration authority if I do make some observations upon Mr Brice's comments.
42. There was extensive initial consultation, beyond what is required by the regulations and subsequently a web site was established on which the date of the public inquiry was posted. The Applicant and the Objectors with an interest in the site were fully involved in the process whereby directions were given for the inquiry. I would expect the village green inquiry to have been quite "high profile" in the area. As I have indicated, the North London Waste Authority has controversial proposals for development of the application site and the effect of registration of the land would be to frustrate those proposals. Moreover, the neighbourhood relied upon is quite a small one and I would expect the occurrence of the public inquiry to have been well known. In the circumstances, it does not seem to me likely that the failure of the registration authority to establish the data base suggested would have led to anyone (or at least,

⁶ I do not think that it is clear whether there is power to administer oaths in the context of a non-statutory public inquiry. Certainly there is no specific power to do so.

not any large number of people) who might have had relevant evidence and who wished to give that evidence not coming forward. I do accept that Dr Natelson was not aware of the inquiry until a very late stage, but he does not live in the neighbourhood. However, ultimately, the way the system works is for an applicant to take upon himself of obtaining sufficient evidence to support his application and there is no requirement for the public to receive notification of any public inquiry.

Submission by Mr Geoffrey Lever on behalf of Mr Stephen Brice (in a private capacity)

43. For the purposes of this submission I need to record that Mr Brice lives at ■ Churston Gardens N 11 2NJ.
44. Mr Lever submits that the London Borough of Haringey has no power to object in its capacity as planning authority because it lacks any sufficient interest to do so. In this regard he draws a contrast between the position of a local authority which he accepts might properly object if it were a landowner – and of course he did not object to the standing of the London Borough of Barnet in the present case. If he were wrong about this, he further submitted that in this particular case, the London Borough of Haringey had no power to object because the officer making the representations had no delegated power to do so.
45. On the first question, Miss Ellis referred me to Gadsden on *Commons and Greens* (2nd edition: 2012), pointing out that the learned author's view is that where under the regulations "pilot" registration authorities have a duty to refer applications in which they have an interest to the Planning Inspectorate, an example of such an interest might be where the registration authority (as planning authority) *has adopted a clear policy position about the development of the land, for example by allocating the land for development in a unitary development plan*. This suggests, she submitted, that a local planning authority do have standing to object to an application to register a town or village green.
46. If I postulate a local authority which both owns a site which is the subject of an application to register a town or village green and is also local planning authority in respect of that site, it seems to me that that authority may be just as opposed to registration wearing its planning authority "hat" as wearing its landowner "hat". Of course, the fact that registration would have an adverse effect on planning policies which it seeks to promote will be irrelevant to the issue of whether land should be registered as a town or village green; but that does not prevent the local planning authority presenting factual material which bears upon the use of the land. It seems to me that this is essentially what the London Borough of Haringey in its capacity as planning authority have sought to do in the present case and the factual material which they wished to present is before me. I should emphasise however that it derives no special status by virtue of being presented by the local planning authority. I note that the London Borough of Haringey as local planning authority did not seek to participate at the public inquiry.

47. In the light of the observation made at the conclusion of paragraph 46 above, I do not think that I am concerned with Mr Lever's more particular challenge. It seems to me that "the genie is out of the bottle", so speak; and the factual material is before me. I cannot pretend that it does not exist and I cannot think that be any rule of public policy which would require me not to look at the material if (as to which I express no view), the officer had no power to make those representations on behalf of the planning authority. If Mr Brice wishes to pursue the matter further, he should do via representations to the London of Haringey as local planning authority.⁷

The application site

48. The application site is about 17 acres in size. It comprises the site of the former Friern Barnet Sewage Works, land which was subsequently used as a tip. It is bounded to the south by the course of the Muswell Hill Golf Course, to the east by the mainline railway from King's Cross to the North, to the north by the North Circular Road, and to the west by a group of five blocks of flats fronting on to Alexandra Road and by the Freehold Community Centre. There is a short section of the western part of the site that fronts directly on to the pavement of the northern end of Alexandra Road.
49. The site is extensively overgrown with trees and shrubs although there are paths through and some open areas. There are the remains of various concrete tanks and similar structures surviving from the former sewage works still visible. Of the tip, most notably were visible dumped concrete lamp standards. There were also visible the remains of a number of burned out cars. I saw the site in February after there had been chemical treatment in respect of Hogweed growth.
50. The London Borough of Barnet helpfully produced a plan which showed the site and the various different sections of fencing (with dates) with which it has been surrounded. It is Annex 2 to this Report. Different letters of the alphabet identify various points on the perimeter of the site, and the witnesses referred to this plan in giving evidence. This plan was not a controversial document, although the extent of the fencing that was in place at any one time was controversial. There are two gates in the section O and N, and a gated vehicular access on the roundabout between B and C. At the time of my visit the site was fenced and the gates all padlocked. There were signs of former gaps in the fence to the golf course which had been repaired; and of gap between point J and K, which had been repaired. There was not a gate between point J and K.

⁷ In the event, the factual material provided background information, which does not require separate notice in this Report. The arguments presented were similar to those of the London Borough of Barnet and the North London Waste Authority and are not separately addressed.

Documentary evidence

51. There was a wealth of documentary evidence which was placed before the public inquiry. To some of it, witnesses spoke and it will accordingly be noticed in my record of the oral evidence. However much of the material speaks for itself and is not intrinsically controversial, although some of the conclusions to be drawn from it may be. I set out relevant matters from this material in this section of my Report.
52. There is an aerial photograph which dates from 1962. This shows the sewage works when they were still in operation or, at any rate, at a time when its infrastructure was still intact. Behind the Alexandra Road flats and in the south-east corner of what is now Hollickwood Park there is a rectangular open area. This corresponds to an area identified for allotments on various historic plans that were before the inquiry but does not appear to be being used as allotments. Perhaps this was former allotment land at this time⁸.
53. There is an aerial photograph which dates from 1971. This shows the situation after the sewage works had closed and the infrastructure largely removed. Behind the Alexandra Road flats and in the south-east corner of what is now Hollickwood Park is now seen an open area which is square shaped.
54. It seems clear what this area was.
55. In 1964 Friern Barnet UDC granted itself planning permission for housing development on the site of a former recreation ground in Cromwell Road. (Cromwell Road is in the northern part of the neighbourhood, to the east side of Colney Hatch Lane). This proceeded on the basis that in its place the Friern South Playing Field should be provided. I do not know where the Friern South Playing Field was but it evidently was not on the east side of Colney Hatch Lane. This is because local people objected to the development on the basis that there should be provision on east side of Colney Hatch Lane, and the Barnet LBC agreed that there should be such provision. Accordingly they agreed to the development of half an acre of the former sewage works site ("to the rear of housing site No 4 in Alexandra Road") as a play space at an estimated cost of £550. In my papers I do not have a complete "paper trail" of all the relevant documentation, and the last minute that I have (of the Parks Committee dated 13 October 1964) the Parks Committee appears to be putting the proposal "on hold". This led the Controller of Legal Services of Barnet LBC to say in a report dated 6 May 1998 that he could not substantiate the claim by local residents made in 1998 that this area of land had been laid out. It seems to me that the aerial photograph shows that it was, a matter which was corroborated by the oral evidence before me of Lee Dray and Linda Dray.

⁸ Mrs Hopkins's Statement suggests this: see paragraph 154 below.

56. There is an aerial photograph which dates from 1981. This seems to show this open area considerably extended, both northwards and eastwards. Nothing in the oral evidence before me referred to this, and there is nothing in the documents that refers to it either, save that the minute of 13 October 1964 referred to the possibility of increasing the half acre area "at some time in the future". It may be that this is what happened.
57. In 1998 the London Borough of Barnet applied to the London Borough of Haringey for planning permission for housing development on part of the site. There were a number of objections by local residents and, in particular, by a body called the Freehold and Hollickwood Residents' Campaign; latterly the Freehold and Hollickwood Residents' Protection Committee. It sounds to me like an ad hoc group which had come into existence to oppose the development⁹. They took the point that the development would involve the loss of part of the park in circumstances where according to them Barnet LBC were under an unfulfilled obligation to provide open space. Their account was as follows. Open space had indeed been provided in accordance with what was envisaged in 1964. However Hollickwood Park had been created by the Department of Transport in compensation for land taken for road widening and improvement schemes elsewhere in the Borough. That Park had incorporated the pre-existing open space provided in 1964. Accordingly after the development of Hollickwood Park, the local community were "owed" the land which had been incorporated into the Park.
58. I am not called upon to express any view as to the merits of this argument. It is relevant however to understand that this what local residents were saying in 1998 because it gives the context for a number of other comments which they made in 1998, which are relevant to the factual position obtaining at that time.
59. In a letter dated 12 November 1998, the Freehold and Hollickwood Residents' Protection Committee said this:
60. Rights of public access to remainder of site

One must also question whether the manner in which this was all dealt with by the UDC allows the community to claim greater rights of access in terms either of public footpaths or, indeed, the law relating to common land. As the fencing surrounding the earlier play area during the mid-sixties was allowed to deteriorate, the whole of the area became available to and was used by local residents. It is also noted that in the map attached to this letter, a greater area than one half acre was formerly taken up with allotments.

⁹ The Committee in August 1998 included K Arden, M Bartlett, V Cunin-Tischler, L Dray, J Duval, J Hardy, J Harries, L Leahy and H Siverns.

At the very least the park should provide gates for access onto the well established pathways that cross the remainder of the site. Even the one gate that does exist, on the northern margin of the park near the entrance has become blocked with landfill from the roundabout. This matter should be remedied as a matter of course.

61. There thus appears to be evidence that one of the gates between O and N provided access to the application site, albeit it was obstructed at this time.
62. There are aerial photographs dating from 1991, 2003, 2006, 2008 and 2010 which show circular tracks on the application site. They all also show a site with extensive areas of trees, shrubs and vegetation.
63. I shall refer to documentary evidence about the area known as the Freehold that was before the public inquiry when I come to discuss the arguments about the existence or otherwise of an appropriate neighbourhood.

Evidence on behalf of the Applicant

Oral evidence

64. Lee DRAY lives at [REDACTED] Alexandra Road N10. Before he lived there he lived at [REDACTED] Alexandra Road. He was born in 1986 so is now aged 27. He attended Hollickwood School between 1990 and 1997.
65. He knew from his family talking about it that he lived in the Freehold.
66. When he was younger he went on several day trips organised by the Freehold Community Association, of which Mr Faulkner is a member. They went to Chessington, for example. There was a youth club run in the Community Centre which Mr Dray used to attend. Events were held in the Centre for the local area.
67. Mr Dray remembered a number of small businesses that used to be within the area but have now left. He instanced the laundrette on the corner of Pembroke Road, the shoe factory that was turned into flats, the premises of a coach operator (Andrew West?) who used to run their holidays. There was another pub, the Royal Oak, which has been turned into flats and there was a bus garage which has closed.
68. Mr Dray began by saying that he had lived on Alexandra Road all his life and that if you lived in Alexandra Road or in the Freehold then you knew about the land - "the Dump" - because that was where everyone would go to play and to hang around - family and friends. Friends from Hollickwood School and friends who were not from the Freehold would use it: *we used to all meet up over there.*
69. Mr Dray said that he began using the dump when he was about 3 years old with his Dad, who used to take him over there to ride his motor bike. This was in the flat land immediately behind the Alexandra Road flats. (One can see this land in one of the

photographs produced by the Applicant, although the boy on the motorbike is not Mr Dray). When family would come round, they would play run outs. (By "run out" Mr Dray meant a game of tag between two teams). He played on it with his school friends: Sarah, Claire, Joseph, Craig and Dean. They all lived in the Freehold.

70. He had had a dog throughout his life. The longest he had not had a dog was about a year. In the spring of 2009 he would be taking his dog on to the site at the weekends. Point O was overgrown by that time and he would access the site via the gate in the fence between O and N or by a hole in the park fence. When he walked the dog, he based his walk upon the paths. He did not use the paths all the time. If his dogs ran across the field, he would leave the path to retrieve them. His walk would be based on the path.
71. There was a tent on one occasion between E and F - about half way along. Mr Dray would have been aged about 11. He didn't know who it was - it was a homeless person, and wasn't pleasant at all.
72. Before the park was built there was a concrete slatted fence running to the back of the flats on Alexandra Road
73. In many places the fence was broken; one could walk from the estate on to the land.
74. Also there was an alleyway to the south of the flats. This now runs into the Park but which before the Park was laid out provided free access into land. After the Park was laid out, this access via the alleyway was blocked off, but it was then possible to go down the alleyway on to the golf course through a gap in the fence and get on to the golf course between holes in the golf course fence between I and F.
75. Also the golf course fence had holes in it.
76. The Park was laid out in 1994. A fence was built around the park. In Mr Dray's view, the purpose of this fence was to keep people in the Park not to keep them out of the land.
77. Over the years holes were made in the Park fence which allowed access.
78. There was one access hole next to the pond. One the aerial photograph Mr Dray thought that he could see a desire line going to the hole. There was a clear path to it through the bushes. It was a hole in the fence which someone had made. There were two struts missing. Mr Dray couldn't help with the date at which they went missing.
79. There were two holes at the return and where the Park fence joined the golf course fence there was a gap there.
80. There were two gates at the entranceway to the Park alongside the Freehold Community Centre - between O and N. These were unlocked for long periods of time. Mr Dray was not sure when these gates were locked.

81. The Retail Park to the North of the North Circular Road was built in about 1998. The accesses that Mr Dray described as being there from the Park remained. There was no fence around the roundabout until 2000. This allowed access straight on to the land.
82. A to O shows the original iron fence to the sewage works.
83. After the retail park was constructed there was a large gap at O.
84. The green palisade fencing has now filled this gap.
85. The last time Mr Dray was able to get on to the land was in June or July 2010. It was in the summer holidays. He remembered going on to the land with his younger brother. It was in 2010 to the best of his knowledge. He had accessed the site via the first gate as you enter the park between O and N. As far as he was aware that gate was open. There was a padlock on it, but it was never locked properly.
86. Between D and E there was a fence on the North Circular Road which was old and broken down in many places.
87. There were a number of holes in the fence to the land. This was always the position until the green palisade fence was put up.
88. There are several abandoned cars near the roundabout. There are several abandoned cars between the golf course and the park and also where the old sewage pits are. These would have accessed the site from the roundabout. These cars only came on to the land after 1998 when the retail park was built. People set fire to the cars.
89. Mr Dray said that he had used all the site. He had used the top part of the site near the golf course for run outs. (By "run out" Mr Dray meant a game of tag between two teams). If he was going to play hide and seek he would go to the back of the dump, where there were more trees. He played hide and seek from the age of six to about 14 - he had grown out of it by the time he was 14.
90. There was a "scary" area near the sewage works and near the railway land and the North Circular Road. He didn't go there when he was young. He would only venture up to the North Circular Road if there were a group of them because it was scary to them.
91. They took bottles from the site, near H. Other people dug them up, and they took them. He had a box of bottles from the site at home.
92. There were newts alongside the North Circular Road between D and E. His mother had gone over there in the 1970s and he had gone over there with his mother when he was still at Hollickwood School, sometime in the 1990s. He had since gone down there loads of times with other people, although he wouldn't go unless there were about 10 of them.

93. He used the site between the ages of 11 to 16.
94. Other people would play games on the land. There would be two teams - one from Mr Dray's area and one from the Redbrick Estate (an area to the north of the North Circular Road). Sometimes there would be 20 or 30 people and sometimes 10. The numbers would be higher in the summer. The majority of people - 60% or 70% - would have been from his area. Mr Dray's cousins from Barnet came down and played with them.
95. There would be adults there walking their dogs. There was someone who collected golf balls from the golf course. There were people collecting flowers. There were people watching their children play. There were people riding the motor bikes round the tracks on the site from the roundabout.
96. They were never approached and told that they could not use the land or asked to leave, although police officers did check that the bikes were not stolen. They never saw a Council official (except perhaps for the men in white coats).
97. People also rode pushbikes - 3 or 4 people or 5 or 6 sometimes. They used the area near the golf course - where there are some humps and bumps.
98. There was fly tipping around the roundabout. This was where there was the easiest access.
99. Chris Faulkner is a member of the Community Association. Mr Dray went on several day trips organised by them. There was a youth club run in the Community Centre which Mr Dray used to attend. Events were held in the Centre for the local area.
100. Mr Dray never used the land for train spotting and he cannot say for certain that he saw people train spotting.
101. There was a fence erected around the sewage pits.
102. The vegetation a few years ago was not as big as it is now. Since then the trees have grown and the vegetation has taken off. There are bluebells scattered across the land.
103. Mr Dray agreed that the details of the fencing shown on Annex 2 were accurate both as to where the fencing was and as to when it was erected.
104. Mr Dray regarded the Freehold as being the area from Pembroke Road and running along Colney Hatch Lane; he said that he was not too familiar with what happened to its boundary after that. He derived what he regarded as the Freehold from local knowledge. He knew that he lived within the Freehold but he was not sure where he would put the boundaries.
105. In answer to my questions, Mr Dray said that he didn't recall the fencing being erected in 2009 - at that time he wasn't using the site so often. He did however

remember the occasion in 2010 when he accessed the site via the gate. On this occasion the padlock was just hanging on the gate with the claw open. The gate had been open when he approached it. He had expected the gate to be open because it had always been open. He had accessed the site several times through the gate with the claw like this. He agreed that with the padlock like this anyone could at any time have removed the padlock. They had not however done so.

106. **Kim MASON** has lived at **11** **Pembroke Road** since February 1988. She moved there from **Alexandra Park Road** where she had lived since 1982.
107. She remembered going to a summer fayre at the **Freehold Community Centre** in 1991 with her youngest daughter (then a baby) and her mother (who was staying to help with the baby). She was intrigued by the name and, having always been interested in local history she went to the library and found detailed information about the history of the area. This included an explanation of the name "Freehold". There had been events at the Centre since 1991 such as jumble sales and quiz nights; and the kids used to go to clubs there, such as ballet.
108. She identified the boundaries of the **Freehold Area** as being **Colney Hatch Lane**, **Alexandra Park Road**, the railway line and the **North Circular**. She would include people living in the estate at the bottom of **Colney Hatch Lane** in **George Crescent**.
109. **Mrs Mason** said that the area had changed a lot in the years that she had been there. However she said that it still retained a very strong sense of community and that people banded together to protect the few resources which they still had. She was involved in campaigns to prevent development on what is known locally as **Skate Attack field** in the 1990s and 2000s and the successful campaign in 2007 to save **Hollickwood School** from being closed and the land sold off. However the area has lost many local businesses and landmarks. The shoe factory in **Sydney Road** has closed as has the betting shop and **Royal Oak pub** just a few doors up. When **Grosvenor Road** was gated it was effectively closed off, and all the local businesses there eventually shut down, as there was no passing trade. She remembered using the launderette on the corner of **Cromwell Road** in the 1990s, but now all but one of the shops in **Cromwell Road** have closed. There used to be a corner shop on the corner of **Pembroke Road** and **Hampden Road** which was thriving when she first moved to the area but when **Tesco** opened business dropped off and the shop was converted into a private house in the early 2000s. The bus garage on **Hampden Road** closed down, again to be developed for housing.
110. She could not remember the **Park** opening and could not say that she remembered the time before the **Park** opened.
111. **Mrs Mason** started using the **Dump** in around 1993. It was a good place to walk her dog as he had a tendency to fight. He was nervy and sensitive to loud noises - she remembered that once when her husband had been walking him in the **Park** he was

startled by the noise of a motorbike on the Dump and made his own way home. There were few other people over there at the times that she went on to the site - she chose times when there weren't other people about - but she did know that other people used the site. She didn't keep her dog on a lead. There were clear paths through and Mrs Mason agreed that, because the paths were worn it was possible to surmise that most people walked on the paths. She used the site regularly to walk the dog - at least once a week and also to look at the birds and plants there. She remembered the apple trees in blossom in the spring and the abundance of wild flowers, including wild roses in the trees. These were along the paths but also in the large open area near the golf course. She said that people used to pick apples from the trees but she never did because she knew the land had been a sewage works previously.

112. Mrs Mason also used the site as a place for quiet reflection. She vividly remembered going over there on the weekend after her husband had died suddenly from a heart attack. The date was 7 April 2002 because he had died on Easter Sunday, the week before. She went over to site on that day at the same time that he had died because she wanted to be alone and reflective. She sat at the far side near the railway line - there was a large block of concrete in a clearing where she sat. In that year she went on to the site very often for the solitude, and she would leave a stone on the concrete block to show that she had been there. After her husband died she would go over to the site 2 or 3 times a week for 2 or 3 months; then weekly. She didn't see other people because she tucked herself away, wanting to be quiet and reflective.
113. Mrs Mason's daughter was friends with Sarah Faulkner of Crown Road and Claire Creed of Sydney Road and they used to go regularly to play with friends on the land. Her daughter tells her that she went on to the land between 1997 - 2000 with her friends from primary school (these being the years she was at primary school). Her daughter recalls finding a marble over there when she was at primary school, which she described as a treasure.
114. Her children were born in 1987 and 1991 and went on to the site unaccompanied by their mother. She would not have been pleased to know that they were going over there on their own, and would have preferred it if they had asked her first, because they were vulnerable.
115. Mrs Mason is a keen photographer and took a series of photos in March 2011, which she called "Urban Wasteland". These focused on rusting cars and the beauty of the plants and trees around them. She had got in through a hole in the fence near K, where the metal palisades had been removed. She had taken another series of photographs before December 2005. At that time there were at least 13 abandoned and rusting cars over there. They were all over the site but especially in the wooded area towards the railway line and on the side near the golf course between H and I. As regards the position as regards K, Mrs Mason told the inquiry that the Council had mended the

fence last Friday morning and on Sunday there had been a hole in it. She agreed that "there had been a bit of a campaign going on".

116. Mrs Mason went on to the land through the park. There may have been a rudimentary fence there, but she said that everyone knew how to get on to the land. She at also accessed the land through the side gate near N. It was also easy to access the land from the Orion Road side since there wasn't a fence there; and then when one was erected there were many broken sections which were easy to get through. Mrs Mason remembers walking over there with the dog and coming out by the Orion Road roundabout. There wasn't a fence there at the time. She slipped down the slope and badly twisted her ankle, so that that she had to hobble home. She dated this as between 2003 and 2004 - it would have been before December 2005 when that dog died. On this occasion she had got on to the site at B - i.e. she left the site at the same point at which she entered it. She had probably accessed the site at this point at that time because it was the easiest way to get in, and Mrs Mason accepted that this indicated that the park fence did not at that time have a hole in it. The gate between O and N may have been overgrown and thus it may not have been possible to get on to the site at that point. She remembered that at O there was originally black fencing; she did not remember a time when it wasn't fenced at all. As regards O, this was very overgrown and she did not think that there was a gap there in 2003 - 2004. By the roundabout at B, it wasn't overgrown; the slope was about half as high as the witness table. After 2005 there would have been gaps in the park fence. Mrs Mason didn't think that she used the gate between O and N after 2005. This was because the dog that had to be separate from other dogs died in 2005 and she had less reason to go on to the site; she could walk her dog in the Park. However there were occasions - say, every couple of months - when she did go on to the site, which she did through a hole or holes in the fence. Mrs Mason agreed that since 2009 she had only gone on to the land through a hole in the fence at K. She had not gone through the gates between O and N after May 2009. She said that she hadn't been on to the site at all since 2011 i.e. when the "Private" signs went up.
117. Linda DRAY lives at [REDACTED] Alexandra Road, N10 2EY which is one of the flats between Alexandra Road and Hollickwood Park.
118. Mrs Dray was born in 1969 and lived at [REDACTED] Alexandra Road with her parents and brothers and sisters. She moved to [REDACTED] Alexandra Road in 1987 and to her present address in 1994.
119. Her parents were on the Committee of the Freehold and they used to go on summer coach trips to the seaside. This was before there was a community centre. She didn't know how the coach trips were organised - latterly they had been organised from the Community Centre. There used to be a youth club and they had football tournaments which raised money for day trips. It was mainly Freehold people who went on the coach trips but they did have families from outside.

120. She went to Hollickwood School from 1972 to 1979, and her brothers and sisters went there also.
121. She said that lots had changed in the Freehold during her time living there. There was no open space really now - the Field on Cromwell Road that used to have play equipment for children has gone. The Hampden road corner shop has gone. The ice cream shop has gone. The bus garage has gone.
122. She said that she and her family used to go over to a field on the Dump where the Park is now, accessing it through the garages at the back of the flats. There was originally a fence round it but over time it gradually disintegrated or fell down. They used the lorries coming up and down and they would make camps and hide.
123. In 1989, Mrs Dray was 30 years old [thus in the text]. Lee and Adam were born by then and their father used to take them over to the site on their motorbikes. They got taught how to ride a motor bike over there. Mrs Dray did also. They would go over to the site looking for wild animals, in particular foxes. A lot of children would go over there and hide or play run outs - Sarah, Claire, Adam, Lee, Joe, Ryan and Stephen and Darren Roche, and Shane Roche too when he got older.
124. On her son Adam's birthday one year, they all went over there. Mrs Dray remembered that, just before the Park was built, she was able to stand in the garden and call and her children would hear - beyond where the park is now, there was a mound and they would play on their BMXs over there.
125. When there was an eclipse of the moon they went over there with the telescope to get away from the houses. (When about ten years ago there was an eclipse of the sun lots of people watched it, but this was more up towards the Dump, in the Park. Sarah was there because Patsy came to get her. They were then at school aged about 14 or 15).
126. They started going over there because there wasn't anything else to do. She said that it was a little treasure hunt for them over there, using all the rubbish to build their camps.
127. They would access the site by the garages at the back of the flats. This was open and it was possible to walk straight on to site. Alternatively they got on to the land through the broken down fences; or down the bottom by the Community Centre. When Orion Road was built, there was no fence, you just walked over the humps on to the site. There was a wooden fence there but it kept getting knocked down and dump rubbish there. It was made of plywood or something, but there was still a gap. The gypsies got over there for a while. Mrs Dray thought that this happened when Lee and Adam were still at school. It used to be possible to enter the site through the gate between O and N. Right next to O there was no fence but a mound of mud which got overgrown.

128. There were newt ponds down the bottom - that's where they used to drive the sewage vans via the dirt road. There used to be frogs and newts where the sludge beds were. Mrs Dray went over there when she was a child and had taken the children over there a couple of times. The top bit of the site was where the Barnet vans would dump the rubbish and the tractor would push it all up in a big pile. Mrs Dray remembered a big hollow tree at the back by the railway lines.
129. She had gone over to the land last summer (2012) with Paris and Bobby and the dogs through a hole in the fence at K. The dogs had a good run around and the children looked if they could see foxes or anything but they only went in a little way. Mrs Dray considered that it never used to be as wild as it is now and that there used to be more pathways.
130. Laurence HARDY operates the tattoo studio at [REDACTED], Sydney Road N10 2NL. He has done this for over 30 years. He used to live over the business but 5 years ago he moved to Colney Hatch Lane – to a house north of the North Circular Road. He was born in 1958 and has lived in the area ever since.
131. He had seen many changes in the Freehold neighbourhood over the years. In Sydney Road they had lost the Burnham's Ice cream Factory and Shop (a famous local enterprise), a handbag and shoe factory in Roman Road, the bookmakers, the bus garage and the Royal Oak pub, for so long a hub for the local community, the Alexandra Arms pub and the laundrette in Cromwell Road. The vibrant and diverse parade of shops in Weatherill Road closed when road closures were implemented. Britain's first film studios were in Pembroke Road and they used a pub in Alexandra Road in a short film. That pub suffered a direct hit in the Second World War. Mr Hardy derived these facts from his late neighbour, Mr Fred Hetherington, a mine of information and "of a long standing Freehold family". Mr Hardy did not think the properties fronting on to the west side of Colney Hatch Lane were part of the Freehold, nor the roads off the west side of Colney Hatch Lane such as George Crescent, Albion Avenue or Halliwick Road.
132. Mr Hardy had used the land known as the Dump since 1979. He used to walk his dogs over there. His daughter had attended Hollickwood School from 1993 and they would walk their dogs on the land. Mr Hardy's daughter was born in 1989 and she lived with Mr Hardy until she was 15. However Mr Hardy continued walking his dogs on the land thereafter on a daily basis. The application site had always been popular with dog walkers. His next door neighbours Mr James and Mrs May Walker used to walk their dogs over there each day. Mr Hardy sent many an evening fox watching on the site and said that it was also an ideal place to watch birds, including green and spotted woodpeckers. Along the boundary with the golf course there is part of an old dump where it is possible to dig for old bottles. He still has a collection of these. Many people used the land for blackberry picking. People used the land for mountain biking and for trials biking. Many local people used the land for ornithology, dog walking

and walking in general. Many local children used it – it was a great play area. It was possible to access the land via the accessway which now provides access to the southern part of Hollickwood Park. Even after Hollickwood Park was laid out in 1994, access could still be gained by two separate gates from the Park, and these were not padlocked until recently. He had stopped using the site when a padlock was put on the gate and signs were put up. Mr Hardy believed this to have been in 2010.

133. Before Hollickwood Park was laid out there was no restriction to access on to the site – access was by an alleyway from Alexandra Road. After the Park was built there was a gate at J or K in the park fence through which it was possible to walk. This wasn't locked. When it was put to Mr Hardy that there had never been a gate in this section of fence, he accepted that he might have become confused. He thought that access at the gates between O and N had stopped at the time that signs had gone up. He had used a gate between O and N. He couldn't remember precisely when the green palisade fencing had been erected or when the gates between O and N had been padlocked. He thought that it was more or less at the same time as notices were put up.
134. **Christopher DORE** lives at [REDACTED] Sydney Road, N10 2RN and has done so since May 1976.
135. Mr Dore stated that in the late 1970s or early 1980s he became a member of the Freehold Residents' Association. In conjunction with the London Borough of Barnet, this body sought to improve the area and the lives of the people living within it. Two local councillors were also involved, namely Cllr Phil Williams and Cllr Mike Harris. During Mr Dore's time with the FRA, a plan emerged from the London Borough of Barnet to build up to four community centres within the Borough. These were to be offered to communities which put up a strong case to the proposing committee. Mr Dore was able to secure funding for a centre on the edge of the old sewage works. The activities of FRA extended to the west side of Colney Hatch Lane and he believed that there were one or two members of the Committee who lived on the west side of Colney Hatch Lane. Mr Dore did not know what the conditions of membership for the FRA were; he thought that it no longer existed. He considered that the neighbourhood as defined by Mr Faulkner was correct although he was unsure about the area west of Colney Hatch Lane and about George Crescent. He did not think that the church of St Peter le Poer was part of the Freehold.
136. When Mr Dore moved to Sydney Road he did not immediately use the application site, which he was aware of as a disused area. He had two sons, one born in 1981 and one in 1983. From about 1986, when his elder son was 5, he did use the area which became a place of recreation for him and his two boys. They would explore and enjoy the quiet of the area, Mr Dore encouraging his sons to appreciate the wildlife, particularly the birds and the butterflies. They also found the burned out cars interesting.

137. At one time, Mr Dore's elder son became obsessed with locomotives and *an often and familiar cry was heard "Dad, can we go and look at the trains"*. Mr Dore recalls that it was poignant because his family often used the line that ran on the eastern part of the site, on their way to see grandparents in Edinburgh. Mr Dore recalled that in the late 1980s a boy was killed having trespassed on to the railway lines from the sewage works site.
138. The family also acquired a dog at this time and many hours were spent walking the dog on the site, particularly in the spring and summer when the ornithological activity was at its height. Mr Dore remembered that his friend Edward, who lived in Pembroke Road, would spend a lot of time observing the various species. At this point Mr Dore would be using the site frequently – perhaps fortnightly, typically on a Sunday afternoon. After Hollickwood Park was laid out they used the application site less frequently because there were a mix of recreational facilities in the Park: the focus of the boys' recreational activity was on the Park. He considered that they stopped using the application site in the late 1990s, although they carried on walking the dog there until 2001, when he started to "lose his legs".
139. They were able to access the land from several points. Old railings were easily bypassed because of their age and condition; there was easy access from the pavement alongside the North Circular Road; and when the Park was established and a fence put around it, there was a gate added so that anyone could gain access to the area. In 1986 there was access between points J and I and there was no fence between D and E, so that there was easy access from the North Circular Road. There was also access from Alexandra Road near Point O. After 1994 when Hollickwood Park was laid out, it was possible to access the site by the gate between O and N. Mr Dore could only recall one gate in that section of fence. Asked about what happened after the 2009 round of fencing, Mr Dore said that access was very limited from that point on. At this point he was not frequenting the application site very much. He remembered walking along the North Circular and seeing it fenced but at that point he was not needing access at all.
140. Only occasionally or sporadically would Mr Dore see other people on the site.
141. On a sunny autumn afternoon – 24 October 2012 – Mr Dore decided to re-visit the site, as he hadn't been there for some time. He entered through a gap in the park fence at about K. Some railings were swinging on one bolt. There was no-one there except him. There had been a great deal of growth. The trees looked very beautiful.
142. Rose BOYCE has lived at [redacted], Sydney Road N10 2LR since October 1984. Her husband's family had lived there since 1957, moving to [redacted], Alexandra Road when he husband, Fred Boyce, was aged 9. The family moved to [redacted], Sydney Road when the new houses were built in the 1970s. Her mother-in-law still lives there. Fred Boyce attended Hollickwood School between 1957 and 1959; his brother Steven, who was five years younger, also did so. Mrs Boyce's own children went to the school: Katy

between 1984 and 1991; and William and Edward between 1992 and 2001. Mrs Boyce taught at the school between 1988 and 2001.

143. Mrs Boyce remembers that when she moved with her family to Sydney Road, Katy played in a small makeshift playground set up by local residents down by the boundary with the North Circular Road. They used to pick blackberries there. This disappeared when the Orion Road slipway was built as an exit from the newly built retail park. She remembered that she was working at Hollickwood School at the time that the Freehold community were trying to get their own community centre built – she said that it was an exciting time for the School and local residents when it was successful. The loss of the bus garage next to school to housing in about 1990 or 1991 was a sad loss. The loss of small businesses in the area has had a steady impact over the years. In the 1950s Mrs Boyce's mother-in-law remembers that there were shops along the Cromwell Road leading down to the Alexandra Pub – a baker, a butcher, a greengrocer, a tobacconist/sweet shop and a shoe repairers. Mrs Boyce Snr also remembers a small hall where they would play bingo and a park or playground on the other side of the road where children would play. All these shops disappeared when the area was redeveloped in the 1970s – her present house was built on the park. Mrs Boyce remembers that the shoe factory on Roman Road was closed in mid 1990s. The Royal Oak pub, the Post Office next to it (which later became a betting shop) were all converted to houses some years later. Hollickwood Park opened in 1994.
144. Mr Boyce played on the Dump as a child. Mrs Boyce started using it in 1985. Katy and her friends would play on the grass area. She said that they would play hide and seek together. It was generally a popular place for children to play, particularly for those who lived in the flats on Alexandra Road. In about 1987 Mrs Boyce would accompany Katy and other members of the Woodcraft Folk who used to meet there for some of their activities. Their leader, Kate Norton and her children Tommy and Jessica were close friends. Mrs Boyce also used to go to the Dump when she worked at Hollickwood School. She would take the nursery class over to play on the grass, have picnics and go on nature walks over the rest of the site. This was mainly in the summer months but she does also remember collecting autumn leaves with the children. This would have been between 1988 and 1993 or 1994. She remembers during that time the whole school doing a project on the Dump, with every class being involved in some way – from map drawing to collecting and recording wild flowers. This concluded in an exhibition to which local people were invited. Edward Bunting of Pembroke Road, whose children also attended the School was involved in this and he helped to organise a special walk on the Dump with a local naturalist, who talked about some of the wildlife and rare wildflowers growing there. The School did not obtain consent for any of these activities. Mrs Boyce had completed the pre-printed form as to her use¹⁰ stating that her regular use of the site ceased in 2001; she


¹⁰ See paragraph 12 above.

accepted that her personal use was associated with her work at the school and ceased when she stopped working there.

145. Mrs Boyce said that there were occasionally events on the Dump organised by local residents, and she remembered once that there was a bonfire night celebration. This was in the early 1990s or earlier – before the Community Centre and Hollicwood Park were built. William and Edward played in Hollickwood Park a lot and would also go up behind the Park on to the Dump to watch the older boys on their scramble bikes. There was a track laid out there which was very popular with the older boys and which was developed over the years by different groups.
146. The Dump was accessible by the path which runs between the Golf Course and the flats in Alexandra Road and Mrs Boyce further observed that there have always been other ways of getting on to the Dump. Her husband and his friends would access the land directly from the Alexandra Road flats but it was always possible to get in from “up the top”, meaning the pathway. After the sewage works closed there were many ways through and the holes in the fence were never repaired or blocked.
147. Mrs Boyce’s family have all grown up and moved on; she and her husband have recently retired. They have not been on the Dump for a few years.

Written evidence

148. **Josh DRAY** has lived at [REDACTED] Alexandra Road N10 2EY and has done so since 1995. He attended Hollickwood School.
149. Mr Dray remembers going over to the Dump all the time from a young age. His first memory is of being taken as a young child of 6 to the Dump by his father on the front of his motorbike. He played on the Dump throughout his childhood with his two brothers Lee and Adam, his cousin Reese, his friend Shane and Shane’s two older brothers. He was aged about ten when he first went over to the Dump on his own. He and his friends would take their bikes over there using the gate in the Park. They used to ride all over the place on their BMX bikes. They used to take binoculars to watch the wildlife and his grandmother, Gill Hopkins, used to take him and his cousin Reese to the land to watch the wildlife. The children used to dig for bottles and also collected golf balls that had come over from the golf club. His mother had told him about the ponds where she used to play and collect newts when she was a child, and he would also go down there: down by the North Circular Road near the tunnel.
150. There were always plenty of places to get on to the dump. There were two holes in the park fence as well as the gate; and when the gate became too overgrown to use, he used to take his bike on to the site via the Orion Road roundabout – the wooden fence ended only a bit down the site and it was easy to get on. There was a fence along the North Circular but it had big gaps in it and it was easy to get on to the Dump from there.

151. **Gill HOPKINS** lives at  Alexandra Road and has done so since November 1967. She had six children, who all went to Hollickwood School. When she moved in Gary had started school.
152. She knew the area as the Freehold. There have been changes in the area. The old houses have been knocked down and there is a new estate in Cromwell Road. The bus garage next to the School has gone. There are only two shops left whereas there used to be a butchers, a greengrocers, a sweetshop, a DIY shop and a hairdressers. She remembers the Park being laid out. She said that *The children aren't as free as they were because they used to have the Dump to play in and they would be over there playing and climbing trees.*
153. She looked over the Dump from her flat. She can remember them dumping rubbish there. The kids would go over to see what they had tipped to see if there was anything worth having. She said that Gary would have been about ten when he started going over there so this would have been from about 1977 onwards. She recalled that once there was an accident on the North Circular involving a lorry carrying tomato sauce and they dumped cartons and cartons over it over there. So Ms Hopkins had cartons of tomato sauce brought home by her kids.
154. She would go over to the Dump to see that the children were alright; or if they were doing something at school which involved collecting plants, leaves or seeds. They would go over there quite late to see the foxes. Larry Ganes used to take his dogs over there. There would be lots of children over there playing. The allotments had only just gone when Ms Hopkins moved in and flowers grew over there – children brought back lupins. In the 1980s she recalled an underground fire on the site and telling her son not to go over to the site because his boots melted – but he still did! She recalled a Scout hut being on the land.
155. Latterly before the land was fenced off, she would go over to the application site with her grandchildren – Bobby, Harris, Lee, Adam and Josh.
156. Access was round by the garages, by the old entrance to the sewage farm, by the alley at the top of the Alexandra Road flats or straight off the North Circular.

Evidence on behalf of the Objectors

Oral evidence

157. **George Robert CHURCH** is a Principal Valuer in the Property Services team of the Commercial Directorate of the London Borough of Barnet. He has been employed by the Borough since 1995, he did not have any direct involvement with the site before April 2009 when he was concerned with the fencing of the site. It was to this and what happened subsequently that his evidence principally spoke. However he did also helpfully produce some relevant documentation; and was able to report an interesting

conversation he had with the Borough's former Chief Valuer, Mr David Stephens and to provide some background to it.

158. Dealing with the latter matter first, the conversation took place on 28 January 2013. Mr Stephens pointed out that that when a planning application for housing was made in respect of the application site, one of the objections made by local people was that the site was contaminated. Mr Church produced a copy of the local newspaper *The Independent* produced at that time which bore the headline DEADLY POISON THREAT.
159. Mr Church's comment was that he thought it unlikely that local people would have wanted to use the site for informal recreation if they had thought that it was contaminated.
160. Turning to the question of fencing, Mr Church explained that in the spring of 2009, when negotiations were proceeding for the sale of part of the application site to the North London Waste Authority, he undertook a review of the management of the site. This included a risk assessment concerning the Waste Authority's use of the part of the site to be sold; and the London Borough of Barnet's use of the land it proposed to retain. Risks considered were occupation by a third party (particularly by travellers) potentially leading to a claim based on adverse possession; occupier's liability; and the risk of a village green application being made.
161. As part of this risk assessment, Mr Church noted that although the fencing of the site to the golf course and Hollickwood Park was generally in good order, the old iron fencing to Orion Road was not in good order, although some of it was left to mark a boundary. This was also the case concerning some lengths of fencing at the eastern and western ends of the advertising hoardings fronting the North Circular Road, although there was a sound post and rail fence [further to the west] along the North Circular Road.
162. In the light of this a decision was made to re-fence the boundaries where the fencing was defective and Mr Church drew up a plan showing where the additional fencing was required and it appears that two quotations were obtained for work which was described as:

Clear old timber and metal railings

Supply and fix 2.1m high steel palisade fencing with triple pointed tops and green finish

159m North Circular Road elevation

112m Orion Road.

163. On 27 April 2009, Mr Church sent an e mail to a Mr Dennis Tyler, who was to be responsible for placing the order:

I am instructed to ask you to proceed with the above fencing project using DF Long as the main contractor, subject to:

The timber hoarding around the roundabout of the exit road from the retail park to the North Circular should be checked over and repaired where necessary to provide a reasonably positive barrier

You have told me that in using the normal school type palisades which have a tricot spike at their tops the palisade has to be 2m tall or higher to comply with Health and Safety requirements

A risk concerning the height of the fencing in proximity to the highway is to be run by the client

We will meet the contractor on site to agree the final fencing line

The contractor will "mend" the golf course's fencing by erecting fencing on LBB land opposite the two gaps and securing it on to the course's fencing. I will write to the golf course to this effect

For your information, the 2 gates giving access to the western end of the land near Alexandra Road have been secured with padlocks by Property service's staff

You have told me that it may take 3 weeks for the contractor to receive the fencing from the supplier. I have said that every reasonable effort must be made to minimise this lead in time (emphasis supplied).

164. Mr Church recalled the two padlocks on the gates – one was yellow coloured and the other had a bronze finish. He surmised that he had grabbed what was available from Property Services at the time.
165. An e mail which Mr Church sent on 6 May 2009 to another officer in the Borough shows that the contractors had started work by this date. On 14 May 2009 Mr Church sent a further e mail as follows:

I met the contractors on site yesterday. They have cleared for the route [sic] of the fencing where necessary. They start fencing on Monday and the job should be completed in 2 - 3 weeks, allow 3 weeks.

166. An invoice for the work was received on 23 June 2009 and the contractor was paid on 1 August 2009.¹¹
167. In November 2009, a section of the wooden hoarding around the Orion Road roundabout was taken down by the Council's fencing contractor and replaced by a

¹¹ The cost was £23, 848.

pair of wide steel vehicular gates. This was to give access to the site for survey purposes to Arup. From the completion of their installation, the gates have been kept locked shut with the keys being kept by the Property Services Team of the Council. One set of keys was lent to Arup for the duration of their survey.

168. On 13 November 2009, Mr Church told the Council's fencing contractor about a missing paling fronting the slip road down to the North Circular had been cut open. He remembers that this was repaired and this is congruent with the e mail record.
169. On 21 January 2010, Mr Church gave an instruction for a small gap in the fence to Hollickwood Park to be repaired – two uprights had been removed. There is a picture of this in the inquiry papers. Two further sections were identified on 26 January 2012. It appears from the e mail record that these gaps – and perhaps others which had been opened up by then - would have been repaired on or just after 29 March 2010.
170. In February 2010, in the light of damage to the wooden hoarding around the Orion Road roundabout, instructions were given for it to be taken down and replaced with palisade fencing. This was completed in May 2010.
171. From the end of March 2011 until December 2011, the London Borough of Barnet instructed Mr Jo Fiore to walk the site, reporting
172. On 11 May 2011, Mr Fiore inspected the site and reported no incursions through the fencing and *no foot trails through the verdant ground cover on the site.*
173. There are records of minor fencing repairs dating from 29 June 2010, 24 August 2010, 30 August 2010, 2 September 2010 and 12 May 2011.
174. In cross examination, Mr Church confirmed the position as regards ownership of the site. A sale and purchase agreement had been entered into with the North London Waste Authority on 17 December 2009. There were a large number of conditions relating to remediation works on the site, and completion did not take place until 11 February 2011. Thereafter the position was that 9 acres of the site had been sold to the Waste Authority, the London Borough of Barnet remaining owner of the remainder.
175. Mr Church thought that signs were posted around the site in July 2011 as indicated by an e mail dated 1 July 2011 from Mr Fiore to him. He didn't think that signs went up at the same time as the fencing in 2010: he had thought that signs were a sufficient statement to the public.

Written evidence

176. **Joseph FIORE** lives at ■ Gallants Farm Road, East Barnet EN4 8ET. From 1 April 2010 to 27 December 2011 he was employed as a caretaker in the Property Services Team of the Commercial Directorate of the London Borough of Barnet.

177. From April 2010 to February 2011 Mr Fiore visited the site two times per week and from February 2011 once per week. Each time he visited he would spend about an hour and a half on and around the site. At each visit he walked the perimeter of the entire site from the outside to check for any damaged fencing or signs of people getting on to the site. He also viewed the site from the outside from an embankment on the section of the site adjacent to the Golf Course. He could only view the section of site by the railway line from Pinkham Way. He gained access to the site, which was secured, by the vehicular access gate on the roundabout on Orion Way, which was kept locked. When on the site, he walked along the paths around the edge of the fence where it was reasonably accessible. Because a lot of the site was impenetrable, he had to walk through some of the undergrowth to connect the paths on the site.
178. After Mr Fiore's visits to the site, if he had observed that somebody had attempted to force access on to the site, he reported this to Mr Church. During his visits he observed that people had attempted to force access in a number of ways, including digging holes beneath the fencing pales; damaging the fencing adjacent to the side of the bridge; destruction and removal of the fence palings; and removal of bolts at the bottom of fencing pales in order to make them swing like a gate. Once he had realised that this was happening, he regularly also checked the bolts to that they were all in place. The fencing break ins and incursions were most common in the area adjacent to the children's play area and the playing fields. Mr Fiore reported the following matters by e mail:
- 13 July 2010: that somebody was getting over the wall at the end of the green fence on the side of the bridge
 - 27 July 2010: that part of the wooden fencing had been removed
 - 19 July 2010: that somebody was still getting over the wall at the end of the green fence on the side of the bridge
 - 19 August 2010: that a balustrade had been broken on the football field side in the park
 - 4 January 2011: that somebody had been over the fence by the bridge again
 - 11 January 2011: that somebody had been over the fence by the bridge again
 - 2 March 2011: that the fence by the bridge had been forced back again and that the bars that held the panel up were bent and likely to break soon
 - 7 March 2011: that the fence had been bent back again and that one of the balustrades had been broken in the park
 - 15 March 2011: that the fence by the bridge had been forced back again

- 6 April 2011: that there was a hole under the fence and that the fence on the roundabout had been smashed in
 - 1 June 2011: that an upright in a fence panel had come off
 - 21 November 2011: that there was damage to the fence by the bridge.
179. Mr Fiore says that his reports led to the necessary repairs to secure the site. He sent reminders when necessary.
180. When doing his rounds there were two occasions when he saw somebody whose presence was unauthorised. On one occasion he saw a dog walker on a path at the top end of the site nearer to the Golf Course. On another occasion he saw a boy who ran out of the site as soon as he saw him. On neither occasion was there the opportunity to speak with them or to ask them to leave the site.
181. Mr Fiore stated that at the beginning of his employment, there was a well trodden footpath outside the site at the top end, between the park and running parallel to the golf course. With regular repairs to the fence, this path gradually became overgrown and this appeared to prevent access to the site to a large extent.
182. On one occasion Mr Fiore found a tent on the application site, which he removed. He states that there was no evidence that it was being used by someone who was sleeping rough.
183. **Jonathan Michael CLARK** had an Honours Degree in Industrial Biology, a Masters Degree in Environmental Pollution Science and was a member of Chartered Institute of Waste Management. Since 2004 he has been employed by the North London Waste Authority as Principal Policy and Projects Officer.
184. On 7 February 2013 Mr Clark had visited the area. He explained that
185. *The purpose of my visit was to investigate the claim that this area is a "neighbourhood" known as the "the Freehold" by identifying local facilities that might be considered to contribute to the character of the area and define it with a separate and distinct identity; and to identify any uses of the word "Freehold" in place names or other uses in the area.*
186. The only reference to Freehold which he was able to find was in the name of the Freehold Community Centre.
187. There was one school – Hollickwood School on Sydney Road.
188. The parish church for the Community Centre and the application site is St Andrew's on Alexandra Park Road. The parish church of St Peter le Poer on the western side of Colney Hatch Lane is outside the claimed neighbourhood. There is an evangelical church in Pembroke Road.

189. Mr Clark walked along Cromwell Road, Strode Close, Pert Close, Alexandra Road, Sydney Road, Audley Close, Oak Avenue, Alma Road, Newton Avenue, Wetherill Road, Colney Hatch Lane, Goodwyn's Vale, Haldane Close, Pembroke Road, Roman Road, Crown Road and Hampden Road. He found that the area was mostly residential properties with a great varieties of styles, ages and sizes of houses and flats. He noted several auto repair workshops and a few other commercial and light industrial uses. These businesses were spread around the area adjacent to the housing and not in a defined commercial or industrial area. The only shops in the area were the Garip Supermarket on Cromwell Road, Mick's newsagent and the New Wave Tattoo Studio on Sydney Road. The only pub was *The Ministrel Boy*. The former Alexandra Arms on Cromwell Road has been converted into residential properties. The shopping centre for the area is Colney Hatch Lane – there are a few shops and restaurants on both sides of the road – some within the claimed neighbourhood and some outside.
190. Mr Clark suggested that a feature of an old OS map contained in the papers before me and showing the former sewage works showed settlement tanks – otherwise this might have been an outstanding puzzle from the inquiry. I can add by way of postscript that I subsequently did find a map in the papers bearing this notation, so Mr Clark was proved correct. It is not however necessary to refer further to the settlement tanks. Paragraph 190 accordingly appears in this Report as a matter of record.
191. **Milan DEDIC** is a Director of Concept Engineering Consultants Limited, a company employed by the North London Waste Authority in January 2010 to undertake ground investigations on the application site. Mr Dedic was project manager. The work took place between 15 March 2010 and 20 April 2010.
192. Mr Dedic states that in order to gain vehicular access to the site, a large soil embankment was removed from behind the existing site access gates off the Orion Road roundabout. There was no other vehicular access to the site and it was evident that there was no other formal access into the site other than via locked gates at various locations. The site perimeter was secured along all boundaries by timber boardings, palisade fence or wrought iron fencing (along the golf course boundary).
193. Mr Dedic states that the site was heavily overgrown with many areas inaccessible due to the density of tress, brambles, ground cover and invasive species, including Japanese Knotweed and Giant Hogweed. He observed that the site topography was extremely variable, with high embankments and hollows meaning that great care was required when moving around the site.
194. Very shortly after setting up their plant and equipment on the site, the project experienced theft of plant following damage to the perimeter hoarding. After provision of a 24 hour security guard to the sit the thefts stopped.
195. Mr Dedic's team did witness unauthorized people on the site. Mr Dedic recalls that the same dog walker was seen on at least two occasions and on each occasion asked to

leave. The tent of someone who appeared to be sleeping rough was seen at the beginning of the project but disappeared shortly thereafter.

196. **Steven BLACKBURN** lives at [REDACTED] Thurlestone Gardens, Reading. He was employed in 2009 and 2010 as an Associate Director in the waste management team of Amec Environment and Infrastructure Limited who were instructed to provide baseline site information to the North London Waste Authority. He has retrieved from AMEC's computer various photographs that colleagues of his took of the site on 20 September 2009. They are not in dispute.

Evidence of witness called by neither the Applicant or the Objectors

197. **Dr Oliver NATELSON** lived at [REDACTED] Hollickwood Avenue N12 0LS. Dr Natelson was a pharmacist whose doctorate was in Pharmacy. He had an interest in botany and was a specialist in plant medicine. He had lectured in physics and chemistry for over 20 years at Westminster College.
198. He told me that a sister site to Friern Barnet Sewage Works site was the former Finchley Sewage Works site to the NW of the application site. It was closed in about 1963 and used thereafter as a landfill site before being capped with clay. Dr Natelson thereafter became alarmed about development proposals for the site and founded the Coppett's Wood Conservationists who campaigned for the site to become a nature reserve. In 1985 they were successful, and the London Borough of Barnet approved of that site and an adjacent site becoming two separate nature reserves. In 1999 they were recognised by Natural England and both given the designation of local nature reserves. A colleague of Dr Natelson's – David Bevan, who had been Environmental Officer for the London Borough of Haringey – told him about the former Friern Barnet Sewage Works site. Dr Natelson found it rather similar to the Coppett's Wood site but at an earlier stage of succession, which was possibly due to its continued disturbance by dumping. They recorded on the site a number of unusual and rare plants. Dr Natelson then became interested in the site and its history and the surrounding area. He visited the site: once every year, once every three years, three or four times a year – it varied. Sometimes he gave a guided tour. He had only found out about the public inquiry on that afternoon¹². He had attended the E of Falloden Way Public Inquiry in the late 1980s – an inquiry concerned with improvements to the North Circular Road. When land is taken for road improvements, one thing that may be done is to provide replacement land not less in value. In this case the land to be given back was divided between two sites – one at Coppett's Wood and one at the Friern Barnet Sewage Works site. Local activists asked Dr Natelson what it should be called. He suggested *Hollickwood* – Hollick Wood had been in the vicinity until it was felled to make way for the asylum in 1849. So this is what it was called. Hollickwood was a corruption of Holliwick, which was a long-standing name in the

¹² Ie on the afternoon of Thursday, 7 March.

area. Two pieces of recreation land have disappeared – the second was Cromwell Road Recreation Ground. This was an area for boys to kick a ball around on in the 1930s. Dr Natelson believed that blocks of flats were built on it in the 1940s or 1950s. When he arrived on the scene in the late 1980s, he noted a rough area of ground behind one of the blocks of flats in Alexandra Road. However he didn't know whether this was land given in exchange for the Cromwell Road Recreation Ground. This rough area of ground was subsequently incorporated in Hollickwood Park, which therefore consists of this land and exchange land in respect of improvements to the North Circular. He didn't know whether the London Borough of Barnet still "owed" the public some land.

199. Dr Natelson had visited the land in question. One day there was suddenly a fence – on one day there hadn't been a fence and then, suddenly, there was. He thought that this must have been related to a concern about safety. He went on to the site. It had changed considerably. The dumped lamp-posts were still there, the burned out cars were still there and the circular tanks were still there in the northern part, holding water. David Bevan pointed to some golden dock, a very rare plant. Some of the rare plants were shaded out by the trees. There was a great pile of rubbish blocking access from the main gate. The site had been colonised by a huge variety of vegetation – it had changed becoming more overgrown. Although the concrete tank was damaged it still retained water. I was told that newts had bred there. This was Dr Natelson's last visit in 2011. In summer 2011 he had led a party looking for bats. In April 2011 he had gone there with bird experts.
200. In the past, he had attended a meeting in respect of a proposal for housing development of the site. He had opposed development on the grounds of contamination, an objection which he understood the London Borough of Haringey had accepted.
201. **Frances Elizabeth HEIGHAM** lives at [REDACTED] Sydney Road, N10 2ND.
202. Ms Heigham moved to her house in 1973. She investigated the history of the area. She discovered that the area was known as te Freehold and had been known as the Freehold since the buiding of it had started, which she understood was in the mid-nineteenth century. Her house was built in the 1890s. It was a terraced house. In the area was a bus depot just to the north of Hollickwood School. There were 3 pubs, only one which remains. There were quite a number of light industrial sites generally dotted in behind the houses. These sites have mostly since 1977 been filled in by houses. Also there was a parade of shops in Weatherill Road, which disappeared 15 years ago when Grosvenor Road was stopped up with the effect that business was taken away. Ms Heigham said that moved to the area this was a community with facilities, albeit the parish church was on the other side of Colney Hatch Lane. She said that it had always appeared to her to be an island, surrounded by other areas – Haringey and Enfield, an impenetrable golf course, and a mental hospital on the other

side of the North Circular. Colney Hatch Lane was to her mind, and everyone she spoke to, part of the Freehold. A great many of the inhabitants have lived there for generations, although over the last 15 – 20 years the industrial sites have gone and there has been dense infilling. The incomers have been a different sort of person and the area is thus not so cohesive. The incomers may not know the history. They worked outside the area. If Mr Clark had asked people where they lived, most would have said *the Freehold*. We feel cut off from most of Barnet by the fact that we lived south of the North Circular Road. The *Independent* newspaper, which Mr Church had referred to in his evidence did not circulate in the area.

203. In cross-examination, Ms Heigham accepted that there were no signs referring to “the Freehold” apart from the Community Centre. She said that there were still some shops and that it still felt like a neighbourhood to her. There had been an erosion of facilities only over the last 10 -15 years. She accepted that the Parish Church was in another area. She did her food shopping in Muswell Hill, to the south of the area. She didn’t belong to a community association.

The issues

204. First and foremost, the objectors argued that the land was effectively fenced off by June 2009. If this was correct the majority of what use that there was by local people would have come to an end and any residual use would have been contentious (vi). In these circumstances, qualifying use will have ceased more than two years before the date of the application. However they also argued that there was insufficient use to justify registration. This was an argument relating to the amount of use but it was linked to an argument about neighbourhood. Qualifying use has to be by a significant number of the inhabitants of a neighbourhood within a locality. The objectors here argued that the neighbourhood for which the Applicant contended did not exist. If correct it would mean that however much use there was of the land, it could not qualify for registration as a town or village green.
205. Although I have identified the issues in this order, it will be seen that logically they need to be addressed in reverse order, and this is what I shall do.

Consideration of the issues

Neighbourhood

206. There are a considerable number of references to the Freehold in the *Victoria County History of Middlesex*¹³ where it deals with the Manor of Friern Barnet; and also in an account of the history of Alexandra Park and South Friern, which is printed on a reprint of the relevant large scale OS Map of 1894 (1:4340 reduced from 1:2500). It seems that the name derives from the original developer, the Westminster Freehold

¹³ This is available on line as *British History Online*.

Land Society. It started out as a working class area to the north of and a little removed from the northward extension of large detached villas from Muswell Hill. The original inhabitants were involved in the construction of Alexandra Palace. As witnesses have explained the area was developed with a mix of housing and industry with an admixture of public houses and shops. The school shown on the 1894 OS (St Peter's) was bombed in the Second World War and not rebuilt; what is now Hollickwood School was first established in 1906. St Peter's School was opposite St Peter's Mission Church; this was relocated before the First World War to a site on the west side of Colney Hatch Lane, utilising the fittings and endowments of a demolished City Church, St Peter le Poer – which name the new church bears. The new church, as Mr Clark points out, is outside the neighbourhood identified by the applicant.

207. It seems to me that quite a lot that gave the area what must have been quite a distinctive character – houses built for the working class and small areas of industry interspersed with pubs and shops – has been lost. It is however noticeable that there are still quite a number of industrial uses, chiefly if not exclusively car repair workshops. I should also add that, broadly speaking, the housing to the south of the identified area is more homogenous – good quality late nineteenth century terraced housing.
208. As well as the loss of facilities, I need to remind myself of the provision in the 1990s of Hollickwood Park and the Freehold Community Centre – the later named of course long before anyone dreamed that there might be arguments about whether a neighbourhood called the Freehold existed.
209. In *R (Cheltenham Builders Limited) v South Gloucestershire Council*¹⁴, Sullivan J (as he then was) said that a neighbourhood could not just be a line drawn on a map – a neighbourhood has to have a *sufficient degree of cohesiveness*.¹⁵ It seems to me that the history of the Freehold – much of it observable on the ground to the informed eye – and the appreciation of it by at least some of the people who live there does provide that degree of cohesiveness: it manifests itself in an appreciation by local people of belonging to one area or community rather than to another. It seems to me that it would be absurd if this sort of cohesiveness could not count whereas (for example) the cohesiveness arising from living in an area of homogenous housing would. (If the latter would not count, one can see that it might be difficult to prove the existence of a neighbourhood anywhere in an urban area).
210. This is not quite the end of the matter. It does seem to me that it is difficult to define with precision what is the area encompassed by the denomination *the Freehold*, and of course the views of the Applicant's witnesses did not entirely agree about that. It does seem to me that the area put forward by the Applicant is a sufficiently good

¹⁴ [2004] JPL 975.

¹⁵ See paragraph 85.

delineation of the neighbourhood for the purpose of registration. In *Oxfordshire County Council v Oxford City Council and Robinson*, Lord Hoffmann said:

*“Any neighbourhood within a locality” is obviously drafted with a deliberate imprecision which contrasts with the insistence of the old law upon a locality defined by legally significant boundaries.*¹⁶

211. In *Leeds Group plc v Leeds City Council*¹⁷, Miss Ellis QC for the registration authority¹⁸ argued as follows:

*Given the clear Parliamentary intention in 2000 to free applications for TVG registration from legalistic “loopholes”, ‘neighbourhood’ should be interpreted to mean the area or areas in which the recreational users reside – the neighbourhood or vicinity of the Application Land for the purposes of recreational use of that land (“the recreational community”). There is no statutory requirement for it to have a name or not to have two or more names or sub-areas, “rationally defensible boundaries” or any particular facilities or characteristics or any particular degree of ‘cohesiveness’; given the Parliamentary intention, there is no warrant for implying such restrictions. The concept is partly geographical, partly functional and partly one of community identity; such considerations are not always susceptible to logic and the Court should be slow to cut down the statutory term by imposing such requirements. Whether the statutory requirement is met in any case is a question of fact and degree for the decision maker.*¹⁹

212. HH Judge Behrens QC essentially accepted these submissions: as long as the neighbourhood identified was rationally defensible, it was not an objection that one or two roads at the edges might have been in or out.

Sufficiency of use

213. The application site was a former tip. As Ms Hopkins vividly recalls, even when it was in use as a tip, it proved an attraction for local children - although I have some doubt whether the scavenging in which they engaged can appropriately be described as lawful sports and pastimes. However this may be, there would not have been any general use for lawful sports and pastimes at this period. Once the tipping ceased

¹⁶ See paragraph 27.

¹⁷ [2010] EWHC 810 (Ch).

¹⁸ Since this Report is to be read by lay people, it is worth pointing out that a barrister is a “hired gun”: instructed by his or her client to present the best available arguments on his or her behalf. His or her advocacy of any particular argument does not represent his or her personal endorsement of it.

¹⁹ See paragraph 100 of the judgment.

however it seems to me, at least to some extent, that the sort of activity that is described by Mr Faulkner's witnesses would indeed have been carried on the site.

214. I also bear in mind that the application site bears some at least some resemblance to the application site considered in *Oxfordshire County Council v Oxfordshire City Council and Robinson*. This was also a former rubbish tip. It was described by the Inspector as follows:

The Trap Grounds are nine acres of undeveloped land in North Oxford. They lie between the railway to the west and the Oxford Canal to the east. About one third... is permanently under water... This part... is usually called 'the reed beds'. [They] are inaccessible to ordinary walkers since access would require wading equipment. The other two thirds ['the scrubland']... are much drier and consist of some mature trees, numerous semi-mature trees and a great deal of high scrubby undergrowth, much of which is impenetrable by the hardiest walker... The scrubland is noticeably less overgrown at the southern end and there is a pond and wet areas in the central eastern part of the scrubland. Throughout the dry parts of the scrubland there are piles of builders' rubble, up to about a yard high, which are mostly covered in moss and undergrowth. The Trap Grounds are approached from the east by a bridge... over the canal. From the bridge a track, known as Frog Lane, leads along the northern edge of the reed beds and gives access to a circular path around the scrubland. Off this circular path there are numerous small paths through the undergrowth. Some peter out after a few yards. Some lead to small glades and clearings. I estimate that a total of about 25% of the surface area of the scrubland is reasonably accessible to the hardy walker.²⁰

215. This land was held to be capable of registration by the registration authority and in due course was registered by the registration authority.
216. It is also important to bear in mind that the relevant aerial photographs show tracks on the land. These seem to me likely to have been referable to the motor bike scrambling that took place on the site but it does also indicate the general accessibility of the site. Miss Ellis indeed accepts that before 1994 there would have been reasonably open access to the site.
217. Nonetheless I am not persuaded that there was use by a significant number of the inhabitants of the neighbourhood.
218. I begin with the motor bike scrambling, which as I have indicated was evidently significant in terms of the uses of the site, since it (or its effects) were visible from the air. Miss Ellis argued that this could not count because it was activity which was a

²⁰ This description is set out in paragraph 1 of the speech of Lord Hoffmann.

criminal offence under section 34 of the Road Traffic Act 1984 and therefore could not be a lawful sport and pastime. I see the force of her reasoning that *Bakewell Management Limited v Brandwood* (where the Court held that an easement of way is capable of being created by activity which is prima facie unlawful) is distinguishable, although I am not convinced that a Court might not extend the reasoning in that case. However I am unpersuaded that motorbike scrambling can be within the category of lawful sport and pastime. I regret introducing what may seem to be yet another gloss on the words of the Commons Act 2006, but it seems to me that the phrase *lawful sports and pastimes* is not at large (so that, for example, it includes stamp collecting) but has relation to relevant sports and pastimes. Use of a village green by motor bikes seems to be to be inimical to use of it for the sorts of thing that clearly are included in the phrase – like cricket and football and children’s games. It is not a question of “give and take”²¹ but of the two things being fundamentally incompatible. I would put horse riding in the same category. Even were I wrong about that, it seems to me that the motor bike riders will have come from a much wider area than the neighbourhood. If there was any significant motorbike use by people living within the neighbourhood, I would have expected this fact to emerge in some way from the evidence – but it has not done so. Accordingly I consider that the motor bike use falls to be discounted.

219. I also think that it is instructive to consider the position which obtained before Hollickwood Park was laid out in 1994. I think that the grassed area behind the Alexandra Road flats would have functioned as a play area; and it evidently was not fenced off from what is now the application site. I think that children would have tended to play on this area, albeit more adventurous spirits might have strayed more widely. I think that this effect would have been more pronounced after Hollickwood Park was laid out in 1994. Obviously it would have been attractive as a well laid out park containing a children’s playground, which would have been a positive reason to use the Park in preference to the Dump; and also its fence would have made it less easy to access the Dump. Mr Dore and his family certainly used the application site less after this time. I think that it is also material to bear in mind that some residents may have been concerned about their children playing on the Dump both because they may have had concerns about contamination and also because they would be generally worried about the safety of their children; but I do not think that it is possible to put much weight upon a matter which is ultimately speculative.
220. It is important to note from the aerial photographs that much of the site was overgrown and the evidence of use that they present was of circular paths. I do not think that the paths can plausibly be considered to be putative public footpaths, but even considering use of them for walking (both with and without dogs) as being use for lawful sports and pastimes, it is a big jump from saying that paths across a large

²¹ Obviously two sports and pastimes cannot be carried on together and there has to be “give and take” by users: see *R (Lewis) v Redcar and Cleveland BC* [2010] 2 AC 70 (SC).

site may have been used for lawful sports and pastimes to saying that the whole of the site could, on the back of that use, be registrable as a town or village green.

221. I heard oral evidence as to use from 6 people²². I appreciate that they were giving evidence of not only what they had done but of what others had done also. I note that I have before me about 70 witness statements and the several hundred e mails (of which however it appears that there are only 17 by inhabitants of the neighbourhood speaking of their use of the land) but I must be cautious in placing weight upon them because those making them were not available to be cross-examined.
222. I do not think that the oral evidence of personal use by 6 people and the people they have observed using the site is sufficient of itself to demonstrate use by a significant number of inhabitants of the neighbourhood of the whole of the site. In cases of this kind, it seems to me that a decision maker (and an Assessor advising a decision maker) has to apply a broad approach. It is likely that there will always be questions about the number of people who used a particular site, whether they have used the whole of the site and the length of time they used it for: but the detail loses importance in the light of the evidence of a sufficiently large number of people who speak as to their use of the land: the lacuna or doubt in respect of one person's evidence is covered by the evidence of another, so that a mosaic picture is established of the use of the land. In the present case, the absence of oral evidence of personal use by more people strongly suggests to me that although there may have been some such additional users, there were not so many as to amount to a significant number for the purposes of section 15. Having said this, I do not think that it is appropriate to view Mr Faulkner's case as positively losing weight because he did not call more witnesses. Rather the position is, more simply, that he failed to persuade me that there had been significant use by a significant number of the inhabitants of the neighbourhood claimed. It is possible, at least in theory, that there was such use by a significant number; it is just that Mr Faulkner has not demonstrated it²³.

Whether qualifying use ceased by June 2009 by the erection of a fence

223. I think that the position as regards this issue is clear.

²² Dr Natelson gave evidence of use but did not live in the neighbourhood, so I have not counted him as an oral witness as to use.

²³ At paragraph 2.14 of her closing submissions, Miss Ellis takes points which are good in themselves about the personal use of the oral witnesses either being focused on a period which ended before the fencing was erected and, in Mr Hardy's case, his latterly living outside the area. The problem with this is that the use to which these witnesses speak might be taken as being representative of others who used the site at other times and who did live in the neighbourhood. However one can accept that it may be true that they are, to a degree, representative without being satisfied that there has been sufficient general use apart from that to which these witnesses directly speak.

224. Mr Church told the inquiry about the erection of the fencing in May 2009. It is not possible to be sure as to the precise date that those fencing works were completed but it must have been by some time in June 2009. Subject to one matter which I shall go on to consider, at this point the site would have been rendered inaccessible and qualifying use – all use by local people - would have ceased.

225. The potential caveat is that the gates between O and N could have been left unlocked and access could have continued by use of them. It seems to me that the situation would require some special explanation if it were that the landowner had just spent more than £20,000 fencing a site and then leaving two gates in it open. Mr Church told the inquiry to the contrary that the gates had been padlocked. This fact receives independent confirmation from a contemporaneous e mail. The only evidence I have to contradict this account is that of Mr Lee Dray (see paragraphs 85 and 105 above). I do not consider his evidence to be credible on this point.

226. There is likely to have been some subsequent access through holes in fence, as the Applicant's witnesses indicated. Access by the he person who unlawfully made those holes in the first place would have been vi. So would access by anyone who not having made the hole himself, took advantage of it. And holes were subsequently repaired, as Mr Church told me and was confirmed by the written statement of Mr Fiore (itself confirmed by contemporaneous mails). Any use after the 2009 fencing was erected was plainly contentious.

Recommendation

227. I recommend that the application be rejected because:

- i. Mr Faulkner has not shown that there was use by a significant number of the inhabitants of a neighbourhood within a locality; and
- ii. Qualifying use ceased more than two years before the date of the application (i.e. use had ceased by June 2009 in circumstances where the application was made in February 2012).

228. For the avoidance of doubt, I should make it clear that my recommendation would be the same if it were considered that the application had been made in October 2011 (i.e. use would still have ceased more than two years before the date of application).

PHILIP PETCHEY
Independent Assessor

30 May 2013

Appendix 4: School Project

Class 2

Pinkham Woods/Way

As part of our topic work on 'Our Local Area', Class 2 have been learning about the topical subject of Pinkham Way/Woods through Geography, English and Science. As their class teacher, I felt it was important for the children to be aware of issues affecting their local area seeing as they are the future of our local area. The children were engaged in learning about the habitats in Pinkham Woods as well as the positives and negatives of the possibility of building a waste plant within their local area. The whole class held a 'parliamentary' style debate and discussed the positives and negatives of the Pinkham Way plans. This demonstrated impressive speaking and listening skills from Class 2, helping them to generate ideas for their writing. Moreover, becoming a local 'mini' journalist and writing a newspaper report enabled the children to demonstrate their persuasive writing and extended writing skills about a subject that they had great passion about. Finally, writing to the (ex) Prime Minister gave the young children a voice! The letter writing helped the children to convey their personal reasons for why they believed the plans should or should not take place.

Considering the children in Class 2 are aged between 6 and 7, they were extremely engaged in this project and became very passionate about what they felt should NOT happen within their local area. As a teacher and a geographer myself, I believe children should be engaged in supporting their local area from an early age. After all, I firmly believe they are never too little to be effective because the future of our world starts with them.

Miss Callaghan

St Martin of Porres
Blake Road
London

N11 2AF
19th May 2016

Dear David Cameron,

I go to St Martin of Porres Primary school and I'm writing to tell you about Pinkham Woods and how the Council want to make Pinkham Woods into a waste plant. At the moment it's right over the fence in the junior playground and beautiful gores come into our school from Pinkham Woods. Pinkham woods is a beautiful green woodland with lots of wildlife like rabbits, badgers, hares, endangered bats and mini beasts. If the rubbish plant is built it will affect our breathing because of the smoke coming out of the chimney of the factory. Pinkham way is a bad idea because it will affect the Year six's bats. Pinkham way is a bad idea because it will affect our learning and will cause a lot of congestion.

Yours sincerely,

~~David Cameron~~

THE LONDON GAZETTE

NO WAY PINKHAM WAY!

By: Arctic

Date: Tuesday 24th May

Pinkham Way is in

North London. It is a

stunning forest full of

endangered animals like deers, foxes, birds and minibeasts

Pinkham Way is under threat because the Council

want to build a rubbish factory. Pinkham Way is a good

idea because the homeless people can get money jobs and

houses. Pinkham Way is a bad idea because their

going to destroy the Arctic ice and the Antarctic ice

and also all the animals in the Arctic will



THE LONDON GAZETTE

80Y 16 TO PINKHAM WAY

By: ~~James James James James~~

Date: 24.05.16



Pinkham Woods is in North London

It is a green area full of wild life
trees, plants and animals like

beautiful area with some animal bits. Pinkham woods is under threat

because all the lorries will knock down all of the trees, squash all

the flowers, minibeasts and spiders. Also it will cause more pollution

and will smell. Pinkham Way is a good idea because it will give

homeless people jobs to earn money and buy houses. It is a good

idea because it will give rubbish a place to go because

at the moment, all the rubbish is in our bins which will make our

house or flat stink. Pinkham Way is a good idea because it

will allow more people to be able to buy good to live.

THE LONDON GAZETTE

Say No To Pink Ham Way

By: [Redacted]

Date: Tuesday 24th May

Pinkham Way is north of London. It is a peaceful, green forest, with lots



of beautiful trees and wonderful flowers. Pinkham Way is under threat because they are going to cut all the wild life in the forest and make a waste plant. Pinkham Way is a good idea because the poor people can get money and get homes. Pinkham Way is a bad idea because it will cause lots of congestion and there will be pollution and without trees will die because trees make oxygen.

St Martin of Porres
Blake Road
London
N11 2AF

19th May 2016

Dear David Cameron

I go to St Martin of Porres Primary School and I am writing to you to tell you about Pinkham Woods and it is right over the fence of the Junior's playground. At the moment Pinkham Woods is a beautiful paradise with animals like rabbits and birds. The council are going to build a smelly waste plant there. If the rubbish plant is built in Pinkham Woods it will cause lots of noise and there will be lots of congestion, lots of pollution, horrible smells and it will kill all the the animals. I do not think Pinkham Way should be built. I hope you enjoyed reading my letter and I hope you write back to me.
Yours sincerely, [redacted]

Appendix 5: Site Management Plan 2014-2019

Management Brief 2014 to 2019: Pinkham Way Borough Grade 1 Site of Importance for Nature Conservation

For: Pinkham Way Alliance



February 2014

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1. Introduction

Background

- 1.1 There was in 2011 a proposal to construct a waste plant and refuse vehicle depot at the Pinkham Way Site of Importance for Nature Conservation (SINC) (the site of the Former Friern Barnet Sewage Works) in the London Borough of Haringey, London N11 3UT. The joint planning application for these proposals, from the NLWA and Barnet Council, was withdrawn in April 2013. The local community is opposed to such development and in response formed a campaign group - the Pinkham Way Alliance (PWA) - in 2011. PWA was recently invited by the London Borough of Haringey (LBH) Cabinet Member for Planning and Enforcement to visit the site, together with senior borough planners and representatives of the NLWA as site owners, so that he could gain a sense, on the ground, of the arguments put forward by PWA. Turleys Consultants have prepared the main PWA submission. In view of the Ecological Report commissioned by the PWA in 2013, which confirmed the site's status as a Grade 1 SINC, as well as highlighting significant habitats, the Alliance also felt it appropriate to submit an outline Site Management Plan, detailing steps and a programme of work to protect the nature conservation value of the site. PWA has asked a) its own supporters and b) other local residents, through groups such as Residents' Associations etc, whether in principle they would be prepared to commit themselves to a couple of hours regular supervised practical help on the site, perhaps on a monthly basis.

Site location and context

- 1.2 The site is situated in the London Borough of Haringey. It is approximately 6.8 hectares (ha) in size and the National Grid Reference for the centre of the site is TQ288916. The site is bounded to the north by the North Circular Road (A406) and to the south is Muswell Hill Golf Course/Bluebell Wood which is designated as a SINC and Metropolitan Open Land. Hollickwood Park (also a SINC) lies immediately west of the site. A railway line and cutting that demarcates the eastern boundary forms part of a designated ecological corridor. The surrounding area is urbanised, comprising residential properties and associated gardens to the west of the site, Bounds Green Industrial Estate on the eastern side of the railway line and the Friern Bridge Retail Park on the northern side of the North Circular Road.
- 1.3 Historically the site was a sewage treatment works that was operational until 1963. It was then used for landfill by the London Borough of Barnet (LBB) up until 1980. Since

this time, the site has been left derelict and has become naturally colonised by secondary woodland, scrub, ruderal vegetation and rough grassland. The only evidence of past use as a sewage works is some vestigial foundations, which PWA estimates form between 1% and 2% of the total site area. These are partially covered in vegetation. Otherwise during the recent visit, no further evidence of that past use, in the form either of remnants of buildings or of hardstanding, could be discerned by anyone present. There is evidence of more recent disturbance associated with its use as a landfill site, the construction of the Pegasus Way Roundabout and illegal fly tipping (including abandoned and burnt out vehicles), which are still evident at the site although mostly buried in vegetation.

- 1.4 The site was wholly owned by the London Borough of Barnet (LBB) up until 2009 when LBB sold part of the site to the North London Waste Authority (NLWA), whilst still retaining ownership of the other part. The site is not in active use and management is currently limited to the mandatory control of invasive species; giant hogweed and Japanese knotweed and tree management works. There is no public access to the site.

Development proposals

- 1.5 A number of outline proposals for the site have been made over the past 15 years, including housing and bulk retail. Any NLWA proposals were linked to the procurement of a waste contract, which the Authority abandoned in September 2013. During the recent visit, NLWA officers told the Haringey Cabinet Member for Planning and Enforcement that the Authority had no short or medium term plans for the site. Barnet Council's proposals were withdrawn in April 2013; PWA understands from a recent answer to a local ward councillor from the Barnet Cabinet Member concerned that the Council is presently undecided whether to renew them.

The need for management

- 1.6 The biodiversity value of the 'Wasteland' habitat at the site is of nature conservation value and the site was designated a Borough Grade I SINC (Haringey Council, 2009). A Preliminary Ecological Assessment was commissioned by the PWA and undertaken in 2013 by Pearce & Vickers. This (and other recent surveys) confirms that the site continues to support habitats that are characteristic 'Wasteland', a broad habitat type of significance under the Haringey Biodiversity Action Plan (BAP), a London Priority Habitat 'Wasteland' (London BAP) and UK Priority Habitat Open Mosaic Habitat on

Previously Developed Land (UK BAP). The site has high biodiversity value within the context of the local area and therefore continues to qualify as a Borough Grade I SINC. However, management in the form of rotational clearance of woodland and scrub, infrequent cutting of tall ruderal vegetation and rough grassland, and the creation of scrapes to expose areas of bare ground and wet depressions is required to maintain and enhance the biodiversity interest of the site in the long-term.

2. Site description

2.1 The site is divided into three compartments on the basis of habitats present. A description of each compartment is provided below and a map is presented in Appendix 1. This is based on the Preliminary Ecological Assessment undertaken in 2013 by Pearce & Vickers.

Compartment 1: Woodland and scrub

- 2.2 The central and eastern parts of the site supports secondary woodland and scrub which accounts for approximately 60 % (4 ha) of the total site area. This comprises a mixture of mature and semi-mature sycamore *Acer pseudoplatanus* and ash *Fraxinus excelsior* with occasional apple *Malus domestica*, crab apple *Malus sylvestris* and wild cherry *Prunus avium* and a dense scrub understorey of blackthorn *Prunus spinosa*, hawthorn *Crataegus monogyna* and bramble *Rubus fruticosus* agg with occasional elder *Sambucus nigra* and dog rose *Rosa canina*. Ivy *Hedera helix* is also prevalent.
- 2.3 Along the woodland edges, paths and clearings, a variety of herbaceous species occur: notably stinging nettle *Urtica dioica*, cleavers *Galium aparine*, creeping cinquefoil *Potentilla reptans*, rosebay willowherb *Chamerion angustifolia*, great willowherb *Epilobium hirsutum*, cow parsley *Anthriscus sylvestris*, garlic mustard *Alliaria petiolata*, goat's rue *Galega officinalis* and wood avens *Geum urbanum*; and grasses: creeping bent *Agrostis stolonifera*, false oat grass *Arrhenatherum elatius*, Yorkshire fog *Holcus lanatus*, wood meadow-grass *Poa nemoralis* and cock's-foot *Dactylis glomerata*. Hairy sedge *Carex hirta* and pendulous sedge *C. pendula* are present within a clearing in the north-eastern part of the site suggesting that this area holds water for at least part of the year.
- 2.4 Large mature tree species are mostly present at the boundaries of the site. At the southern boundary is line of mature Lombardy poplars *Populus nigra* 'Italic' (located at

the boundary of the adjacent golf course) and several mature oaks *Quercus robur*. The eastern and western boundaries are dominated by willow *Salix* sp. and hybrid black poplars *Populus x canadensis*. Mature oaks, ash and poplars occur along the northern boundary and a number of these trees are likely to be remnants of ancient woodland habitat.

- 2.5 There is evidence of recent control of the invasive species giant hogweed and Japanese knotweed from within the woodland. A small stand of Japanese knotweed is present at the northern end of the western boundary.

Compartment 2: Rough grassland and disturbed ground

- 2.6 The north-western part of the site is more open and supports rough grassland comprising rough meadow-grass *Poa trivialis*, cock's foot, creeping bent, barren brome *Anisantha sterilis*, false oat-grass, and Yorkshire fog as well as common bent *Agrostis capillaris* and smooth meadow-grass *Poa pratensis*. Herbaceous species become increasingly abundant on areas of higher ground and include Michaelmas daisy, *Aster* sp., black medick *Medicago lupulina*, wild carrot *Daucus carota*, yarrow *Achillea millefolium*, nipplewort *Lapsana communis*, ribwort plantain *Plantago lanceolata*, oxeye daisy *Leucanthemum vulgare*, common vetch *Vicia sativa*, common mouse-ear *Cerastium fontanum*, bristly oxtongue *Helminthotheca echioides*, hawkweed oxtongue *Picris hieracoides*, white clover *Trifolium repens* and goat's-rue. Bare ground occurs in more disturbed areas, particularly near to the entrance of the site. Characteristic pioneer species of disturbed ground such as common mallow *Malva sylvestris*, barren brome, bristly oxtongue, prickly sow-thistle *Sonchus asper* and common ragwort *Senecio jacobaea* are present within and at the periphery of these areas.

Compartment 3: Tall Herb vegetation

- 2.7 The south-western part of the site supports tall herb vegetation often dominated by sometimes segregated stands of comfrey *Symphytum x uplandicum* and cow parsley. Other tall herbs include frequent wild carrot, teasel *Dipsacus fullonum* creeping thistle *Cirsium arvense*, hoary mustard *Hirschfeldia incana*, common ragwort, St John's-wort *Hypericum perforatum*, cat's-ear *Hypochaeris radicator*, and stinging nettle, together with creeping bent, false oat grass, cock's-foot, couch grass *Elytrigia repens* and barren brome. Bramble at the southern boundary of the site is encroaching onto this habitat, and several saplings of oak, ash and silver birch *Betula pendula* are also present.

3. Important features on site

3.1 A number of locally important features were identified in the Preliminary Ecological Assessment undertaken in 2013 (Pearce & Vickers) which are crucial to the management of this site:

Mature trees

3.2 A number of mature Lombardy poplars *Populus nigra 'Italica'* and oaks *Quercus robur* occur at the boundary of the site (Figure 2, T2), many of which support cavity features suitable for nesting birds and roosting bats. Some oaks are of possible antiquity.

Secondary woodland and scrub

3.3 The secondary woodland and scrub of the site with its sycamore, ash, apple, blackthorn and hawthorn and other trees and shrubs is of local significance in Haringey and supports a variety of birds and invertebrates. Woodland is a London and Haringey LBAP habitat.

Dead wood

3.4 Dead wood of all types, but particularly standing is a valuable habitat and asset for a variety of fauna. Woodpeckers, nuthatch and treecreeper, which occur in the general locality, are often dependent on this resource for foraging and nesting. Additionally, a variety of insects are associated with dead wood and many species of fungi are completely dependent upon it. This habitat is often lost, particularly in urban areas, when sites are tidied up.

Ivy

3.5 Ivy is a valuable resource during the autumn and winter months, providing a late source of nectar for insects, and foraging and shelter for birds at a time of year when deciduous trees are dormant. It is a common misconception that a covering of ivy somehow harms the trunks and branches of trees; consequently it is sometimes cut-back or otherwise removed by well-meaning people.

Transitional areas and disturbed ground

3.6 Wet depressions (Figure 2, T5) and areas of disturbed ground (see Figure 2) offer shelter, foraging and basking sites for invertebrates and reptiles. Transitional vegetation and areas of disturbed ground in the north-western part of the site provide suitable habitat for common invertebrates. Caterpillars of UK BAP Priority Species Cinnabar moth were also

recorded. It is possible that other notable invertebrate species occur within these habitats and a comprehensive invertebrate survey is recommended

Reptiles

- 3.7 Slow worm occur at the site (Figure 2, T3) and transitional vegetation, areas of disturbed ground and wet depressions offer potential habitat for other reptiles such as grass snake.

Birds

- 3.8 The site is used as a breeding site by no less than six notable bird species (UK BAP Priority Species or RSPB Red or Amber Status) (Pearce & Vickers 2013, Arup 2011). It also provides breeding and foraging habitat for a diversity of widespread and common bird species.

Bats

- 3.9 Mature trees at the boundary of the site have the potential to support roosting bats (Figure 2, T2). An early record for common pipistrelle *Pipistrellus pipistrellus* before sunset suggests a roost may occur on site. The site also provides foraging and commuting habitat for common pipistrelle and noctule *Nyctalus noctula* bats (Pearce & Vickers 2013, Arup 2011, Jacobs 2009). Higher levels of bat activity at the southern and western boundaries of the site suggest that these habitats offer a flight line between the adjacent Muswell Hill Golf Course and Hollickwood Park.

Invasive species

- 3.10 Giant hogweed *Heracleum mantegazzianum* and Japanese knotweed *Fallopia japonica* (Figure 2, T1) were identified on site, but there was evidence of on-going control of these invasive species.

4. Aims and Objectives

4.1 Management should:

- reflect species and habitat targets set in the UK and local BAPs
- maintain and enhance the general qualities of existing habitats whilst re-establishing others, appropriate to the site
- improve the understanding of the site's flora and fauna in order to refine management practices in the future

4.2 This should be achieved via:-

- a) Maintaining woodland/scrub habitat for its biological interest, and regular and systematic coppicing of native shrubs to:
 - Improve structure of woodland/scrub areas
 - Encourage and enhance the area's biodiversity, particularly regarding insects, bats and birds
- b) Maintaining and re-establishing wasteland BAP habitat of local, regional and national significance in order to:
 - Increase microhabitats present and niches available for associated fauna but particularly invertebrates e.g. Hymenoptera
- c) Continuing control/eradication of invading weeds listed under Schedule 9 of the Wildlife & Countryside Act 1981 (& amendments)
- d) Ensuring an adequate quantity of dead wood microhabitats, both standing and fallen
- e) Maintaining health of mature trees particularly at the site boundary, some of which may be a relict of ancient woodland, as well as providing potential roosting sites for bats and nesting sites for birds

- f) Maintaining ivy-clad trees and banks wherever it is safe to do so – the survey by Pearce & Vickers 2013 suggested this might be a possible location for bat roosts on site
- g) Increasing the number of potential bird nesting and bat roosting sites present
- i) Providing hibernacula suitable for slow worms and hedgehogs by retaining piles of logs and brush, leaves and other vegetation in more secluded parts of the site
- h) Assessing the invertebrate interest as it is likely that the habitats present (particularly wasteland) support a diversity of invertebrate species
- i) Improving on site safety and develop interpretation (leaflets, reports and papers) to facilitate biological recording and, if possible, controlled access to the site at a later date

5. Management prescription

Recommended Action

Compartment 1: Woodland and scrub (area ~ 4 ha)

- a) Generally, woodland trees will be maintained via non-intervention over the period of the management plan except in the case of health and safety concerns. However, staggered coppicing of native understorey shrubs should proceed as required. This will improve woodland structure. Timber and brash removed should be stacked in piles together with any natural debris. The burning of brashings must not be conducted on site. All tree and scrub removal work should be undertaken between November and February. The aim should be to coppice half the area of shrubs over the five year period of this management brief (i.e. 10% per year).

Seasonally wet depressions should not be used for depositing cuttings and brashings removed from other parts of the site and should be occasionally cleared of leaf-litter and other organic materials.

Compartment 2: Rough grassland and areas of disturbed ground (area ~0.8 ha)

- b) A late summer cutting regime shall be adopted for this compartment's grassland and tall herb vegetation with the entire area strimmed in late summer (August-September).

Cuttings should be left on the ground for 3-5 days and then gathered up and taken to more secluded parts of the site where it can be built into habitat piles. This mowing regime will remove invading scrub and trees and encourage floral diversity by lowering the organic matter returning to the soil and allowing for seed/invertebrate dispersal pre and post mowing.

The area of this compartment covered in wasteland is approximately 0.25 ha (i.e. 2,500 m²). This could be increased by approximately 5-10% (125 – 250 m²) per year by shallowly rotovating adjacent grassland areas within the compartment to create additional areas of disturbed ground. These will be recolonised by pioneer plant species and invertebrates. Autumn is possibly the optimum time of year for this to take place. Turfs should be gathered up and taken to more secluded parts of the site where they can be built into habitat piles.

Compartment 3: Tall herb (ruderal) vegetation (area ~ 2.0 ha)

- c) Approximately 5 to 10% (1,000 - 2,000 m²) of this area should be strimmed and pulled when in flower (before going to seed): cow parsley in April; comfrey in May-June. The aim is to clear a different area each year but this will be open to revision subject to the ease and effectiveness of the action. Pulling is very labour intensive but will produce niches in the soil for invertebrates and when completely uprooted, will not regrow. Depending on the resources available, a combination of strimming with some pulling is the most likely scenario. Cuttings should be gathered up and placed in piles within the cleared area.

Hedgehogs

- d) As hedgehogs might be found on site due care should be taken during vegetation clearance works. Any leaf or log piles should ideally be cleared by hand and all materials should be kept on site to provide potential nesting and hibernation sites. In summer hedgehogs often nest in long grass, so care should also be taken during strimming or mowing activities associated with the clearance of rough grassland and tall ruderal vegetation.

Compartment 1: dead wood

- e) This should remain on site within wooded areas. Standing dead wood (e.g. monoliths) must be considered where safe to retain. Smaller logs should be stacked in habitat piles whilst larger trunks and branches can remain *in situ*.

Compartment 1: mature trees

- f) Mature trees at the site's boundary (some of which could be ancient in character) and which offer potential roost sites for bats and suitable nest sites for birds should be retained wherever possible. If tree removal/surgery becomes necessary because of health and safety concerns, the mitigation advice given in the report by Pearce & Vickers, 2013 should be enacted as a number of these boundary features support cavity features of high/medium potential to support bat roosts.

Compartment 1: Ivy

- g) Ivy should not be cut-back or cleared from banks or trees unless it can be demonstrated that it is likely to cause instability during windy conditions which may lead to tree fall and pose a health & safety issue. Ivy clad trees within the main area of woodland offer potential roost sites for single or low numbers of bats. If ivy is required to be removed

the mitigation advice regarding bat roosts given in the report by Pearce & Vickers, 2013 should be enacted.

Invasive weeds

- h) Continuing control/eradication of invading weeds listed under Schedule 9 of the Wildlife & Countryside Act 1981 (& amendments) is advised.

Bird and bat boxes

- i) Bat boxes could be erected onto any mature trees at the boundary of the site. Schwegler 1 FF boxes, which have an open bottom and therefore require less management, are recommended. Bat boxes should be installed at between 2 and 5 metres above ground level and unobstructed by foliage to ensure a clear bat entry/exit path. They should be located away from artificial lighting. Any artificial roost sites should ideally be monitored annually by a suitably qualified bat ecologist and this data should be made available to the local records centre.

In order to minimise competition of use of bat boxes by nesting birds, it is also recommended that bird boxes are erected alongside bat boxes (Meddings et al 2011). Bird boxes should cater for London BAP species such as starling, song thrush and spotted flycatcher.

Site safety and access

- j) The access from Pegasus Way could be facilitated by building steps over the perimeter bund and the chief on-site desire lines broadened to 1.2 m by regular strimming. The possibility of allowing occasional but controlled public access should be considered e.g. vegetation management work days by PWA, biological recording and guided walks.

Wildlife monitoring

- k) [Compartments 1, 2 and 3] Local wildlife experts should be encouraged to undertake regular biological surveying (particularly invertebrates) and monitoring. The discovery of important species might have a bearing on the future execution of this management plan which should be revised accordingly. Records should be passed on to Greenspace Information for Greater London (GiGL).

6. Five-Year Management Plan: Schedule and Summary of Projects

Comp.	Project	Priority	Notes	Year	Timing	Para.
1	Woodland maintenance	1	Non-intervention except for health & safety	1 to 5	As required	4a
		2	Coppicing understorey	2 & 4	Nov-Feb	
		3	Clearance of seasonally wet depressions	1 to 5	As required	
2	Rough grassland & disturbed ground maintenance	1	Strimming grassland & tall herbs	1 to 5	Late Aug to early Sept	4b
		1	Rotovating wastland	1 to 5	Autumn	
3	Tall herb management	1	strimming/pulling	1 to 5	April to June	4c
1, 2 & 3	Hedgehogs	1	Caution clearing vegetation	1 to 5	Ongoing	4d
1	Retaining dead wood	2		1 to 5	as required	4e
1	Mature trees maintenance	1		1 to 5	As required	4f
1	Retaining ivy	1		1 to 5	As required	4g
1, 2 & 3	Treatment of invasive species	1		1 to 5	As required	4f
1	Installation of bird & bat boxes	3	Bat boxes	3	Winter	4i
			Bird boxes	3	Winter	
1,2 & 3	Improving site safety & access	3		2 to 5	Winter	4j
1,2 & 3	Wildlife monitoring	2		1 to 5	Ongoing	4k

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Appendix 1 Maps

Figure 1: Management Compartments

Figure 2: Target Notes and features of importance

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Figure 1: Management Compartments

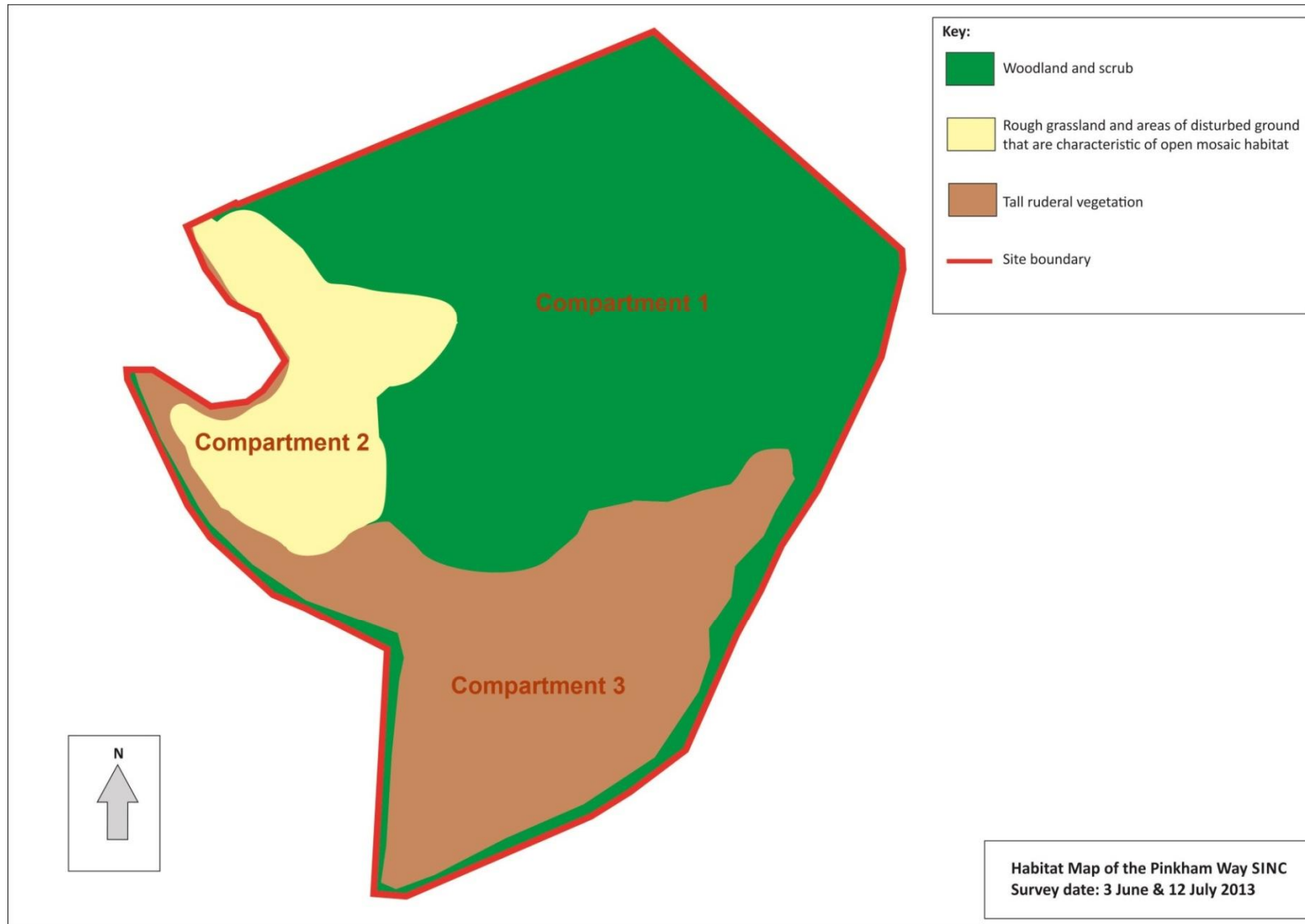
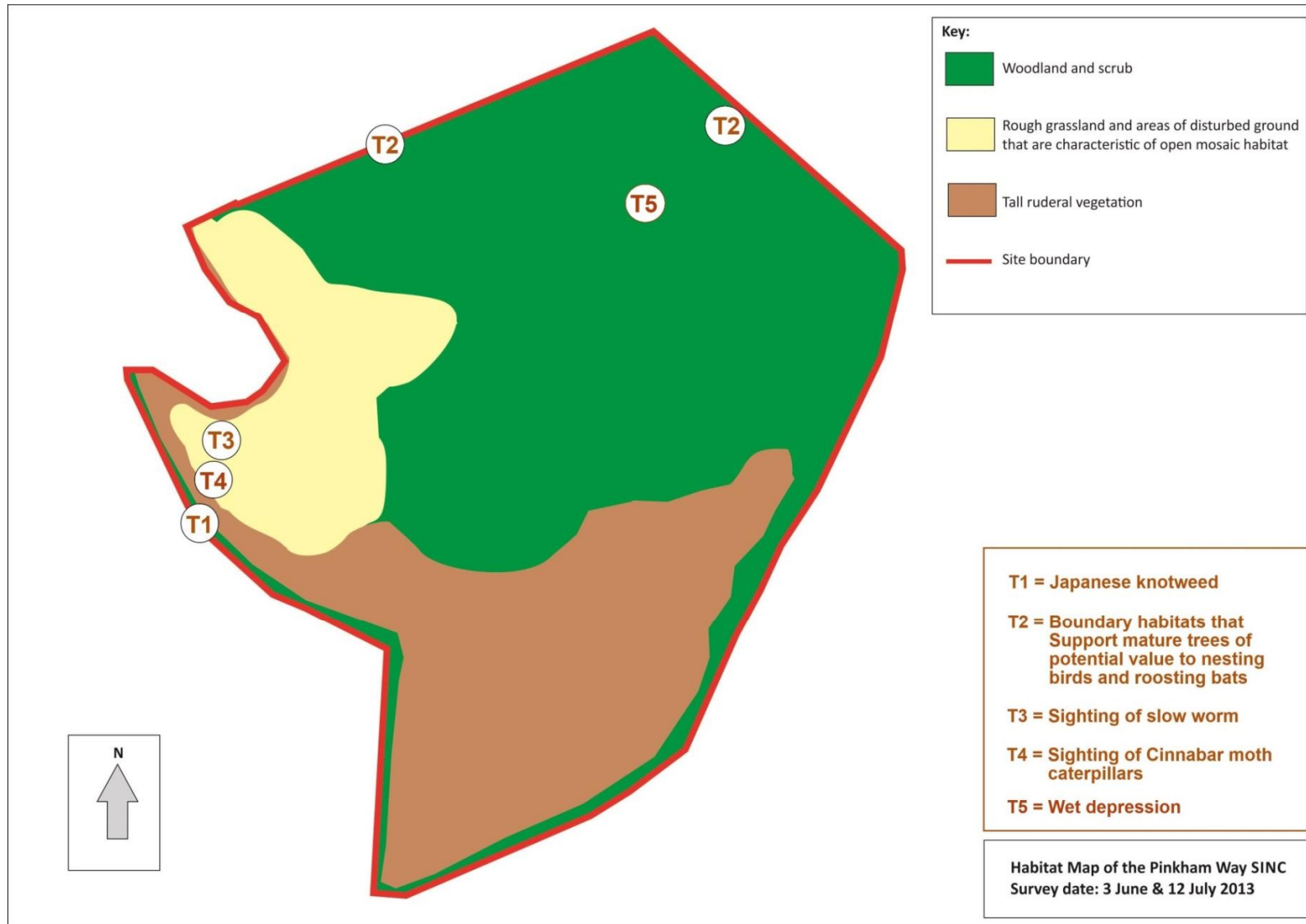


Figure 2: Target Notes and features of importance



Appendix 2 Species lists from 2013 survey

Appendix 2a: Vascular plant species recorded on site on the 3rd June and 12th July 2013

Appendix 2b: Bird species recorded on site on the 3rd June and 12th July 2013

Appendix 2c: Other species recorded on site on the 3rd June and 12th July 2013

Appendix 2a:

Vascular plant species recorded on site on the 3rd June and 12th July 2013

VASCULA PLANTS	Common name	DAFOR	Qualifiers
<i>Acer pseudoplatanus</i>	Sycamore	O	S, T
<i>Achillea millefolium</i>	Yarrow	O	
<i>Aesculus hippocastanum</i>	Horse-chestnut	O	T, Y
<i>Agrostis capillaris</i>	Common Bent	O	
<i>Agrostis stolonifera</i>	Creeping Bent	F	W
<i>Alliaria petiolata</i>	Garlic Mustard	O	
<i>Anisantha sterilis</i>	Barren Brome	F	
<i>Anthriscus sylvestris</i>	Cow Parsley	D	
<i>Antirrhinum majus</i>	Common Snapdragon	R	E
<i>Arctium minus</i>	Lesser Burdock	R	
<i>Armoracia rusticana</i>	Horse-radish	O	
<i>Arrhenatherum elatius</i>	False Oat-grass	F	
<i>Artemisia vulgaris</i>	Mugwort	O	
<i>Aster</i> sp.	Michaelmas Daisy	F	
<i>Ballota nigra</i>	Black Horehound	O	
<i>Bellis perennis</i>	Daisy	R	
<i>Betula pendula</i>	Silver Birch	F	S, Y
<i>Brassica rapa</i>	Field Mustard	O	
<i>Bromus hordeaceus</i>	Soft Brome	F	
<i>Bryonia dioica</i>	White Bryony	R	
<i>Buddleja davidii</i>	Buddleia	O	
<i>Calystegia sepium</i>	Hedge Bindweed	O	
<i>Cardamine flexuosa</i>	Wavy Bittercress	O	
<i>Carex hirta</i>	Hairy Sedge	O	W
<i>Carex pendula</i>	Pendulous Sedge	R	W
<i>Cerastium fontanum</i>	Common Mouse-ear	O	
<i>Chamerion angustifolia</i>	Rosebay Willowherb	O	
<i>Cirsium arvense</i>	Creeping thistle	F	
<i>Conium maculatum</i>	Hemlock	O	
<i>Cornus sanguinea</i>	Common Dogwood	R	
<i>Corylus avellana</i>	Hazel	O	S
<i>Crataegus monogyna</i>	Hawthorn	O	
<i>Crepis capillaris</i>	Smooth Hawksbeard	R	
<i>Crepis vesicaria</i>	Beaked Hawkbeard	O	
<i>Dactylis glomerata</i>	Cock's-foot	F	
<i>Daucus carota</i>	Wild Carrot	F	
<i>Dipsacus fullonum</i>	Teasel	O	
<i>Elytrigia repens</i>	Couch-grass	F	
<i>Epilobium hirsutum</i>	Great Willowherb	O	
<i>Euphorbia helioscopia</i>	Sun Spurge	R	
<i>Fallopia japonica</i>	Japanese Knotweed	O	
<i>Festuca arundinacea</i>	Tall Fescue	R	
<i>Festuca rubra</i>	Red Fescue	F	
<i>Foeniculum vulgare</i>	Fennel	R	
<i>Fraxinus anomala</i>	Single-leaved Ash	R	T
<i>Fraxinus excelsior</i>	Common Ash	O	S, Y, T

VASCULA PLANTS	Common name	DAFOR	Qualifiers
<i>Galega officinalis</i>	Goat's-rue	O	
<i>Galium aparine</i>	Cleavers	F	W
<i>Geranium dissectum</i>	Cut-leaved Crane's-bill	F	
<i>Geranium robertianum</i>	Herb Robert	O	
<i>Geum urbanum</i>	Wood Avens/Herb Bennet	O	
<i>Glechoma hederacea</i>	Ground Ivy	O	
<i>Hedera helix</i>	Ivy	O	
<i>Helminthotheca echioides</i>	Bristly Oxtongue	O	
<i>Heracleum mantegazzianum</i>	Giant Hogweed	O	C
<i>Heracleum spondylium</i>	Hogweed	O	
<i>Hirschfeldia incana</i>	Hoary Mustard	O	
<i>Holcus lanatus</i>	Yorkshire Fog	F	
<i>Hypericum perforatum</i>	St. John's-wort	F	
<i>Hypochaeris radicator</i>	Cat's-ear	O	
<i>Juncus inflexus</i>	Soft Rush	O	C
<i>Laburnum anagyroides</i>	Common Laburnum	R	Y
<i>Lactuca serriola</i>	Prickly Lettuce	R	
<i>Lamium album</i>	White Dead-nettle	R	
<i>Lapsana communis</i>	Nipplewort	O	
<i>Lathyrus latifolius</i>	Broad-leaved Everlasting-pea	R	
<i>Lepidium draba</i>	Hoary Cress	F	
<i>Leucanthemum vulgare</i>	Oxeye-daisy	O	
<i>Lotus corniculatus</i>	Bird's-foot Trefoil	R	
<i>Malus pumila</i>	Apple	O	Y
<i>Malus x purpurea</i>	Crab apple	O	T
<i>Malva sylvestris</i>	Common Mallow	R	
<i>Matricaria chamomilla</i>	Scented Mayweed	O	
<i>Medicago lupulina</i>	Black Medick	A	
<i>Melilotus officinalis</i>	Common Melilot	O	
<i>Myosotis scorpiodes</i>	Forget-me-not	R	
<i>Pentaglottis sempervirens</i>	Green Alkanet	R	
<i>Picris hieracoides</i>	Hawkweed Oxtongue	O	
<i>Plantago lanceolata</i>	Ribwort Plantain	O	
<i>Poa nemoralis</i>	Wood Meadow-grass	O	E
<i>Poa pratensis</i>	Smooth Meadow-grass	O	
<i>Poa trivialis</i>	Rough Meadow-grass	A	
<i>Populus x canadensis</i>	Hybrid Black Poplar	O	E, T
<i>Potentilla reptans</i>	Creeping Cinquefoil	A	
<i>Prunus avium</i>	Wild Cherry/Gean	R	S
<i>Prunus cerasifera pissadii</i>	Pissard or Purple Plum	R	
<i>Prunus spinosa</i>	Blackthorn	O	Y
<i>Quercus robur</i>	Pedunculate Oak	O	Y, T, E
<i>Ranunculus repens</i>	Creeping Buttercup	F	
<i>Robinia pseudoacacia</i>	False Acacia	R	E, Y, T
<i>Rosa canina</i>	Dog Rose	O	
<i>Rubus fruticosus</i> agg.	Bramble	D	
<i>Rumex conglomeratus</i>	Clustered Dock	R	
<i>Rumex obtusifolius</i>	Broad-leaved Dock	O	
<i>Salix caprea</i>	Goat Willow	O	T, Y
<i>Salix cinerea</i>	Grey Willow	O	Y

VASCULA PLANTS	Common name	DAFOR	Qualifiers
<i>Salix fragilis</i>	Crack Willow	O	T, Y
<i>Sambucus nigra</i>	Elder	O	E
<i>Senecio erucifolius</i>	Hoary Ragwort	R	
<i>Senecio jacobaea</i>	Common Ragwort	F	
<i>Silene latifolia</i>	White Campion	O	
<i>Sonchus asper</i>	Prickly Sow-thistle	R	
<i>Sorbus intermedia</i>	Swedish Whitebeam	R	E, T
<i>Stachys sylvatica</i>	Hedge Woundwort	O	C
<i>Symphoricarpos albus</i>	Snowberry	R	
<i>Symphytum x uplandicum</i>	Comfrey	D	
<i>Taraxacum</i> sp.	Dandelion	O	
<i>Trifolium campestre</i>	Hop Trefoil	O	
<i>Trifolium pratense</i>	Red Clover	R	
<i>Trifolium repens</i>	White Clover	F	
<i>Urtica dioica</i>	Stinging Nettle	F	
<i>Veronica chamaedrys</i>	Germander Speedwell	R	
<i>Vicia sativa</i>	Common Vetch	O	

DAFOR Scale:

D=Dominant
A=Abundant
F=Frequent
O=Occasional
R=Rare

Qualifiers:

E=Edge
M=Mature tree
S=Sapling
Y=Young tree
W=Wet area

Appendix 2b:**Bird species recorded on site on the 3rd June and 12th July 2013**

Species	Common Name	Breeding	RSPB	UK BAP Priority Species
<i>Turdus merula</i>	Blackbird	*	Green	
<i>Sylvia atricapilla</i>	Blackcap	*	Green	
<i>Cyanistes caeruleus</i>	Blue tit		Green	
<i>Corvus corone</i>	Carrion crow		Green	
<i>Phylloscopus collybita</i>	Chiffchaff	*	Green	
<i>Columba livia</i>	Feral pigeon			
<i>Parus major</i>	Great tit		Green	
<i>Carduelis chloris</i>	Greenfinch	*	Green	
<i>Sylvia curruca</i>	Lesser Whitethroat	*	Green	
<i>Pica pica</i>	Magpie		Green	
<i>Erithacus rubecula</i>	Robin		Green	
<i>Turdus philomelos</i>	Song thrush	*	Red	*
<i>Apus apus</i>	Swift		Amber	
<i>Columba palumbus</i>	Woodpigeon		Green	
<i>Sylvia communis</i>	Whitethroat	*	Amber	
<i>Troglodytes troglodytes</i>	Wren	*	Green	

Appendix 2c:

Other species recorded on site on the 3rd June and 12th July 2013

Species Group	Species	Common name	Species of Principal Importance
Butterflies	<i>Anthocharis cardamines</i>	Orange tip	
	<i>Inachis io</i>	Peacock	
	<i>Pieris rapae</i>	Small White	
	<i>Maniola jurtina</i>	Meadow brown	
	<i>Aglais urticae</i>	Small tortoiseshell	
	<i>Thymelicus sylvestris</i>	Small skipper	
Moths	<i>Tyria jacobaeae</i>	Cinnabar moth caterpillars (See Appendix 1, Figure 2 ; T4)	*
Dragonflies	<i>Libellula depressa</i>	Broad bodied chaser	
Reptiles	<i>Anguis fragilis</i>	Slow worm (Under reptile felt at TQ287915) (See Appendix 1, Figure 2 ; T3)	*
Mammals	<i>Vulpes vulpes</i>	Fox	
	<i>Pipistrellus pipistrellus</i>	Common pipistrelle	

Appendix 6: Planning History

Online Planning Services

Search Results List

Click the application reference number to see more details, and comment on current consultations.

You can filter your results, or change your criteria, using the [application search](#).

Reference number	Site Address	Ward	Applicant details	Agent details	Development	Decision
HGY/2000/0974	Former Friern Barnet Sewage Works Pinkham Way N11	Alexandra (Pre 2_5_2002)	Costco Wholesale Uk LimitedUK Home Office, Hartspring Lane, Watford, Herts, WD2 8JS	MS P AitkenJones Lang Lasalle, 22 Hanover Square, London, W1A 2BN	Outline application for the erection of a warehouse club building for the sale of goods (including use within Class A3) together with fitting bay, erection of industrial buildings, new access, car parking. PLEASE NOTE: The new access is to the North Circular from the existing roundabout. This application supersedes the previous application HGY/058736.	Not Determined
HGY/2000/0959	Former Friern Barnet Sewage Works Pinkham Way N11	Alexandra (Pre 2_5_2002)	Costco Wholesale Uk LimitedUK Home Office, Hartspring Lane, Watford, Herts, WD2 8JS	Ms P AitkenJones Lang Lasalle, 22 Hanover Square, London, W1A 2BN	RECONSULTATION DUE TO AN OMISSION FROM THE DESCRIPTION OF PROPOSAL (2) Old Planning Ref: HGY/058735 - New Planning Ref: HGY/2000/0959 1) Outline application for the erection of a warehouse club building for the sale of goods (including use within Class A3) together with fitting bay, new access, car parking and landscaping. Old Planning Ref: HGY/058736 - New Planning Ref: HGY/2000/0974 2) Outline application for the erection of a warehouse club building for the sale of goods (including use within Class A3) together with fitting bay, erection of industrial buildings, new access, car parking and landscaping. PLEASE NOTE: The new access is to the North Circular from the existing roundabout.	Withdrawn

HGY/1998/0026	Former Friern Barnet Sewage Works Pinkham Way N11	Alexandra (Pre 2_5_2002)	L. B. Barnet Town Hall, The Burroughs, Hendon, London NW4 4BG,	Mr D Stephens, Chief Valuer,, L.B.Barnet,, Barnet House,, 1255 High Road,, Whetstone, London N20 0EJ,	access road onto Alexandra Road. maintaining its approximate size of 2.08 hectares and with Outline application for residential development of approximately 5.91 hectares with relocation of existing park	Refused
HGY/1996/0803	Former Friern Barnet Sewage Works Pinkham Way N11	Alexandra (Pre 2_5_2002)	McKenna & CoMitre House, 160 Aldersgate Street, London EC1A 9000,	, Mitre House, 160 Aldersgate Street, London EC1A 4DD,	Details pursuant to conditions 2 and 3 attached to planning permission HGY/48809 in respect of landscaping and external road layout.	Withdrawn
HGY/1993/0261	Former Friern Barnet Sewage Works Pinkham Way N11	Alexandra (Pre 2_5_2002)	London Borough Of Barnet Technical Services, Barnet House, 1255 High Road,, Whetstone, London N20 0EJ,	Technical Services, Barnet House, 1255 High Road, Whetstone, London N20 0EJ,	Variation of condition number 2, attached to planning permission HGY/45693, to extend period for submission of details of reserved matters to five years.	Withdrawn

<u>HGY/1992/1158</u>	Former Friern Barnet Sewage Works Pinkham Way N11	Alexandra (Pre 2_5_2002)	S Hutchinson Lb Of BarnetBarnet House, 1255 High Rd, Whetstone, London N20 OEJ,	, L.B. Barnet, Barnet House, 1255 High Rd, Whetstone, London N20 OEJ,	Renewal of outline planning permission HGY/40266 and approval of details permission HGY/44770	Grant permission
<u>HGY/1992/1157</u>	Former Friern Barnet Sewage Works Pinkham Way N11	Alexandra (Pre 2_5_2002)	S Hutchinson Lb Of BarnetL.B. Barnet, Barnet House, 1255 High Rd, Whetstone, London N20 OEJ,	, L.B. Barnet, Barnet House, 1255 High Rd, Whetstone, London N20 OEJ,	Renewal of outline planning permission HGY/40266 and approval of details re permission HGY/44770.	Grant permission
<u>HGY/1992/0238</u>	Former Friern Barnet Sewage Works Pinkham Way N11	Alexandra (Pre 2_5_2002)	S Hutchinson Barnet House, 1255 High Road, Whetstone, London N20 OEJ,	London Borough of Barnet, Barnet House, 1255 High Road, Whetstone, London N20 OEJ,	Details pursuant to condition 3 of outline planning permission HGY/37751.	Grant permission
<u>OLD/1989/1587</u>	Former Friern Barnet Sewage Works Pinkham Way N11			.	21/7/88 Erection of industrial warehousing & ancillary parking.	Grant permission

<u>OLD/9999/4562</u>	Former Friern Barnet Sewage Works Pinkham Way N11				4/12/87 Construction of new Road bridge over the North Circular Trunk Road, together with associated Carriageway works.	Refused
<u>OLD/9999/4561</u>	Former Friern Barnet Sewage Works Pinkham Way N11				7/2/86 Contraction of access roads. (outline)	Refused

1998	Pinkham Way	LBB		Outline application for housing	recommended by Officers for approval but refused at planning committee
2011	Pinkham Way	LBB/NLWA		Major planning application for MBT Waste Plant and waste transport depot	Withdrawn before validation after 18 months with LBH

Appendix 7: Letter LBH to PWA

Date: 21 September 2015

Our ref:

Direct dial:

Email:

Dear Ms Ryan,

Response to Pinkham Way Alliance - The Pinkham Way Site

Thank you for your letter 'No justification for employment designation on Pinkham Way Site' received by email on 19th August 2015.

We have now considered all the points you raise in the letter and I provide the following response.

The GVA development viability evidence was a piece of work commissioned to help officers understanding of the issues associated with development viability and employment. The GVA assessment has had little bearing on the preparation of the Local Plan allocation for Pinkham Way which has centred on considering whether there is a need to change/maintain the existing adopted development plan allocation. Your representations disagree with the Council's use of this work. You have not accepted our earlier explanation and on that basis, it would appear that this will be a matter for the inspector to consider at examination. I am sorry that we have not been able to satisfy you on this matter.

In respect of the NLWA position, the NPPF test, as you know, for preparing a 'sound' local plan is clear; it is one of deliverability which includes the consideration of viability as just one consideration. Other considerations include whether the site is available now, offers a suitable location for development and is achievable with a realistic prospect. The requirement for assessing the viability of the Local Plan is done on a Plan-wide basis not on a site by site basis. The Council is confident that the NLWA's clear expression through the call for sites justifies the inclusion of the site in the Site Allocation document. Your position on deliverability is not therefore supported by the site owner. We are also confident we are preparing a plan which meets the tests set out in paragraph 182 of the NPPF. Again, I am sorry that this response is not satisfactory for you. You should 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. You disagree, and I expect you will seek to persuade the inspector of your views regarding soundness on this basis.

Likewise, should you wish to know the NLWAs timescale for development, beyond the expectation set out in the emerging Local Plan/North London Waste Plan, I suggest this is something you raise with them.

In respect of your expectation around the consideration of the open space value of Pinkham Way, the Council has previously indicated that it does not consider the site itself to be open space. This is in part based upon its secure enclosure, the remains of existing structures, the outcome of the village green application and the adopted designation in the Development Plan. Nevertheless, having regard to your arguments, the Council has considered whether the site allocation should change in preparing its Regulation 19 document. Based upon the assessment of need for open space across the borough and the need for employment land, and balancing all other considerations, officers will be advising the Council that the dual employment/SINC designation should remain. Given that I expect you do not agree with this proposition, it may be that this also is an additional matter that you seek to explore with the appointed inspector – in the event that the Council retains the current designation for the site in its published plan.

We are in regular contact with our relevant counterparts in Enfield and Barnet and once the details of TFL's plans for the wider New Southgate area are known, we will ensure we cooperate positively with each other.

Yours sincerely

S J Kelly

Stephen Kelly
Assistant Director – Planning

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Appendix 8: Agreed Note of Meeting

Note of Meeting

11 December 2014 – with Pinkham Way Alliance

Attendees:-

Evelyn Ryan, PWA

Stephen Brice, PWA

Paul Scott, PWA

Stephen Kelly – Assistant Director of Planning, LBH

Matthew Paterson - Interim Head of Planning Policy LBH

Anthony Franklin - Planning Policy Officer LBH

Purpose of meeting:

The meeting followed an earlier meeting on 7 November 2014 during which LBH set out the issues that they were examining with respect to the allocated Pinkham Way site; namely, consideration of the evidence and the arguments associated with the sites allocation for employment and as a SINC.

Update:

SK reminded PWA members that as discussed and set out at the earlier meeting in November, the Council had been continuing with its exploration of development viability for employment uses on the site – in accordance with the stated aspiration of everyone for transparent, evidence based exploration of the future designations of the site. The outcome of the viability modelling commissioned from GVA had suggested that the cost of building new employment buildings on its own when compared with the values of such development **made such development undeliverable**. The Boroughs employment needs, set out by GLA economics in the FALP and reasserted in the Councils Employment land review nevertheless had highlighted a continued need to protect/safeguard all existing employment allocations, and to provide up to 35Ha of new allocations to meet forecast future need during the statutory planning period. Given conclusions on viability, and recognising the SINC status of the site, LBH had therefore undertaken some scenario modelling which explored scope for “enabling development” on the land to help subsidise the cost of bringing forward new employment floor space. The conclusions of this financial modelling exercise had suggested that even allowing for the impact of the SINC on the amount of land within the site that might be available for development, the principle of enabling development did appear able to support the delivery of new employment development on the site.

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As a result of the Councils provisional conclusions on the need for enabling development and in view of the earlier discussions the Council has identified 2 potential scenarios (outlined as potential considerations at the earlier meeting) that it intended to consider further.

1. The potential for development of part of the adjacent park area for “enabling” residential uses, to facilitate delivery of new employment uses on part of the site and the transfer of the Metropolitan Open land designation from that part of the park to an enlarged area of the Pinkham Way SINC site with secured public access and funding towards future management through S106.

2. The development of part of the Pinkham Way site (the NW Corner adj to NCR) for Waste transfer – reflecting the NLWA aspiration in the waste plan call for sites and LBB need to relocate existing transfer capability in Barnet – together with the delivery of associated employment use supported by residential development on a part of the existing site/adj park (adjacent to residential estate on Alexandra Road), with the release of the residual Pinkham Way site to community use (possibly a land Trust or similar).

Following the earlier LBH/PWA meeting, the AD - Planning LBH had met with the outgoing Director of Planning in Barnet council in an attempt to better understand LBB position on future development on this site. This discussion took place in the context of the report (seen by PWA) to Barnet's Assets, Regeneration and Growth Committee dated 12 November 2014 that recommended the purchase of two alternative sites for the relocation of LBB's Mill Hill Depot because it had not been possible to reach a common agreement on Pinkham Way proposals. The report indicated that alternative proposals for Pinkham Way, including housing, would be brought forward in the immediate future. LBH officers were also scheduled to meet with NLWA on 18 December to better understand the Waste Authority position on future site requirements beyond the commitment to Edmonton.

Engagement with LBB had not to date elicited any firm view from LBB on its ongoing aspirations for the site – beyond that stated in the report. Officers of LBH were however of the view that give the previously stated aspiration of LBB to secure a financial receipt from the land, "release" of the land on the site to provide for public access was most likely to happen if this was a part of a package of proposals that secured a financial return to the existing land owners (LBB/NLWA). The adjacent park area was designated Metropolitan Open land. Any development on the adj park area (a grade II SINC) and extension of the "MOL" designation onto the Pinkham Way site should take place through formal changes in the sites respective designations undertaken through the forthcoming development plan process – to enable open consultation and consideration by the whole community.

PWA expressed a view that LBB should be unilaterally facilitating open access to the site, rather than tying release and access to a financial/development proposition. SK noted this view.

PWA also queried why the LBB was entertaining waste use for NLWA given their view that the site was not required. SK reminded PWA that the call for sites as part of the NLWP had led to the interest being raised. LBH needed to have regard to the site's scope for waste uses, given changes to sites across the Borough (including the scope for loss of waste facilities elsewhere in the Borough associated with Regeneration). It was pointed out by PWA that access/egress would be practically impossible to the aforementioned NW corner of the site being considered for waste transfer.

PWA (ER) introduced Paul, an architect and PWA committee member – who had previously been involved with PWA in preparing potential alternative use scenarios for the land, including explorations of the potential for relocation of Hollickwood Park on to the Pinkham Way site, development of quality residential on the Hollickwood Park site, cycle paths and public access to parts of the retained SINC.

PS tabled some sketch proposals for the site and its surrounds which had been prepared as a basis for discussion with LBH officers. These had been worked out on the 60% SINC and 40% Housing/Employment land-ratio previously put forward by LBH (excluding Hollickwood Park). PS suggested that these (and any) proposals must have the objective of developing existing linkages within the adjacent communities as well as creating new linkages that are necessary. He also explained that one of the objectives of the sketch proposals was to generate as much appropriate employment use for the adjacent communities as possible and to open up new through routes in the locality.

The sketch proposals included a variety of uses including a new supermarket on a podium spanning the North Circular and serving as a link between the site and the existing retail park, a hotel with potential conference facilities, a community hub comprising health and community uses, a residential development zone and new routes and pathways through the remaining parkland area alongside the golf course to enable the enjoyment of and access to the open space area.

LBH outlined a concern that the extensive proposals raised similar issues of accessibility, impact upon the SINC and sustainability of location that had been applied by PWA to previous proposals advanced by others. PWA readily accepted that some of the proposals would have an adverse impact on the SINC and could not be pursued but pointed out that some of the proposals being discussed, eg the supermarket, would create a new and additional location for development adjacent to the site, and would create local jobs and new linkages to the existing retail park.

LBH officers' view was that the retail and hotel uses were town centre type uses in a location that would require significant associated car parking – that risked damaging SINC interests (because of the extent of surface platforms/apron).

Community uses outlined raised issues of accessibility – and impact upon SINC assets.

Residential development was sizeable and would have effect of placing adjacent ecological areas under further stress through residents use etc... LBH acknowledged that it would be possible to share use of the retained park area subject to investment in play etc.

New pathways into the remaining site might have implications for ecology of the area.

Officers noted the proposals – and the spirit in which they had been developed and the need for wider consultation with the community. LBH officers reflected the need to bring any significant proposals forward through the Local plan process – to involve nearby residents and engage their interests. Officers would have regard to proposals, and comments in respect of alternatives as part of the evolving Regulation 18 site allocation.

SK indicated that they expected to have further dialogue with LBB and NLWA prior to finalising a view within the published draft site allocation – due in Jan 15.

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