

21 May 2021

Ms. Fiona Marshall
Environmental Affairs Officer – Secretary to the Compliance Committee
Aarhus Convention Secretariat
United Nations Economic Commission for Europe
Palais des Nations
CH-1211 Geneva 10
Switzerland

Dear Ms. Marshall,

Re: Determination of inadmissibility of communication to the Aarhus Convention Compliance Committee concerning compliance by the United Kingdom with provisions of the convention in connection with the proposed development of the Hendon Hub (ACCC/C/2021/185)

Thank you very much for your letter of 10 May 2021. I am writing to ask if the Committee would kindly reconsider its determination of admissibility, which I believe is based on a manifest error.

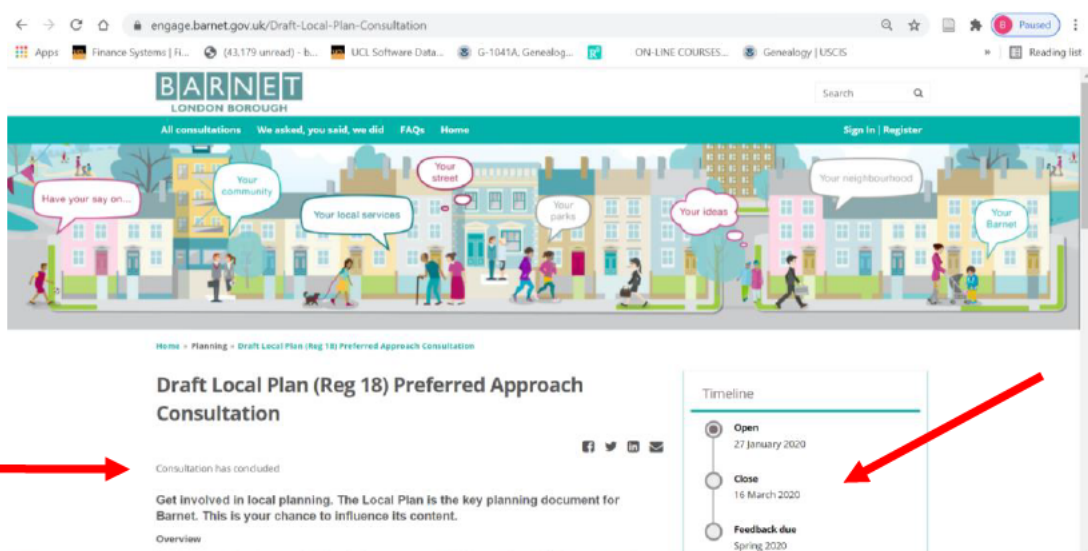
In your letter of 10 May 2021, you write ‘*the Committee noted that in none of the cases presented in the communication had the decision-making yet ended*’. For that reason, it determined the communication to be inadmissible in accordance with paragraph 20(d) of the annex to Decision I/7 of the Meeting of the Parties to the Convention for not being compatible with decision I/7 or the Convention.

1. Factual error regarding conclusion of decision-making

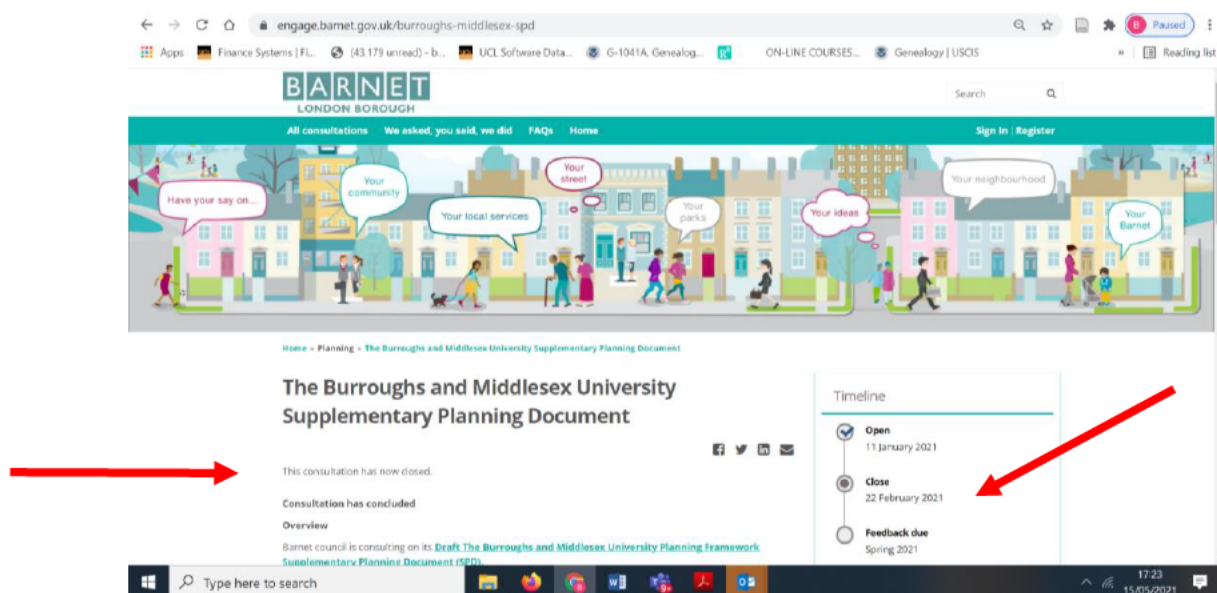
The ‘cases’ considered include: i) the **Local Plan** by the London Borough of Barnet (reg. 18); ii) the **Supplementary Planning Document**; and, iii) the **Hendon Hub** consultation.

- i) The submission of a **Local Plan** is a statutory requirement, as set out in the Town and Country Planning (Local Planning) (England) Regulations 2012.
- ii) The **Supplementary Planning Document (SPD)** further develops the Local Plan; and public authorities are required to consult stakeholders over its contents before its adoption.
- iii) The **Hendon Hub** is an ad hoc regeneration scheme initiated to manage the redevelopment of Hendon, a town in the London Borough of Barnet. It is a non-statutory process. The Hendon Hub address several sites for development, but does not cover the same territory as set out in the draft Supplementary Planning Document prepared by the London Borough of Barnet.

I would like to draw the Committee’s attention to the fact that **the Consultation on the Draft Local Plan (Reg. 18) concluded on 16 March 2020**. When the communication was submitted on 28 February 2021, the consultation was closed -- no further information could be entered to inform the decision-making.



Further, **the consultation on the Draft Supplementary Planning Document concluded on 22 February**. After that date, the London Borough of Barnet closed the consultation. When the above communication was submitted, the consultation process was closed, and no further information could be submitted to inform this particular document.



After 22 February 2021, the only decision-making process still open, was the Hendon Hub project, which does not cover the same territory as in the Local Plan and SPD and relies on different plans.

2. **Compatibility with Decision I/7 or the Convention**

- a. **Decision I/7** - Paragraph 20(d) states the Committee shall consider any such communication *unless it determined that the communication is incompatible with the provisions of this decision or with the Convention*. Under section VI - Communications from the Public, Decision I/7 sets out conditions under which a member of the public may submit a communication. **There is no mention whatsoever that decision-making processes must have ended in order for the Committee to consider a communication.**
- b. **The Convention** affirms the right to public participation, and not simply upon conclusion. We note Article 6(3) does not qualify the decision-making process -- whether early or ended -- but speaks of 'phases':

'The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during the environmental decision-making.'

Further, **Article 6(4) stipulates that all options must be open to ensure effective public participation**: *Each Party shall provide for early public participation, when all options are open and effective public participation can take place.*

As noted above, the consultations over the Draft Local Plan (Reg. 18) and the Supplementary Planning Document concluded in March 2020 and February 2021, respectively. **Since all options were not open, the Committee's decision of inadmissibility on the above communication is therefore inconsistent with the provisions of Article 6(4).**

For the reasons above, I believe the Committee's determination was based on a manifest error. I therefore request that the Committee kindly re-consider our communication preliminarily admissible.

Yours sincerely,

Professor Brad Blitz, on behalf of the Hendon Residents' Planning Forum