

OPDC

Local Planning Authority and Delivery Agent Protocol for OPDC Staff

OPDC FUNCTIONS AND DECISION MAKING

1. This protocol is intended to provide OPDC staff with general guidance only as to how best to maintain appropriate separation between OPDC's statutory planning, commercial development and infrastructure delivery functions.
2. The objective is to ensure OPDC can manage any potential conflicts of interest between these functions as well as avoiding perceptions of bias and any associated risk of challenge. The integrity of the planning process needs to be protected and OPDC as Local Planning Authority (LPA) must not fetter its ability to take transparent planning decisions based on planning policy.
3. There are three main categories of decision with which this Protocol is concerned:
 - i) decisions taken by OPDC as Delivery Agent concerning regeneration, development and infrastructure delivery which it intends to undertake or facilitate;
 - ii) decisions taken by OPDC as LPA on planning policy and guidance documents; and
 - iii) decisions taken by OPDC as LPA on planning applications submitted by OPDC as Delivery Agent or where OPDC has a land or commercial interest.
4. The first category involves decision-making by OPDC acting in a commercial development/regeneration capacity e.g. delivering and/or facilitating development or infrastructure on land which it owns or in which it has a commercial or other interest.
5. The second category involves OPDC as LPA in relation to setting planning policy and guidance for OPDC's area. Planning policy will be set out in OPDC's emerging Local Plan and associated guidance, against which all applications for planning permission must be determined.
6. The third category involves decision-making by OPDC, again in its capacity as LPA, in respect of planning applications made by OPDC as Delivery Agent or in which OPDC has a commercial or other pecuniary interest, including securing mitigation through the imposition and enforcement of Section 106 obligations and planning conditions.
7. If not appropriately managed, conflicts of interest and perceptions of bias could occur when OPDC takes an active role in the delivery of development and/or pieces of infrastructure, on which OPDC as LPA will need to take a planning decision.

FUNCTIONAL SEPARATION

8. OPDC is a relatively small organisation with two core functions:

- OPDC as LPA whereby it produces planning policy and guidance and determines planning applications, and;
- OPDC as a Delivery Agent, which includes activities across development delivery, commercial, land assembly, infrastructure delivery and financing.

9. Where OPDC is promoting the delivery of development or infrastructure it is important that there is transparent separation of functions between LPA and Delivery Agent.

10. Examples of how the planning team will interact with other functions include:

Area of work	Role of OPDC as LPA
Funding and Financing (e.g. HIF, business rates)	Officers from the LPA side will support these areas of work where necessary. This work is not directly about land assembly and/or securing planning permissions. Input from OPDC as LPA will support OPDC in achieving its overarching objectives of securing comprehensive regeneration. Planning input can be provided where required and agreed at PID stage.
Masterplanning	
Infrastructure strategy and planning	
Land Assembly	Officers from the LPA side will only input into this work through the formal pre-application and planning application process. This is important to ensure OPDC as LPA does not fetter its ability to take an open, transparent and unbiased planning decision. If officers from the LPA side are required to work Delivery Agent side on a project, this should be identified and agreed at PID stage. For that project, the officer would be line managed by a relevant officer within the Delivery Team and the officer would not be able to take part in any LPA side activities associated with that project.
Development - Planning Application and Delivery	
Infrastructure - Planning Application and Delivery	

11. Where OPDC as LPA is engaging with OPDC as Delivery Agent it will do so in the same way as it would any other third-party developer/applicant. The following section sets out practical arrangements to manage potential conflicts.

PRACTICAL ARRANGEMENTS

12. OPDC has put in place the following practical arrangements to manage any potential conflicts between OPDC's two key roles as LPA and Delivery Agent.

13. OPDC as LPA:

- a. Will determine any planning application submitted by OPDC Delivery Agent in line with the Development Plan and all relevant material considerations;

- b. Will consult Delivery Agent colleagues internally on emerging planning policy as it would consult other stakeholders and Delivery Agent colleagues may make representations through that process in the usual way;
- c. Will not share pre-application information submitted by other applicants with OPDC as Delivery Agent, unless their nature is such that the Planning Team officers would properly expect to share them with any other third-party developer in the normal course of the planning process; and
- d. Will not be party to the work of OPDC as Delivery Agent. Significant decisions as to the terms of the acquisition or disposal of OPDC's land interests will be the subject of a full report to OPDC's Investment Committee and/or its Board. When these matters are being considered outside of the public domain, no members of the Planning Team will be present.

14. OPDC as Delivery Agent

- a. Will not seek to unduly influence OPDC as LPA;
- b. Will not look to access confidential information submitted to OPDC as LPA by other applicants in the area; and
- c. Will not share information (such as commercial agreements and other confidential bidder/developer information) with the LPA unless it is of a nature that they would normally expect to share with a local planning authority and it is clear that any necessary third party agreement to share the information that has been obtained.

15. OPDC as LPA and as Delivery Agent will

- a. Be clear at the outset of all meetings as to individual officer's roles in the meeting (i.e. as LPA or as Delivery Agent). Declaration of any conflicts of interest should be a standing item for all such meetings. Officers should leave a meeting if discussions move on to matters that should not be shared between those in the Planning Team and those in the Delivery Team;
- b. Store all documentation in separate filing systems (clearly marked) and regard it as confidential. Restricted access will apply to ensure that only members of the relevant team can access such documentation. Documentation will only be disclosed in the usual course of business between the respective teams;
- c. LPA and Delivery Agent will use separate consultant teams to advise them on their work; and
- d. Produce PIDs at the inception of projects which clearly identify which staff are working Delivery Agent or LPA side on a project.

16. Should an individual or organisation have any concerns regarding an actual or potential conflict relating to the separation of OPDC's functions, they should raise it immediately to OPDC's Executive Director, Corporate Operations/ Chief Finance Officer. Any questions or further clarification regarding this Protocol should be directed to TfL Legal.