

5 July 2019

Old Oak and Park Royal Development Corporation
City Hall
London
SE1 2AA
FAO Davena Wilson

Dear Sirs

**Old Oak North
Old Oak Park Ltd Submissions to the Local Plan EiP**

1. As requested we are writing to set out our views on the submissions made on behalf of Old Oak Park Ltd to the OPDC Local Plan Examination in Public in respect of the proper basis for the assessment of statutory compensation that would be payable in the event of the compulsory purchase of land. In particular we comment on the material set out in the documents produced by DS2 LLP ("DS2") and CBRE LLP ("CBRE") dated 28 June 2019.
2. Whilst we understand that this letter may be referred to at the Local Plan Examination in Public, it has been provided solely for OPDC's purposes and no other party may rely on the whole or any part of this letter.
3. Whilst the submissions are said to be on behalf of Old Oak Park Ltd, we understand that they also represent the views of its parent company, Cargiant Ltd ("Cargiant"), which operates a business on parts of the land that is referred to.
4. The material considers the alternative scenarios of the extinguishment of the Cargiant business or the relocation of the business, in each case resulting from the acquisition of the land and buildings from which the business is operated. We address each scenario in turn, noting that where we have adopted a figure or value derived from the submissions, it should not be assumed that this indicates that we agree that this figure or value is correct.

Extinguishment

5. The DS2 document appears to summarise Cargiant's assessment of the compensation that it considers would be due to it in the event of compulsory acquisition. The DS2 document makes reference to and utilises material from the CBRE Valuation Report, although it should be noted that there are some significant inconsistencies between the figures referred to in each document. We also note that paragraph 6.39 records that DS2 are not CPO experts.
6. The DS2 document addresses extinguishment at paragraphs 6.39 to 6.41. This assessment proceeds on the basis that it would not be possible for the business to relocate, and that extinguishment would therefore be the basis for the assessment of compensation. We consider relocation in the next section,

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and at this point simply note that a land owner affected by compulsory purchase has a duty to mitigate its loss, and that in the case of a business this includes relocating the business where doing so would lead to a compensation amount that is less than extinguishment. Leaving aside this question, we now consider the approach to the assessment of compensation for extinguishment.

7. The conclusion at paragraph 6.41 is that the estimated compensation payable to Cargiant on extinguishment would be c. £650m. Based on the brief explanation of the approach employed to arrive at this figure, we understand that it represents DS2's estimate of the overall compensation that would be due to Cargiant for acquisition of its land and extinguishment of the business. We consider that the methodology that DS2 has employed is fundamentally flawed and accordingly produces a resulting estimate of compensation that is significantly inflated, for the reasons that follow.
8. The DS2 approach brings together three components:
 - i. a capitalisation of EBITDA;
 - ii. the value of the Cargiant property; and
 - iii. the costs of winding down the business.
9. Whilst we agree that these are relevant components in the assessment of compensation for extinguishment, we disagree with the way that they have been applied by DS2. In order to illustrate the extent to which this incorrect approach over-states likely compensation, we set out how we consider the figures that DS2 have adopted should be used to arrive at an estimate. In doing this, we note that we have not had access to any internal financial information from Cargiant, nor have we inspected, measured and valued the properties referred to by DS2 or CBRE. We have considered the publically available accounts information.
10. The most significant error in the DS2 approach is that it has double-counted the value of the property in assessing the overall value of the Cargiant enterprise. The DS2 approach applies a multiplier to an adjusted EDITDA without making an adjustment to reflect the fact that Cargiant owns its property, and thus pays no rent. If an assessment on the basis of a capitalisation of earnings is to be made, it is necessary to make a further adjustment to the EDITDA to allow for the notional rental value of the property used to carry out the business and generate its profits.
11. Paragraph 6.41 refers to an "...adjusted maintainable EBITDA of £30.22m...". We assume that this figure has been provided to DS2 by its client. However, it is not clear whether this figure is based on the most recent trading results for 2017 which show a decline in sales and profitability compared to the previous two years. This EDITDA is then multiplied by 12 to arrive at a capitalised amount. No explanation is provided as to the basis of the multiplier.
12. To adjust the £30.22m to reflect the notional rental value it would be necessary to identify the value of the property used by the business. The CBRE report identifies £190.403m as the value of the property used for the business, with the balance of the total value of £260.623m being attributed to investment assets. We note that the figure of £190.403m is based on redevelopment value, which is a questionable approach given the stated "Special Assumption" that the properties being valued continue in their existing use. However, we assume that the figure must represent the maximum value attributable to the property, or at least equal the value of the property for its existing use, otherwise a higher figure would have been identified by CBRE as the market value. On the basis that the figure represents the market value, then we consider it reasonable to adopt a notional rental value of £11.425m p.a., reflecting a 6% yield on that capital value.
13. Deducting this notional rent produces a revised EBITDA of £18.795m. Whilst we are not yet able to form a view on the appropriate multiplier, we consider the figure of 12 adopted by DS2 to be the highest that could realistically be applied. However, if a figure of 12 is applied, this produces £225.54m as the capitalised value of the entire business. By way of illustration, if a multiplier of 10 is applied this

produces £187.95m, and if a multiplier of 8 is applied the figure is £150.36m. It is then necessary to deduct the value of the net assets relating to the motor retail operations of £16.93m (extracted from the accounts) in order to arrive at the goodwill value in the business. The resulting figures are £208.61m, £171.02m and £133.43m. Adding the CBRE property value and DS2 winding down costs produces:

	12x Multiplier	10x Multiplier	8x Multiplier
Goodwill	£208.611m	£171.02	£133.43
Property Value	£190.403m	£190.403m	£190.403m
Winding Down Costs	£27.16m	£27.16m	£27.16m
Total Extinguishment Estimate	£426.174m	£388.583	£350.993

14. It is our conclusion that based on the information provided and applying the recognised methodology, a proper estimate of the compensation due for the extinguishment of the business is not more than c.£426m, and potentially less. This compares with DS2's assessment of "at least £650m".
15. It should be noted that our assessment excludes the value of the investment assets, which totals £70.22m in the CBRE valuation. If these properties were to be acquired, then they would be assessed on the basis of market value.

Relocation

16. DS2 has produced an assessment of what it terms "the high-level costs of relocation" at paragraph 6.31 and in Appendix 6 of its report. The total cost is £422,148,827.
17. We understand that this assessment is intended to be an estimate of the compensation that would be payable in the event that the Cargiant land is acquired, and the business required to move. Although it is not stated as such, we assume this to be the case based on DS2's repeated comment that the site can only become available through the exercise of CPO powers.
18. As noted above, we have not had had access to any internal financial information from Cargiant, nor have we inspected, measured and valued the properties referred to by DS2 or CBRE. Accordingly, our observations on this assessment can only be based on the information that has been made available and our judgements based on that.
19. Our general observation is that the approach that DS2 has taken is again fundamentally flawed, and does not accord with the generally accepted basis for the assessment of compensation in accordance with the "Compensation Code", the body of statute and case law that provides the framework within which compensation is assessed.
20. The approach that DS2 has taken departs from the fundamental principle that other than in exceptional cases (relating to particular uses for which there is no general market or demand, which is not the case here), the assessment of compensation for land taken is based on the market value of the land that is being acquired. DS2 appear to have started from the proposition that compensation should be based on the potential cost of acquiring a replacement site that is larger than the site used by the business at a price in excess of market value. Further additions are then made for the cost of demolishing some of the existing buildings and constructing new buildings. From this total amount, credit is then given for the value of the land that has been acquired. It is noted at paragraph 6.34 that "...there are multiple cost headings that have been omitted...". On this basis, it is our view that the DS2 assessment cannot be considered to be a reliable or useful indication of the likely costs of relocation in the event of compulsory purchase.

21. Using a combination of material that has been provided by Cargiant’s advisors in the documents submitted and our judgement, we set out below an illustration of the correct approach to the assessment.
22. The starting point is to assess the value of the land to be acquired. This is assessed on the basis of the price that a willing-seller would achieve for its land if sold in the open market. This is equivalent to market value. For the Cargiant business, this has been assessed by CBRE at £190.403m, as noted above. This figure is said to be c. £5.95m per acre (Valuation Report, page 33) based on a net developable area of 32.01 acres. Based on CBRE’s description of the land, we assess this as c.34 acres on a gross basis.
23. It would then be necessary to consider where the business is to relocate and how the relocation is to be carried out. We are aware that Cargiant has in the past assembled land holdings in Acton and Wembley for the purposes of relocation. More recently, it has asserted that this land is no longer available for this purpose. Whilst this may be the case now, analysis by OPDC indicates that by 2024 when a relocation might be necessary, an area of c.34 acres could be made available at Wembley, with the same area available at Acton at a later date. In its report, DS2 assumes a relocation to a notional site in Park Royal. For the purposes of illustration, we assume that a single move of the business would be made to a site that can accommodate the operations that are currently conducted on the land that has been identified in the CBRE valuation of £190.403m.
24. Based on our understanding of the Cargiant operation, we estimate that costs and losses in the order of £40m might be incurred in moving the business to an alternative site. This estimate includes the costs of removal of the equipment and stock to a new site, as well as the temporary impact on the profitability of the business. We assume that there would be a dual site running for 6 months prior to relocation plus a further 10 weeks following relocation which would give rise to “double-overheads” in respect of property and staff costs.
25. As our estimate is based on very limited information, for the purposes of illustrating the potential cost of acquisition, we suggest that a substantial contingency allowance should be added to these figures. We suggest that a further £40m (which is approximately 17.5% of the combined figure) should be added, and should cover any potential variance in relocation costs and any unforeseen additional costs.
26. In summary, as a comparison with the extinguishment estimate set out above, our illustrative relocation estimate comprises:

Property Value	£190.403m
Relocation Costs	£40.00m
Contingency Allowance	£40.00m
Relocation Estimate	£270.403m

27. It should be noted that as with the extinguishment estimate, our assessment excludes the value of the investment assets, which totals £70.22m in the CBRE valuation. If these properties were to be acquired, then they would be assessed on the basis of market value.

Yours faithfully



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