OPDC
OLD OAK AND
PARK ROYAL
DEVELOPMENT
CORPORATION

OPDC Local Plan Examination

Executive Summary Note accompanying further materials submitted to the Planning Inspector relating to the hearing on 3 April 2019

5 July 2019

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2. Introduction

2.1. Following the first hearing session in relation to Matter 3 on 3 April 2019, the Inspector asked OPDC for the following information (as set out in the Inspector's note of matters arising from the hearing sessions (ID26)):

(a) "*provide greater detail of proposals contained in "Phase 1A" development and to consider consequent modifications*"

(b) "*prepare a paper on long-term trends in industrial land values in OPDC area and implications for plan-wide viability assessment, as part of a valuation feasibility study of Cargiant site delivering 25% of homes and 15% of employment floorspace proposed within the plan period*"

2.2. On 31 May 2019 OPDC submitted its response to the above questions (the "**OPDC Response**").

2.3. On 28 June 2019 Old Oak Park Limited ("**OOPL**") submitted its response to the OPDC Response (the "**OOPL Response**").

2.4. This note and the supporting documents referred to herein respond to the OOPL Response.

3. Context

3.1. OPDC would like to remind the Inspector that in response to the consultations on the Regulation 18 Local Plan (31 March 2016), the First Regulation 19 Local Plan (11 September 2017), the Draft New London Plan (2 March 2018), and the Second Regulation 19 Local Plan (27 July 2018), OOPL consistently stated its support for:

(a) the removal of the Strategic Industrial Location ("**SIL**") designation; and

(b) the proposals for Cargiant's site allocation which envisage the redevelopment of the site for a housing led mixed use scheme.

3.2. As such, OOPL continued to support the site allocation in the second Regulation 19 consultation (July 2018) despite it saying its position changed in November 2017.

3.3. By reason of the above, none of the points OOPL is now making have any foundation in its representations on the Local Plan.

4. General Conformity

4.1. A legal opinion from Paul Brown QC and Richard Moules dated 26 April 2019 addressing the issue of conformity with the London Plan has previously been submitted by OPDC.

4.2. The Local Plan is required to be in general conformity with and consistent with the development plan which includes the London Plan (s.24(1)(b) Planning and Compulsory Purchase Act 2004 and regulation 8(4) of the Town and Country Planning (Local Planning) (England) Regulations 2012).

4.3. The London Plan sets minimum guidelines for housing and indicative estimates for employment capacity within the OPDC area. The guidelines and estimates are required to be tested through the Local Plan process in line with Policy 2.13 of the London Plan. However, the requirement to test is subject to the minimum guidelines set out in the London Plan. Those minimum guidelines, particularly in respect of housing numbers, cannot be met without the redevelopment of the Cargiant site.

4.4. The Cargiant site must therefore remain as an allocated site within the Local Plan for it to remain consistent with and in conformity with the London Plan. It should also be noted that in addition to the OPDC's aforementioned legal requirements, in an open letter from the Secretary of State ("SoS") for Housing, Communities and Local Government to the Chief Executive of the Planning Inspectorate dated 18 June 2019, the SoS highlights the importance of pragmatism in approving plans. It would not be pragmatic for OPDC (or the Inspector) to test housing targets lower than those set out in the London Plan.

4.5. A further legal opinion to support this position is provided at Appendix 1.

5. Phase 1A

5.1. Following the first hearing session in relation to Matter 3 on 3 April 2019, the Inspector asked OPDC to "*provide greater detail of proposals contained in "Phase 1A" development and to consider* consequent *modifications*."

Relationship between "Phase 1A" and the Local Plan

5.2. The OOPL Response suggests that the Local Plan aspirations for Old Oak North will not be able to be achieved if "Phase 1A" is not achieved. They make reference to NPPF footnote 11.

5.3. In light of this comment, OPDC is of the view that it is necessary to clarify the relationship between "Phase 1A" and the Local Plan.

5.4. "Phase 1A" is not a concept or proposal contained within the Local Plan.

5.5. "Phase 1A" reflects emerging proposals being developed by OPDC's delivery arm for bringing forward the first phase of regeneration plans for Old Oak North.

5.6. "Phase 1A" should not be confused with the Cargiant site allocation within the Local Plan i.e. Site Allocation 2.

5.7. Site Allocation 2 includes land which is fully within Cargiant's freehold ownership or occupied by Cargiant. It does not include the Triangle Business Estate (Site Allocation 3) or Cumberland Business park (Site Allocation 28) as Cargiant neither has a freehold interest in the entirety of these sites nor are they occupied by Cargiant or considered to be operational land for the purpose of Cargiant's business (this is confirmed by the plan at Appendix 1 to the DS2 report submitted as part of the OOPL Response).

5.8. Site Allocation 2 is identified to come forward in years 6 to 21+ within the Development Capacity Study (DCS) 2018. The phasing of the site allocation is shown in Local Plan figure 3.16 and has been subsumed into the wider phasing of Old Oak North which includes the EMR site (Site Allocation 4). A portion of EMR is expected to be delivered within the 0-5 years of the plan. Figure 3.15 shows the full area of Old Oak North to be delivered in the 0 to 21+ years of the Local Plan.

5.9. Table 3.1 shows Site Allocation 2 coming forward within 0-21+ years as a result of the potential for development to come forward from years 6 to 10 of the Local Plan period. It is acknowledged that this could be misconstrued to mean that the site allocation should be contributing to OPDC's 0-5 year housing supply. To clarify this, OPDC intends to propose a minor modification to provide supplementary wording to Table 3.1 indicating that a portion of Site Allocation 2 could come forward within 6 to 10 years and the balance within 11 to 21+ years.

5.10. The table below identifies the site allocations located within the "Phase 1A" area identified for delivery in years 0-5 of the Local Plan period. Neither of these sites is owned or leased by Cargiant.

Site allocation	0-5 years Homes	0-5 years Jobs
EMR (portion of) (Site Allocation 4)	200	180
Oaklands North (Site Allocation 24)	200	90

5.11. The Oaklands North Site (Site Allocation 24) is not dependent upon "Phase 1A". Access to Oakland North can be delivered through the Oaklands site (Site Allocation 23), which is already under construction. The deliverability of the EMR site (Site Allocation 4) is dependent on the infrastructure to be delivered as part of "Phase 1A" i.e. Park Road. However, if the Inspector is minded to view the EMR site as not deliverable, OPDC is confident that the 200 units, representing 5% of the 0-5 housing trajectory, would easily be accommodated by increased development capacity of other early sites, including the high density developments being delivered in North Acton. Given the Development Capacity Study identifies a significant supply of 4,000 units across the OPDC area within the 0-5 year period and a housing need of 315 units for the same period, this site is not required to meet this need as the need can easily be met elsewhere.

5.12. In light of this, OPDC submits that the Inspector is not required to consider "Phase 1A" when assessing whether the Local Plan is "sound" within the context of paragraph 182 of the NPPF 2012 nor is the Inspector required to consider whether "Phase 1A" is likely to come forward within the first five years of the Local Plan and therefore be tested as per NPPF footnote 11.

5.13. "Phase 1A" is as an aspiration of OPDC's delivery arm and totally separate to the exercise to be addressed at this stage in the formulation of the Local Plan.

Further Details

5.14. Notwithstanding the above, OPDC wishes to provide a full response to the Inspector's request for further detail of the proposals contained within "Phase 1A".

5.15. The OPDC Response contained a plan indicating the area known as potential "Phase 1A" Study Area" and confirmed that the OPDC's approach to "Phase 1A" is informed by Local Plan Policy P2 and supporting text OON.13 that Park Road will enable the servicing of plots along its length to meet the requirement for early delivery of 2,800 homes and 1,900 jobs in the first 10 years of the Local Plan period.

5.16. The OPDC Response noted that there is still work to be done internally by OPDC and through engagement with landowners and other third parties before the detailed boundary of "Phase 1A", and what it will include, can be finalised.

5.17. However, with a view to providing the Inspector with greater detail of the proposals contained in "Phase 1A", OPDC encloses at Appendix 2 a document setting out a summary of the infrastructure, homes and jobs which OPDC envisages can be provided within "Phase 1A" within the overall context of the wider proposals for Old Oak North. The further detail included within the enclosed document is provided without prejudice to the current and future discussions OPDC is undertaking, and will continue to undertake, with affected landowners.

5.18. OPDC notes that it is contended by OOPL that prior to the hearing on 3 April 2019 all they knew about "Phase 1A" was as set out in the letter from OPDC to the Inspector dated 18 March 2019.

5.19. This is incorrect. Cargiant and its development partner London and Regional Properties have engaged in extensive dialogue with OPDC's delivery team since late 2017 regarding OPDC's proposals for Old Oak North. The delivery concept that is now known as "Phase 1A" was first presented to Cargiant/OOPL in November 2017, albeit without the title "Phase 1A", and as recently as 18 February 2019 Cargiant was provided with a detailed presentation showing the indicative boundary of "Phase 1A" and the likely implications for Cargiant's business. There has also been an open offer from OPDC to Cargiant to enter into further discussions concerning "Phase 1A".

HIF

5.20. In light of the relationship between "Phase 1A" and the Local Plan, OPDC does not consider the availability or timing surrounding the HIF funding to be relevant to the assessment as to whether the Local Plan is "sound".

5.21. Notwithstanding this, OPDC would like to respond to the assertions regarding HIF made by OOPL within the OOPL Response.

5.22. It is a matter of fact that MHCLG has announced that it has allocated HIF funding of £250m for Old Oak North subject to conditions[1]. OPDC intends to use the HIF funding to facilitate the delivery of the scheme for "Phase 1A" which will, in turn, act as a catalyst for the redevelopment of the remainder of Old Oak North.

5.23. The precise details of the funding conditions are still in the process of being negotiated and are in any event considered to be commercially confidential by both OPDC and MHCLG. As such, OPDC will not be disclosing them to OOPL or any other party.

5.24. As to when the HIF funding must be committed, OPDC refers OOPL to the Government's Housing Infrastructure Fund web page https://www.gov.uk/government/publications/housing-infrastructure-fund which confirms that the "*grant funding, allocated to local authorities on a competitive basis, is being provided in the period from 2018-19 to 2023-24*".

Impact of "Phase 1A" on Cargiant

5.25. As set out above, in light of the relationship between "Phase 1A" and the Local Plan, the Inspector is not required to consider "Phase 1A" when assessing whether the Local Plan is "sound".

5.26. Notwithstanding this, OPDC would like to take this opportunity to respond to the points raised by OOPL regarding the impact "Phase 1A" may have on Cargiant's business.

5.27. Within the OOPL Response it is stated that the indicative "Phase 1A Study Area" boundary comprises 25% of Cargiant's land. Within this context OOPL states that there is no information in the public domain to show whether "Phase 1A" can be achieved without requiring the relocation or extinguishment of the entirety of Cargiant's operations.

5.28. Firstly, OPDC notes that the plan contained at Appendix 1 of the DS2 Report submitted as part of the OOPL Response is incorrect and misleading.

5.29. For clarity OPDC has provided its own plan which is enclosed at Appendix 3. That plan overlays the actual indicative "Phase 1A Study Area" boundary over the land indicated by Cargiant as being operational and non-operational. It also removes any colouring of the adopted highways on the basis that such land cannot reasonably be considered as Cargiant's operational land.

[1] https://www.gov.uk/government/publications/housing-infrastructure-fund

5.30. Secondly, and as stated clearly within the OPDC Response, the "Phase 1A Study Area" remains indicative. The exact area of "Phase 1A" has not yet been finalised. OPDC will continue to engage with landowners, including Cargiant, with a view to understanding more about their businesses with a view to identifying what additional measures can be taken to mitigate any possible effects "Phase 1A" may have on their business operations.

5.31. Thirdly, OPDC notes that OOPL has provided no information or analysis to explain why the delivery of "Phase 1A", as it is currently shown, would necessarily lead to the relocation or extinguishment of Cargiant's business other than to simply state that the indicative "Phase 1A" boundary comprises 25% of Cargiant's land.

5.32. OPDC and its consultant team have undertaken a review of Cargiant's landholdings and operations. OPDC is of the view that it would be reasonable to conclude that if "Phase 1A" were to include all of the land currently shown within the indicative "Phase 1A Study Area" boundary, it would not lead to the relocation or extinguishment of the entirety of Cargiant's business.

5.33. It is acknowledged that Cargiant is best placed to assess and understand its own business requirements but it is clear that Cargiant is an innovative and creative business which is constantly evolving and is more than capable of reorganising its business operations to adjust to the loss of any land currently included within the indicative "Phase 1A Study Area" boundary.

5.34. Page 3 of the report enclosed at Appendix 2 illustrate OPDC's current understanding of how Cargiant's business operates and the purpose for which land is owned or occupied by Cargiant and how this position has changed between 2014 and 2019.

5.35. As set out within the report, the land contained within the indicative "Phase 1A Study Area" boundary comprises 7.7% of Cargiant's operational land.

5.36. In relation to the potential impacts the delivery of "Phase 1A" could have upon Cargiant's business (i.e. the potential acquisition of 7.7% of Cargiant's operational land), the report identifies a number of potential mitigation opportunities which would be available to Cargiant. This exercise serves to demonstrate that it would be feasible for Cargiant to continue operating alongside the delivery of "Phase 1A". In fact, the report identifies opportunities that may arise from "Phase 1A" that could assist the layout and operation of the business.

5.37. Therefore, on the basis of work undertaken to date, OPDC is of the view that it would be irrational to conclude that delivery of "Phase 1A" would require the relocation or extinguishment of the entirety of Cargiant's business.

5.38. OPDC notes that it is engaging, and will to continue to engage, with landowners (including Cargiant) within the indicative "Phase 1A Study Area" in relation to the delivery of "Phase 1A" and its impact upon existing businesses. It is anticipated that through such discussions OPDC should be able to agree a suitable interface between "Phase 1A" and Cargiant's business.

5.39. To the extent OPDC is unable to agree commercial terms with Cargiant, the appropriate forum for assessing whether it is reasonable and in the public interest to acquire Cargiant land would be at a public inquiry considering any subsisting objections to a compulsory purchase order ("**CPO**") for "Phase 1A". The preparation and determination of a planning application for "Phase 1A" will also provide an opportunity for Cargiant to express its views. OPDC cannot and would not seek to make a CPO for "Phase 1A" unless it is satisfied that there is a reasonable prospect that the CPO is likely to be confirmed by the Secretary of State. This would require OPDC to consider the statutory tests associated with the promotion of a CPO and the Guidance – which includes being able to demonstrate that it is in the public interest to acquire the land and that there are likely to be sufficient sources of funding in place to acquire land to implement the underlying scheme.

6. Cargiant Site Allocation Viability

6.1. Following the first hearing session in relation to Matter 3 on 3 April 2019 the Inspector asked OPDC to prepare *"a paper on long-term trends in industrial land values in OPDC area and implication for plan-wide viability assessment, as part of a valuation feasibility study of Cargiant site delivering 25% of homes and 15% of employment floorspace proposed within the plan period*".

6.2. The OPDC Response enclosed a note in relation to industrial values.

6.3. The OPDC Response also enclosed the OPDC Cargiant Site Allocation Viability Appraisal ("**OPDC CSAVA**") in response to the Inspector's request.

Extent of appraisal

6.4. The area of land assessed within the OPDC CSAVA is the land contained within Site Allocation 2 of the Local Plan. The reason for this is:

a) as noted above, Site Allocation 2 includes the land within Cargiant's freehold ownership and control. It does not include the Triangle Business Estate (Site Allocation 3) or Cumberland Business Park (Site Allocation 28) as Cargiant neither has a freehold interest in the entirety of these sites nor are they occupied by Cargiant or considered to be operational land for the purpose of Cargiant's business (this is confirmed by the plan at Appendix 1 to the DS2 report submitted as part of the OOPL Response); and

b) the housing and jobs identified as being delivered within Site Allocation 2 are 25% of the homes and 15% of the employment floorspace proposed within the Local Plan period.

6.5. OPDC notes that OOPL has undertaken an assessment of a different area of land. The assessment undertaken by DS2 on behalf of OOPL is of the land contained within Site Allocation 2, as well as:

a) Triangle Business Estate (Site Allocation 3); and

b) Cumberland Business Park (Site Allocation 28).

6.6. It is unclear as to why OOPL has decided to appraise a wider area beyond Site Allocation 2. OPDC is focused on demonstrating to the Inspector that there is a reasonable prospect that Site Allocation 2 will be available and can be viably developed at the point envisaged.

6.7. A more detailed assessment of Cargiant's entire landholdings and business operations may be required to be undertaken at a much later stage in the Local Plan period once there are firm proposals in place to progress the later stages of OPDC's proposals for Old Oak North. These are not matters for the immediate concern of the Local Plan Examination.

Basis of Assessment

6.8. The NPPF (2012) and NPPG are clear that in formulating their planning policies, a local planning authority needs to "*assess the likely cumulative impacts on development in their area*" and that in " *order to be appropriate, the cumulative impact of these standards and policies should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle. Evidence supporting the assessment should be proportionate, using only appropriate available evidence*".

6.9. The application of plan policies needs to be sufficiently flexible to deal with market cycles (which the local planning authority cannot influence) so that the scale of housing and other development envisaged by the Local Plan can be delivered. This clearly speaks to the NPPF's requirement in para 154 that "*Local Plans should be aspirational but realistic. They should address the spatial implications of economic, social and environmental change. Local Plans should set out the opportunities for development and clear policies on what will or will not be permitted and where*". OPDC's Local Plan contains such flexibility; see for example Policies H2 and DI1.

6.10. Pursuant to the NPPF 2012, sites coming forward after year five of the Local Plan period need to be "*developable*". Footnote 12 of the NPPF states that:

"*To be considered developable, sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged.*"

6.11. Site Allocation 2 is identified to come forward after year five of the Local Plan period. The proposed modification referred to at paragraph 5.9 above will clarify this.

6.12. The test that should therefore be applied to the delivery of Site Allocation 2 is that set out at footnote 12 of the NPPF 2012, i.e. that there is a "*reasonable prospect*" that the site is available and could be viably developed at the point envisaged.

Response to OOPL Response

6.13. The OOPL Response enclosed a report from DS2 entitled "*Critique of OPDC response to Inspector's questions in relation to valuation feasibility study of Cargiant Site*".

6.14. BNPPRE, who produced the OPDC CSAVA, have reviewed the DS2 report and have provided a response which is enclosed at Appendix 4 (the "**Viability Response**").

6.15. Having considered the DS2 report and Viability Response, OPDC remains of the view that the approach adopted within the OPDC CSAVA is appropriate, proportionate and consistent with the NPPF 2012[2].

6.16. The OPDC CSAVA, alongside the Viability Response, gives confidence that redevelopment is likely to be viable during the Local Plan period.

6.17. We draw to the Inspector's attention that the OPDC CSAVA is considered to be conservative and that developers would include significantly more optimistic assumptions in their assessment of schemes. For example, the OPDC CSAVA:

a) adopts a density assumption that could be exceeded in practice given the exceptional transport accessibility of the location;
b) adopts a more cautious approach to long term growth than some precedents may suggest;
c) adopts a reasonable finance rate, but a more preferential rate could potentially be secured by a developer; and
d) takes a cautious view of the scale of developer profit that would be sought.

6.18. As to the reasonable prospect of the site becoming "*available*", the OPDC CSAVA demonstrates that redevelopment of Site Allocation 2 is likely to be viable during the Local Plan period even allowing for a 20% premium on the Benchmark 2 and Benchmark 3 land values cited within it. On the basis that the 20% equates to between £35.44 million and £38 million it is considered that there is a "*reasonable prospect*" that such sums would be suitable to incentivise a reasonable landowner to relocate.

6.19. It is noted that Cargiant disagrees with this conclusion. The fact that Cargiant disagrees is not a reason for concluding that there is no "*reasonable prospect* "of Site Allocation 2 (or indeed the wider Cargiant site) becoming available for development at the point envisaged within the Local Plan and OPDC submits that the adoption of strategically important regeneration policies cannot be assessed on the basis of a single landowners views at a certain point in time.

6.20. Indeed, it should be noted that Cargiant has expended a considerable amount of time and money seeking to promote its site for redevelopment and has already taken steps to secure a relocation site.

1.1. [2] OOPL query the use of NIA in the OPDC CSAVA. OPDC note that BNPPRE are correct in their use of NIA. The use of NIA floorspace figures is consistent with the approach used in other Local Plan supporting studies and is the measurement utilised in the Development Capacity Study.

The fact that it now states that it no longer wishes to relocate does not mean that it will not change its mind at some point during the Local Plan period and we refer back to the comment made at paragraph 2 of this note that OOPL has, up until January 2019, been consistent in its support for the promotion of a local plan policy which removes the SIL designation and allocates Site 2 for a mixed use development. Local Plans which give effect to strategic policy cannot be determined by short term land owner assertions.

6.21. The evidence contained within the OPDC CSAVA illustrates that the regeneration of the wider area, alongside the introduction of key new transport links, will create the market conditions in which a reasonable owner would be incentivised to relocate. In the context of Cargiant's previous position as to the development of its site, it is not unreasonable to assume that Cargiant would take advantage of such regeneration and relocate.

6.22. As such, OPDC maintains its view that there is a "*reasonable prospect*" that Site Allocation 2 (and the wider Cargiant site) will be available at the point envisaged within the Local Plan and that it could be viably developed.

Relocation/Extinguishment of Cargiant business

6.23. OOPL argue that it has always been its position, both when Cargiant was actively pursuing relocation and after this exercise had ceased, that the cost of relocation and/or extinguishment needed to be factored into the viability of developing the Cargiant site.

6.24. The OOPL Response also notes that BNPPRE's approach is to ignore the reality that there is no evidence of any prospect that the Cargiant site will be available within the Local Plan period other than by compulsory purchase and that it is therefore necessary to consider whether there is a reasonable prospect of that happening and also to factor in the extent of compensation which would be payable.

a) Relocation

6.25. As to whether the delivery of Site Allocation 2 could cover the costs of relocating Cargiant's business, OPDC responds as follows:

6.26. <u>Cargiant's previous position</u> - As noted by OOPL, Cargiant was, until relatively recently, actively pursuing relocation sites with a view to redeveloping its land holding at Old Oak North. In doing so it is reasonable to assume that Cargiant must have concluded that relocating was viable.

6.27. As noted within the DP9 explanatory note submitted to the Inspector on 26 February 2019:

"*In August 2018 key leases for the business located on Cargiant's partly acquired relocation sites began approaching the ends of their terms. As a direct result of the delay in progress resulting from the uncertainty over infrastructure delivery, Cargiant was forced to extend these leases or, in the absence of an outline planning permission, risk breaching it's loan covenants. Restarting this investment process and attempting to acquire a new 45 acre contiguous site within the local area was not considered viable – primarily due to land prices in the area having dramatically increased in recent years as a result of industrial land being lost to regeneration within the Opportunity Area.*"

6.28. It is therefore clear that until relatively recently Cargiant did consider it viable to redevelop their existing landholdings and relocate the Cargiant business. OPDC submits that it is not unreasonable to assume that such redevelopment and relocation will be seen to be viable again in the future.

6.29. <u>Costs of relocation</u> – The OOPL Response enclosed a high level summary of the cost of relocating the Cargiant business, which is stated as being £422.1m. Deloitte, on behalf of OPDC, has undertaken its own assessment of the costs of relocating Cargiant's business (see Appendix 5). As set out within the Deloitte note, the approach to valuation adopted by DS2 is fundamentally flawed and does not accord with the generally accepted basis for the assessment of compensation in accordance with the "Compensation Code".

6.30. Deloitte (having applied the "Compensation Code") assess the costs of relocation in respect of Site Allocation 2 to be between £230m - £270 (the £270m value includes a £40m contingency allowance which is considered substantial in light of the £40m relocation allowance already included within the assessment). When the non-operational investment properties owned by Cargiant within Site Allocation 2 are also taken into account the total relocation costs in respect of Site Allocation 2 are considered to be between £274m - £314m.

6.31. In response to the concerns raised within the OOPL Response, BNPPRE have assessed the viability of the proposals for Site Allocation 2 against Deloitte's assessment of the relocation costs in respect of Site Allocation 2. Figure 8.2.1 within the Viability Response demonstrates that the development of Site Allocation 2 remains viable at between 20% - 25% affordable housing when measured against Deloitte's assessment of the relocation costs relating to Site Allocation 2.

6.32. <u>Relocation sites</u> – According to the high level summary of the cost of relocating the Cargiant business submitted by OOPL, OOPL suggests that Cargiant would require a 45.94 acre site in order to relocate. However, OPDC note that, according to the CBRE Valuation Report which was also enclosed within the OOPL Response, Cargiant is currently operating from a site of 32.01 acres, which equates to a gross area of circa 34 acres. It should also be noted that Cargiant's operations have grown organically over time.

6.33. On the basis that Cargiant is currently trading from a site of circa 34 acres OPDC submits that it is reasonable to assume that it would require a site of circa 34 acres in order to relocate (albeit that in the context of Cargiant's historical growth it is reasonable to assume that efficiencies could be achieved such that Cargiant could successfully trade from a site of less than 34 acres without compromising any plans to expand its operations).

6.34. In light of this, OPDC notes that Cargiant has already acquired two possible relocation sites in Wembley and Acton.

6.35. The note enclosed at Appendix 6 illustrates that Cargiant and/or Cargiant's directors own circa 51.85 acres of land in Wembley and circa 40.2 acres of land in Acton.

6.36. On the basis of the information available to OPDC via the Land Registry, OPDC understands that Cargiant could secure vacant possession of a site of circa 34 acres in Wembley by 2024.

6.37. OPDC submits that (notwithstanding the fact that the Viability Response demonstrates the development of Site Allocation 2 remains viable at between 20% and 25% affordable housing when measured against Deloitte's assessment of the relocation costs relating to Site Allocation 2) OOPL's assertion that the cost of relocating Cargiant's business needs to be factored into the viability of developing the Cargiant site must be seen in the context of Cargiant's existing land ownership and there being a possibility of it being able to obtain vacant possession of circa 34 acres of land by 2024.

6.38. Furthermore, and noting that vacant possession of circa 34 acres at Cargiant's Acton site is not considered possible until 2027 by reason of existing leasehold interests, OPDC notes that it would be willing to consider using its statutory compulsory purchase powers in order to assist Cargiant in securing vacant possession of its preferred relocation site. As such, OPDC is proposing the following modifications to the Local Plan which will assist in the relocation and/or interim employment uses within areas proposed to be removed from SIL:

a) make use of compulsory purchase powers to facilitate business relocations on a case by case basis; and

b) support the delivery of interim employment uses where these would not impact on the deliverability and phasing of site allocations.

b) Extinguishment

6.39. In light of:

a) Cargiant's previous belief that relocation of its business was viable;

b) the development of Site Allocation 2 remaining viable at between 20% and 25% affordable housing when measured against Deloitte's assessment of the relocation costs relating to Site Allocation 2; and

c) Cargiant's existing land holdings at Wembley and Acton

6.40. OPDC considers that it is extremely unlikely that delivery of Site Allocation 2 will lead to the extinguishment of Cargiant's business.

6.41. However, in the extremely unlikely event the delivery of Site Allocation 2 does lead to the extinguishment of Cargiant's business OPDC responds as follows:

6.42. <u>Costs of Extinguishment</u> - The DS2 report contends that the costs of extinguishing Cargiant's business would be £650m. Deloitte, on behalf of OPDC , has undertaken its own assessment of the costs of extinguishing Cargiant's business (see Appendix 5). Deloitte assess the costs of extinguishing Cargiant's business to be between £350m - £426m (the range being dependent upon the multiplier applied to Deloitte's assessment of EBITDA). When the non-operational investment properties owned by Cargiant within Site Allocation 2 are also taken into account the total extinguishment costs in respect of Site Allocation 2 are considered to be between £394m - £469m.

6.43. <u>Viability of Site Allocation 2</u> - In response to the concerns raised within the OOPL Response, BNPPRE have assessed the viability of the proposals for Site Allocation 2 against Deloitte's assessment of the extinguishment costs in respect of Site Allocation 2. Figure 8.2.1 within the Viability Response illustrates that BNPPRE's appraisal identifies viability of the development of Site Allocation 2 at between 0% - 10% affordable housing when measured against Deloitte's assessment of the extinguishment costs in respect of Site Allocation 2.

6.44. However, and as noted above, BNPPRE and OPDC consider BNPPRE's assessment of the viability of Site Allocation 2 to be conservative when viewed against the approach a developer might take, particularly with respect to the sales values growth that could be achieved on the site.

6.45. BNPPRE has therefore undertaken sensitivity testing whereby it has amended the sales values growth assumptions in their appraisal in line with residential sales values growth forecasts published by Knight Frank (advisers to OOPL). As noted within the Viability Response the revised inputs include:

- adopting a sales values of £1,000 per sq. ft in 2021 as forecast for the Old Oak Common area by Knight Frank in their report *entitled “London Development Hotspots Residential development Opportunity areas 2018” ;*
- adopting Knight Frank’s suggested regeneration premium of 3% over and above the base growth figures between 2022 and 2027;
- applying Knight Frank’s residential forecast figures published in November 2018 and republished in March 2019 for sales value growth in years 2022 and 2023 of 2% and 5% respectively; and
- maintaining the 3%pa base sale value growth rate from 2024 onwards.

6.46. The results of BNPPRE’s testing based on the above assumptions are illustrated at Figure 8.3.1 within the Viability Response and demonstrates improved viability of Site Allocation 2 such that based on Deloitte’s assessment of the extinguishment costs in respect of Site Allocation 2 the development of Site Allocation 2 can viably support between 5% and 20% affordable housing.

6.47. <u>Other sources of funding</u> - Even if the results of the sensitivity testing undertaken by BNPPRE are disregarded, OPDC notes that there is a reasonable prospect that the shortfall between BNPPRE's assessment of the Residual Land Value of the development of Site Allocation 2 and Deloitte's assessment of the actual costs of extinguishing Cargiant's business could be met by one, or a combination of, the numerous sources of potential private and public sector funding available to OPDC, including:

Public Sector Equity Investment
Homes England Land Assembly Fund
Network Rail Land Pool
OPDC Development Surplus
GLA Land Fund
Capital investment by host boroughs
Public Sector Debt Funding
Host Boroughs Loan
Public Works Loan Board
Homes England Homebuilding Fund
Private Sector Equity Investment
Development and equity investors include: • a range of funds; • institutional investors; • listed asset managers; • Real Estate Investment Trusts; and • Sovereign wealth funds
Private Sector Debt Investment
OPDC could consider a range of debt investments including: • project and development finance; • private placement; or • bond debt.

c) Conclusion

6.48. By reason of the above, OPDC considers that there is a "*reasonable prospect"* that Site Allocation 2 could be viably developed at the point envisaged, even when the costs of relocating or extinguishing Cargiant's business are taken into account.

6.49. In any event, OPDC submits that the Local Plan Examination is not the appropriate forum for assessing the basis as to which Cargiant should be compensated for any land which may be compulsorily acquired in the future. Any compensation and the basis upon which such compensation should be assessed, will be considered following any making and confirmation of a CPO and any subsequent vesting of any Cargiant land[3]. In this context OPDC notes that pursuant to the "*Guidance on Compulsory Purchase process and The Crichel Down Rules*" any such compulsory purchase order will only be confirmed if the confirming authority are satisfied that the sources of funding available for acquiring the land and implementing the underlying scheme are available.

7. Cargiant's engagement with OPDC on a planning application

7.1. OPDC recognises that pre-application discussions were put on hold in 2017. OOPL halted pre-application discussions in early 2017 before the commencement of the Old Oak Masterplan while awaiting outputs of the TfL GRIP 3A study. This study confirmed acceptability and costs of the Hythe Road viaduct which were key considerations for OOPL's emerging proposal. While pre-application discussions were not progressed, engagement with OOPL continued in relation to the development of the Old Oak Masterplan. This engagement helped to address issues within OOPL's proposal with the intention of helping to facilitate the delivery of an acceptable scheme through the development management process.

[3] OPDC notes the comments of the Inspector in his report in respect of the Greater London Authority (Southall Gasworks) CPO within which he stated that " In relation to the objection by Hillingdon, the evidence is clear that there have been lengthy negotiations - which have not resulted in an agreement. This position was discussed in some depth at the Inquiry and it is clear that the problem is that the respective valuers have a genuine difference of professional opinion on a point of valuation principle, related to whether the Hillingdon land possesses a ransom or marriage value. This is clearly a valuation dispute and the proper forum for considering it is the Lands Chamber, not through the CPO process. This matter does not represent an impediment to the CPO." https://www.london.gov.uk/node/29147

7.2. Additionally, OOPL continued to confirm its interest in the development of the Cargiant owned land holdings, and thereby relocation of the Cargiant business, within its responses to the Draft New London Plan (2 March 2018) consultation and to OPDC's Second Regulation 19 consultation (27 July 2018).

7.3. OPDC also notes the comments within the Knight Frank letter submitted alongside the OOPL Response within which it is stated that the potential London Overground station at Hythe Road is no longer being delivered. OPDC can confirm that TfL have undertaken a business case for this station. The business case concluded that the station had a good Benefit Cost Ratio (BCR). However TfL do not currently have any funds to allocate to the delivery of this station. Notwithstanding this, OPDC continues to support the station's delivery as part of its Local Plan and will be working with TfL to explore the potential for other funding sources to support the delivery of the station.

7.4. In relation to alternatives as raised by OOPL, OPDC has responded to the relevant points raised by OOPL within the OPDC-024 OPDC Response to Hearing Actions (Matter 2 - IIA) submitted to the Planning Inspector on 14 June 2019.

8. Conclusion

8.1. Following the first hearing session in relation to Matter 3 on 3 April 2019, the Inspector asked OPDC for the following information (as set out in the Inspector's note of matters arising from the hearing sessions (ID26)):

(a) "*provide greater detail of proposals contained in "Phase 1A" development and to consider consequent modifications*"

(b) " *prepare a paper on long-term trends in industrial land values in OPDC area and implications for plan-wide viability assessment, as part of a valuation feasibility study of Cargiant site delivering 25% of homes and 15% of employment floorspace proposed within the plan period*".

8.2. In response to the Inspector's request to "*provide greater detail of proposals contained in "Phase 1A" development and to consider consequent modifications"* OPDC has provided a plan indicating the area known as potential "Phase 1A Study Area" alongside further supporting documentation setting out OPDC's current proposals for "Phase 1A" and how they interface with Cargiant's business.

8.3. OPDC has also sought to clarify the relationship between "Phase 1A" and the Local Plan.

8.4. "Phase 1A" is not a concept or proposal contained within the Local Plan. The relationship between "Phase 1A" and the deliverability of the housing targets during years 0 – 5 of the Local Plan period are such that the Inspector is not required to consider "Phase 1A" when assessing whether the Local Plan is "sound".

8.5. "Phase 1A" reflects emerging proposals being developed by OPDC's delivery arm for bringing forward the first phase of regeneration plans for Old Oak North.

8.6. In response to the Inspector's request to "*prepare a paper on long-term trends in industrial land values in OPDC area and implications for plan-wide viability assessment, as part of a valuation feasibility study of Cargiant site delivering 25% of homes and 15% of employment floorspace proposed within the plan period*)" OPDC has provided the OPDC CSAVA of Site Allocation 2 i.e. the Cargiant site, alongside the Viability Response.

8.7. Site Allocation 2 is identified to come forward after year five of the Local Plan period.

8.8. By reason of this, the test to be applied to Site Allocation 2 is that set out within footnote 12 of the NPPF 2012:

"*To be considered developable, sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged*"

8.9. By reason of the conclusions reached within the OPDC CSAVA and the other supporting documents enclosed within this note and the OPDC Response, OPDC is of the view that Site Allocation 2 can be considered "*developable"* and that there is *"a reasonable prospect that the site is available and could be viably developed at the point envisaged"* and therefore satisfies the requirements of paragraph 182 of the NPPF 2012.

8.10. Furthermore, OPDC submits that, the history of engagement with Cargiant, the fact that Cargiant previously supported Site Allocation 2, and that Cargiant has promoted a masterplan and taken steps to acquire a relocation site, demonstrates that Cargiant has in the past considered it to be feasible to relocate its business. There is no reason why Cargiant cannot change its mind again at some point during the Local Plan period. In relation to OOPL's submission regarding extinguishment, the evidence accompanying this note demonstrates that:

- "Phase 1A" would not result in the extinguishment of Cargiant's business;
- The long term relocation of Cargiant's business at some during the Local Plan period is feasible; and
- Delivery of Site Allocation 2 would not necessitate the extinguishment of Cargiant's business and, to the extent that Cargiant were to seek to pursue a line of extinguishment, there would be sources of funding in place to cover the OPDC's initial assessment of the costs of extinguishment.

8.11. In light of the submission made by OPDC, the Inspector is invited to support Site Allocation 2 along with the minor modifications proposed.

5 July 2019