

Old Oak and Park Royal Local Plan examination

Agenda Session 13: Post-development monitoring

Participants: Inspector, Corporation, Grand Union Alliance

Summary of issues

- 1 Whether the policies DI3(e) and EU9 a (iv) for post- development monitoring would be effective (Inspector's Q3 re policy D13(e)) Many of the policies in the plan set process requirements rather than performance requirements, by which I mean that they require a planning application to be validated by being accompanied with certain documents rather than requiring a completed development to fulfil certain criteria.
 - Policy DI3(e) "OPDC will proactively engage with stakeholders and encourage active participation in the planning and delivery of development in the OPDC area by (e) requiring developers and/or management companies of major development proposals to undertake a post-occupancy survey." (Comment; it is unclear how a post-occupancy survey will so alter the development proposed as to make it acceptable where the absence of such a survey would make it unacceptable.)

The Corporation's response

OPDC initial response

OPDC considers Policy DI3(e)'s requirement for developers and/or management companies of major development proposals to undertake a post-occupancy survey to be critical in enabling development to demonstrate after the development is complete that the policy requirements for the design and environmental functioning of development have been achieved. There will typically be a period after occupiers move into new units when problems will be put right by the developer. These issues are often covered by warranties or other forms of guarantee. The Post Occupancy survey will ensure that these issues are picked up and addressed during the first 3-5 years after occupation and development is meeting the standards as permitted through the development management process. This approach is recommended by OPDC's Post Occupation Evaluation Study (2018).

Additionally, it will help to deliver OPDC's ambition to ensure developers adopt a culture of continual improvement so that lessons learned can be used to help improve future phases of development and revisions to the Local Plan. This is key for a long-term large scale development as proposed for Old Oak.

This approach is echoed in Draft New London Plan Policy SI2(B) which states that "Major development should include a detailed energy strategy to demonstrate how the zero-carbon target will be met within the framework of the energy hierarchy and will be expected to monitor and report on energy performance."

OPDC has committed to develop a Post Occupancy Survey SPD to provide supplementary guidance to policy DI3(e) using recommendations from the Post Occupation Evaluation Study (2018).

Inspector's initial response

Concerning the response to Q3 in relation to policy DI3(e), I am grateful for the explanation given for the inclusion of this policy and now understand its purpose. As drafted the policy does not state the intention to require developers to undertake remedial action. Nor is it clear whether it applies to all policy requirements and environmental functioning or only a selection. If the latter, it may be more effective to make it clear in the supporting text to each relevant policy that it will be the subject of post implementation enforcement in the way envisaged. Moreover, I need to be satisfied of the practicality of the policy in action; for example, although it may be feasible to test and rectify any failure of acoustic insulation or decontamination, a failure to achieve calculated sunlight and daylight factors or calculated thermal losses through the building fabric may be less susceptible to correction within the terms of an existing permission. I would be happy to discuss this further at a hearing session.

OPDC's second response

OPDC officers have given consideration to the Inspector's initial response and component points. Policy DI3(e) is not intended to require developers to undertake remedial action. Its purpose is to obtain information which will assist in monitoring whether or not Local Plan policies are ensuring that high quality development is being delivered and to monitor development impacts and the effectiveness of mitigation measures. National Planning Policy Framework paragraph 33 requires that Local Plans are updated at least once every 5 years. The post occupancy survey information will help the OPDC to assess whether its Local Plan policies are achieving their stated aims. To clarify this, OPDC proposes to amend 11.38 (a) to state "highlight any immediate teething problems that can be addressed and solved by management companies outside of the planning process";

Officers consider that the appropriate vehicle for identifying which policy objectives will be subject to the post occupancy evaluation would be a Supplementary Planning Document (SPD). OPDC is commencing the

development of the SPD at time of writing with the intention of it being adopted shortly after the adoption of the Local Plan.

Matters for discussion

I am grateful for the further explanation given and accept the suggested amendment to paragraph 11.38. However, in the light of the explanations now given, I am not sure that it would be justified to "require" developers to undertake a post-occupancy survey because this has the implication that it would be "required" by a condition imposed on a grant of planning permission. As is well known, conditions are only appropriate where they would make acceptable development which would otherwise be unacceptable. The worthy desire to seek information for development plan monitoring purposes would not, in my view, make such a condition necessary. I suggest that OPDC considers modifying policy DI3(e) to substitute "requesting" for "requiring".

P. W. Clark

Inspector

26.02.19