

OPDC POST SUBMISSION MODIFIED DRAFT LOCAL PLAN

RESPONSE TO PLANNING INSPECTOR PAUL CLARK ON THE NEED FOR ONE OR MORE FURTHER HEARINGS AS PART OF THE EXAMINATION, FROM THE OLD OAK NEIGHBOURHOOD FORUM AND ST QUINTIN AND WOODLANDS NEIGHBOURHOOD FORUM

Background

1. The Old Oak and St Quintin and Woodlands Neighbourhood Forums are bodies designated under the 2011 Localism Act, respectively by OPDC (2017) and RB Kensington (2013 and redesignated 2018). The Old Oak neighbourhood area was designated in 2018, and the StQW neighbourhood area in 2013.
2. Both bodies have participated actively in all stages of the preparation of the OPDC Regulation 18, 19.1 and 19.2 Draft Local Plans and gave written and oral evidence to the 2019 EIP hearings. Two further sets of representations, prepared jointly by the two forums, were made to OPDC in the public consultation on the proposed Post Submission Modifications to the Local Plan (PSMDLP) which ended on July 5th 2021.
3. In response to the Inspector's note of 6th October 2021 (ID-37) we wish to exercise a right to be heard. We have read OPDC's responses to representations on the Modified Draft Local Plan and find these inadequate. Annex A below to these submissions responds briefly to the specifics of the Inspector's note and to his response to the OONF/StQW representations. Paragraph 3 of the Inspector's 2019 findings on viability states that *the examination remains open and so I will not turn away relevant new material but I ask that any new material be limited to factual corrections to these interim findings and **information about new events or new facts which come to light since the hearing session.*** This submission sets out new facts on which we believe should be explored at one or more hearings.
4. Were the PSMDLP to be adopted with only the representations on modifications that OPDC has accepted, our members are likely to take the position of 'aggrieved persons'. By our calculation, OPDC has accepted only 40 representations and has decided to make 'no change' in response to 1,420 others. For the near 500 members across both neighbourhood areas, the PSMDLP has a potentially far worse impact on our lives as a result of the spatial and transport changes proposed, as compared with the 19.2 submission version.
5. In relative terms, the 19.2 submission version had greater coherence in creating a new major town centre at Old Oak North and Old Oak South and providing additional transport infrastructure that began to justify the levels of housing density proposed. The PSMDLP is a much changed plan, and in our view spatially incoherent. **We appreciate that these are matters of planning judgement on which the courts are unlikely to interfere. This submission therefore focuses on 'new facts' which raise matters of process and the statutory framework for plan-making.**
6. The Old Oak Neighbourhood Forum advised the Programme Officer by letter of October 11th 2021 that we would be seeking one or more EIP hearings, prior to the Inspector finalising his report on the PSMDLP. We promised to provide a more detailed submissions by the Inspector's deadline of October 25th.

7. Our two submissions on process are:

ISSUE 1: Whether OPDC knowingly submitted the 19.2 version of the OPDC Draft Local Plan in October 2018 as a document ‘ready for independent examination’, at a time when the Corporation was withholding from any appointed Inspector (and the public and other interested parties) very relevant information on the change of position of Cargiant/Old Oak Park Ltd as a key landowner. In possession of this information, we contend that OPDC could not justifiably or reasonably have held the view that the submission version of the Plan was ‘ready for examination’.

ISSUE 2: Whether this examination can lawfully conclude with a recommendation to OPDC to adopt the PSMDLP, or whether the Draft Plan should be withdrawn as falling outside the framework of the PCPA 2004 as the result of an unlawful merging of extensive activity on s19 ‘preparation’ during the s20 ‘examination’, in breach of the PCPA Act 2004.

8. A third and supplementary question (not explored at the 2019 hearings) is whether the PSMDLP meets this requirement in respect of New London Plan Policy D9 on tall buildings, as modified by the Mayor of London following the intervention of the Secretary of State in December 2020. Conformity with the adopted London Plan Policy D3(B) Optimising site capacity through the design-led approach is also an issue of concern.

The legal framework of the Planning and Compulsory Purchase Act 2004

9. Before setting out the detail of our two main procedural concerns, we have summarised below our understanding of the PCPA 2004. We have emphasised points where we feel the PSMDLP process has departed from the terms of the Act.

10. This understanding of the legislation is based on our reading of the judgment of Holgate J in his decision in Keep Bourne End Green v Buckinghamshire Council [2020] EWHC 1984 (Admin) and of the Court of Appeal in Samuel Smith Old Brewery (Tadcaster) and Selby District Council ([2015] EWCA Civ 1107). We have already cited the latter case in our representations on the PSMDLP (numbered 117/53, 117/54 and 117/55 in the OPDC’s composite schedule). If we are wrong on any of these points of law (which we have discussed with various advisers) we will reconsider our next steps.

a. A local planning authority is required to set out its policies relating to the development and use of land in its area in local development documents (in this case the submitted 19.2 Draft Local Plan and the PSMDLP documents). In the preparation of a local development document the local planning authority must have regard to *"national policies and advice contained in guidance issued by the Secretary of State"* (s.13 s.17(6) and s 19(2)(a) PCPA).

b. A local authority must submit the draft development plan document to the Secretary of State for independent examination to determine whether it satisfies the requirements of section 19 and whether it is sound (s.20(1) PCPA). "Soundness" is not defined in the legislation but in the NPPF (in this instance the 2012 version).

c. If the examining Inspector considers that the plan is "sound", he must recommend that the document be adopted by the authority or recommend "main modifications" to the draft plan which would make it "sound" or otherwise compliant, if requested by the plan-making authority to do so (s.20(7) s.20(7B) and (7C) PCPA).

d. The local planning authority may adopt the plan only if the Inspector has either recommended that outcome or has recommended main modifications to make the plan sound and/or satisfy the requirements referred to in s.20(5)(a) (s.23(2) to (4)).

e. An "aggrieved person" may apply to the High Court for statutory review of inter alia a development plan document on the grounds that **(a) it is not within the powers conferred by Part 2 of PCPA 2004 or (b) a "procedural requirement" (under the relevant powers or regulations made under those powers) has not been complied with (Section 113(3)).** (our emphasis).

f. The local planning authority must submit every development plan document to the Secretary of State for independent examination (s.20). But the authority must not submit such a document unless (a) they have complied with any relevant requirements contained in regulations under this Part, **and (b) they think the document is ready for independent examination (s.20.2)** (our emphasis).

g. The stages of the plan-making process constituting, **respectively** (our emphasis), the preparation of a local development document, as provided for in section 19, and independent examination, as provided for in section 20, **are distinct and separate from each other** (our emphasis).

h. Section 20 (7C) reads as follows *If asked to do so by the local planning authority, the person appointed to carry out the examination must recommend modifications of the document that would make it one that— i) satisfies the requirements mentioned in subsection (5)(a), and ii) is sound.*

i. Section 22 of the 2004 Act ("Withdrawal of local development documents") provides that a local planning authority "may at any time before a local development document is adopted under section 23 withdraw the document".

j. The High Court may only intervene if either (a) the document **"is to any extent outside the appropriate power"** (our emphasis) or **(b) "the interests of the applicant have been substantially prejudiced by a failure to comply with a procedural requirement" (s.113(6)).**

11. Our submissions on the case for further examination hearings relate primarily to sub-paragraphs (e), (f), (g) and (j) above. We suggest it makes sense for these matters to be explored at a hearing, as a detailed factual history is involved. This factual background was not available to the Inspector at the 2019 EIP hearings.

ISSUE 1: Whether OPDC knowingly submitted the 19.2 version of the OPDC Draft Local Plan in October 2018 when it was not 'ready for independent examination'.

12. Could OPDC have reasonably thought that the 19.2 version of the Draft Plan, as submitted to the Inspectorate on October 4th 2018 was ready for examination? We think not.

13. The Inspector's view, conveyed to us via the Programme Officer on June 9th 2021 in an email to StQW/OONF, is different. His position (as of that date) was communicated as follows: *He (the Inspector) has no doubt that the Development Corporation thought that it had prepared a sound plan*

when it submitted it in October 2018. It defended its submitted plan strongly and coherently, dealing with CarGiant's change of position head on as being either mistaken or a negotiating ploy. The fact that the Inspector subsequently found the Plan to be unsound as a result of shifts in land values and the advice that the information contained in a report to the London Assembly two to three years' later confirms the Inspector's judgement does not impugn the Corporation's good faith at the time.

14. We suggest that the Inspector's impression of 'good faith' on the part of OPDC was formed before all the facts were made public. The implications of a formal letter from Cargiant to OPDC in September 2018 were not reported to the September 28th OPDC Board which approved submission of the Draft Plan (unless this happened as part of a private briefing session, as the Board is known to hold before each public session).

15. Cargiant's formal opposition to the bid for Housing Infrastructure Funds (HIF), and the conditions attached by MHCLG to a provisional award of £250m of grant, were subsequently kept secret by OPDC from the London Assembly (as the scrutiny body overseeing decisions of the London Mayor and 'Mayoral family'). This sequence of events was acknowledged in October 2020 by OPDC CEO David Lunts as 'an error' (see further below and at our representation 117/3). OPDC's latest response to our representations is that '*at the point of submission OPDC considered the Local Plan to be sound and ready for examination*'. **The truth of this claim needs to be tested at a hearing, if assumptions of 'good faith' are to be allowed to stand.**

16. Importantly, the sequence of events in September/October 2018 was not explained by OPDC officers to the Inspector, over a year later, at the July 2019 EIP hearing on the viability of the Cargiant sites. The true facts might never have surfaced, were it not for an investigation on the HIF bid carried out by the London Assembly's Budget and Performance Committee. We contend that submission of the Local Plan by OPDC in the knowledge of a fundamental threat to its deliverability jeopardised the examination process from its start.

17. The OPDC letter of 4th October 2018 to the Inspectorate, submitting the 19.2 Local Plan documentation makes no reference to any doubts or questions on whether the documentation recommended for submission was '*ready for independent examination*'. The Board was not invited to consider and decide on this question in the officer report on the agenda, despite the legal comments saying *it is therefore essential that OPDC show that they have observed the procedural steps and requirements set out within the relevant legislation*¹.

18. Table 2 in the Board report recommending submission set out a list of **Main issues and OPDC's proposed response** arising from the consultation on the 19.2 Draft Local Plan. This makes no mention of the position on Old Oak North and the Cargiant land, nor of the responses made by Cargiant/Old Oak Park Ltd to the 19.2 consultation (Cargiant/Old Oak Park Ltd had argued the Plan was over-detailed and introduced onerous requirements impacting on viability). These responses had been submitted by Cargiant/Old Oak Park Ltd some months earlier, during the 19.2 consultation ending on a July 30th 2018.

19. As flagged up in our representation 117/54 on the Modifications, the London Assembly's Budget and Performance Committee, when researching its January 2020 report² established that OPDC had by September 18th 2018 received a letter from Cargiant formally objecting to the HIF bid as submitted earlier that month. This letter is not amongst those published belatedly by OPDC in 2020,

¹ This OPDC Board report can be found at

<https://www.london.gov.uk/moderngovopdc/ieListDocuments.aspx?Cid=378&Mid=6093&Ver=4>

² The OPDC – Undelivered plans and financial challenges of Covid 19 January 2020

https://www.london.gov.uk/sites/default/files/london_assembly_-_opdc_budget_report_-_january_2021.pdf

following the Assembly's report³. But the Budget and Performance Committee report itself confirms that the Committee had been given sight of it.

20. On March 22nd 2019, before the start of the EIP hearings, StQW wrote to Liz Peace on a number of OPDC governance issues. This included queries on the appointment of David Lunts as interim CEO and potential conflicts of role between the OPDC delivery arm and its role as planning authority. This included concerns about the appropriateness of a March 18th letter from David Lunts to the Inspector (*OPDC-DA-001 190318 Letter from OPDC Delivery Agent to Inspector Clark*).

21. This letter, sent shortly before the EIP hearings, said *Last year, OPDC submitted a bid to the Ministry of Housing, Communities and Local Government for £250m of funding from the Housing Infrastructure Fund (HIF). I am pleased to say that the Chancellor's Spring Statement on 13 March confirmed that this bid was successful.* No information was given to the Inspector on the MHCLG conditions on the bid which had been notified to Mr Lunts on 9th March, a couple of weeks earlier. It emerged only in January 2020 that MHCLG had imposed demanding conditions including adoption of the Local Plan and securing of key sites in Old Oak North. No mention was made by Mr Lunts of Cargiant/Old Oak Park Ltd's stance on the HIF bid and on development at Old Oak North.

22. The sequencing of these events is important. It demonstrates that:

- **At the time of the October 2018 submission OPDC officers knew of the change of stance by Cargiant/Old Oak Park but failed to mention any of this background in seeking approval to submission of a Draft Plan 'ready for independent examination'.**
- **The HIF bid was submitted on 18th September 2020, 10 days prior to the Board decision on 28th September to submit the Local Plan. As detailed in the London Assembly Budget and Performance Committee report of 20th March 2020, this was *at which stage it would have been clear to the OPDC that Car Giant would not be supporting the development. The Committee will consider if the HIF Bid might reasonably be viewed as a dishonest attempt to secure £250 million of public money*⁴.**
- **Before the start of the EIP hearings in 2019, the interim CEO of OPDC was heavily lobbying the Inspector on the importance of delivery at Old Oak and stating that 'OPDC has examined the feasibility of development in Old Oak North and worked with its planning team to put in place a bold but deliverable plan'. Had the full facts behind the above sequence of events been made known to the Inspector and to the public in early 2019, we believe that the examination would have taken a different course.**

23. In its September 2021 response to our representation 117/54, OPDC now claims *Cargiant's objections to the HIF bid were, at that time, on the basis of the assumed accelerated delivery of development from 2022 on Cargiant land in advance of them having found a satisfactory relocation site. Their objection to the HIF bid in September 2018 was not considered to undermine the*

³ This list of documents, published following the London Assembly report and after FoI/EIR requests has been refused in 2019, is at <https://www.london.gov.uk/about-us/organisations-we-work/old-oak-and-park-royal-development-corporation-opdc/opdc-structure-1/sharing-opdc-information/housing-infrastructure-fund>

⁴ GLA report to the London Assembly Budget and Performance Committee 20th March 2020. See at <https://www.london.gov.uk/about-us/londonassembly/meetings/documents/s81341/OPDC%20HIF%20Bid.pdf>

effectiveness of the Local Plan, which at submission had the Cargiant sites being delivered in years 5-20, or years 2023-2038.

24. This response rewrites history (in our view). As we have explained above, we have not seen the content of the Cargiant 'formal' letter of September 2018 to OPDC. We think that a copy should now be provided to the Inspector and published in advance of a further hearing.

25. It is very hard to believe that the formal objection in September 2018 of Cargiant to the HIF bid was of no relevance to the 28th September decision to submit the Reg 19.2 version of the Local Plan. Equally hard to believe is that Cargiant's formal position was not known about by OPDC officers preparing reports to the Board, recommending submission. The Interim Chief Executive at that time was Mick Mulhern, the substantive Director of Planning who had been overseeing Local Plan preparation. His own 'CEO report' to the 28th September Board covers in some detail the work being undertaken on Old Oak North, clearly seen as the first substantial phase of delivery of the proposals in the Reg 19.2 Draft Local Plan.

26. Even if the key letter from Cargiant had somehow been missed or lost (as a result of 'an error') within the 'delivery arm' of the Corporation, as opposed to its 'planning arm', OPDC could have swiftly withdrawn the submitted Local Plan in late 2018 pending negotiations with Cargiant on a viable way forward.

27. As it was, at the 2019 EIP hearings OPDC and Old Oak Park Ltd were at odds on the factual background⁵. OPDC argued that Cargiant/Old Oak Park had consistently supported the Local Plan proposals. Old Oak Park Ltd argued that it halted work on its planning application in 2017. We see the 'Overview Note' (REP-42-14) provided by Cargiant/Old Oak Park Ltd as being the most reliable chronology of the 2016-mid 2018 period. **What is now more relevant (in light of the investigation by the London Assembly Budget and Performance Committee) is to establish what Cargiant were saying to OPDC at the time of the HIF bid and the submission of the Draft Local Plan (September/October 2018) and how OPDC chose to move forward at that time⁶.**

⁵ OPDC-35 OPDC response to Old Oak Park Ltd submission – Executive Summary Note
Para. 3.2 states *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.*
Old Oak Park Ltd stated at para 5 in their representation 42-012 REP-42-012 Old Oak Park Ltd response to OPDC response to Hearing Action Matter 3 We wish to correct the statement at paragraph 1.8 of BNPP's Section 2 of the Response that "up until January 2019 the Cargiant strategic site landowner was actively engaging with the OPDC in relation to the development of the site and was working up a planning application". As set out at paragraph 12 of our Explanatory Note to the Inspector dated February 2019, Old Oak Park Limited ceased work on its planning application in late 2017, when it was told by OPDC that AECOM would be realigning major pieces of infrastructure on its land. All OOPL engagement with the OPDC since this date was in response to AECOM's work, not progression of its own. Moreover, such engagement as there was (if that is the correct description) was one-sided since OPDC did not genuinely engage and seek to resolve issues.

⁶ The London Assembly report states *Despite (the Cargiant land) being made responsible for the delivery of over a third of the new homes included in the plan, it has emerged that at the time the bid was submitted there was clear evidence that Car Giant had no appetite to develop its land in this way. On 21 September 2018, just 11 days after the HIF bid was submitted by the OPDC, Car Giant wrote to the OPDC to inform it that they were formally objecting to the OPDC HIF bid.* A footnote in the B&P Committee report confirms that the committee had sight of Cargiant's September 2018 letter prior to reaching this conclusion.

28. In the event, the Corporation chose to progress through the stages of independent examination, without revealing these very significant previous events. The moment then came, over a year later, when the Inspector's findings forced a rethink of the Local Plan. Subsequently the Assembly's Budget and Performance Committee resorted to using its legal powers to extract documents from OPDC relating to the HIF bid. The Committee's questions subsequently focused on the (up to £6.2m) abortive work and costs resulting from this episode, rather than on whether OPDC should have submitted a Draft Local Plan which already had a high risk of coming apart. It is this latter issue which we argue a further hearing should now explore, with evidence not available at the 2019 hearings.

29. Subject to further evidence, our conclusion is that in October 2018, OPDC knowingly submitted a Draft Local Plan including key proposals for a first phase of delivery, including a major east/west vehicle route and an Overground station planned to connect with the Old Oak Common HS2/Crossrail station, at a time when those outcomes were contested by the landowner involved and hence were highly doubtful **This Draft Plan was in reality far from 'ready for examination' and as such should not have been submitted without further preparatory work.**

30. Had OPDC been more open about its problems on deliverability and viability in late 2018, in the first months of 2019 and when giving initial evidence at the 2019 hearings, the Inspector might have asked for the 19.2 Plan to be withdrawn on his first reading. Further preparatory work could have been undertaken prior to re-submission.

31. Local people would have benefited from further Regulation 19 consultation on a document that was coherent and internally consistent. Instead, there has been consultation and a resumed examination tightly limited to 'modifications' of a Draft Plan portrayed as one in which '*little has changed*' but for which a great deal has changed in spatial and transport terms. It is also a document which displays all the problems of amended policies and site allocations now often discordant with their supporting texts.

32. NPPF (2012) Paragraph 182 states *A local planning authority should submit a plan for examination which it considers is "sound"*. We contend that OPDC in October 2018 knowingly failed this basic test. The 19.2 submission was unlikely to meet the test of 'effectiveness' and OPDC was aware of the risk that this would prove the case. This risk had become high immediately prior to submission when Cargiant/Old Oak Park formally objected to the HIF bid in September 2018. It became a near certainty with receipt of the MHCLG 'conditionalities' letter of 9th April 2019. OPDC chose to conceal both of those documents until January 2020.

33. National Planning Practice Guidance states

- *Inspectors should identify any fundamental concerns at the earliest possible stage in the examination and will seek to work with the local planning authority to clarify and address these*
- *where these issues cannot be resolved within the examination timetable, the potential of pausing the examination should be fully considered, with the local planning authority having an opportunity to assess the scope and feasibility of any work needed to remedy these issues during the pause, so that this can be fully considered by the Inspector.*

34. Our contention is that the Inspector was denied the opportunity he should have had, to see relevant documentation on the HIF bid and on opposition to this from Cargiant/Old Oak Park Ltd. Had OPDC made public this material when first available, events might well have taken a different course prior to the October 2018 submission and if not, then in the immediate post-submission

period of late 2018/early 2019. We alerted the Inspector in oral evidence in 2019 that OPDC was resisting Fol/EIR requests for documents on the HIF bid.

35. We see the purpose of the ‘readiness’ requirement in the 2004 Act as being designed to prevent the type of scenario that has arisen on the OPDC PSMDLP. Modifications to a submitted Local Plan (in our understanding) should be limited and should not extend to the scope of those prepared by OPDC between September 2019 and March 2021. This brings us on to our ‘Issue 2’.

ISSUE 2: whether the Draft Plan should be withdrawn as falling outside the framework of the PCPA 2004 as the result of an unlawful merging of extensive activity on s19 ‘preparation’ during the s20 ‘examination’.

36. We recognise that there have been examples of ‘paused’ examinations and those which have become very extended. We accept that a Draft Plan may be modified post submission, and that the purpose of modifications is to respond to points made by objectors or by the Inspector. Hence the mere fact that the plan is modified is part of the permitted process. This does not render the plan invalid.

37. However we contend that there must come a point at which the nature and extent of modifications is such that the plan as modified is no longer the same plan as was submitted at the start of the process. The Secretary of State’s letter of 18th June 2019 to the Planning Inspectorate, stressing to inspectors *“the importance of being pragmatic in getting plans in place...”* did not change the law in respect of the clear requirements of the PCPA 2004.

38. As explained in our October 11th 2021 letter to the Programme Officer, at the time when we first raised this question (along with a similar query from the Friends of Wormwood Scrubs) we received a response via the Programme Officer on June 9th 2021 saying that *Your final point is a matter to which the Inspector gave deep consideration at the time he issued his interim advice and one which he discussed with senior management of the Inspectorate before reaching his conclusion. He came to the view that although his interim advice would require a substantial modification to the spatial strategy of the plan, much else of the plan would remain unaltered, in particular its basic precept of capitalising on the transformative effect of the Old Oak Common HS2 station by promoting high intensity development at a number of Places and Clusters. Many of these are remaining unchanged in the Modifications which the OPDC is now proposing.*

39. This 9th June 2021 email from the Programme Officer continued *You would be right if you were to suppose that such a substantial modification of a local plan under examination is not common but, as it happens, the Inspector has experience of a parallel example of requiring through Modifications a substantial change to spatial strategy in another plan that he is currently examining (the Vale of Aylesbury Local Plan). As it turns out, it appears that, in effect, the Modifications which the OPDC has prepared are largely exchanging the provisions previously relating to the CarGiant site with those relating to the Channel Gate site (accepting that the physical and geographical circumstances of the two sites are somewhat different). He therefore takes the view that it is Modifications to a submitted Plan, not a Replacement Plan which he is currently examining.*

40. It is this position taken by the Inspector which we believe needs airing at a hearing. We appreciate that the public at an examination hearing have no right to question either the Inspector or OPDC. But the public needs to hear an explanation of why very fundamental spatial and transport changes (with wholly new proposed ‘parts of a major town centre’) are deemed to be a matter of *largely exchanging provisions.*

41. At paragraph 59 of his September 2019 interim findings (ID-33) the Inspector concluded that site allocations 2 and 3 should be deleted from the plan. He *'now called upon the Corporation to prepare Modifications to the Plan along the lines he had indicated'*.

42. Following the publication of these interim findings there was a three month period when nothing formal emerged from OPDC in terms of what steps would be taken to address them. A press release issued on December 15th 2018 stated that *OPDC has today set out a revised approach to deliver tens of thousands of new homes and jobs through collaboration with major public sector landowners. All activity and decisions leading up this announcement had been taken behind closed doors but must in practice have involved significant further 'preparatory' work on the Local Plan. If there were any exchanges with the Inspector at this time, these do not feature in the Examination Library.*

43. In early 2020 an email from OONF/StQW to the Programme Officer (8th January) asked whether the Inspector had been kept up to date on OPDC's 'change of direction'? We also asked what was happening on the examination? In our email we made the Inspector aware of a session of the London Assembly's Budget and Policy Committee on January 6th with OPDC Chair Liz Peace and interim CEO David Lunts. At this committee meeting it became clear that further work on the Local Plan would be extensive, and likely to take many months.

44. We asked the Programme Officer for information on next steps, recognising that the course of the examination was in the control of the Inspector and not of OPDC. The brief reply stated *The most up to date correspondence from OPDC is the letter from Tom Cardis; OPDC's response to the Inspectors Interim Findings (this letter is OPDC-38 sent 7th November 2019). I am expecting something further from OPDC, in the next month. Once the Inspector is in receipt of a further update from OPDC, and has authorised, it will be published on the examination webpage and I will send out an update.* If any such update from OPDC materialised at this time, it did not appear in the Examination Library.

45. The next entry in the library is the covering letter and set of modifications submitted by OPDC on March 5th 2021, over a year later. We make these points on the timetable not to be critical of the examination, but simply to point out that **a year passed during which we contend that 'preparation' continued outside the proper scope of s20 and seemingly with no questions raised by the Inspector as to the nature, extent and content of this work, nor its likely timescale.** Nothing was published in the Examination Library between November 2019 and March 2021.

46. The agenda for the OPDC Board on 31st January 2020 provided the first substantive news on OPDC's 'change of direction'. At this meeting, consultants Prior + Partners gave a presentation on what was labelled a new 'Western Lands' strategy. The Board agreed to make a series of changes to the Reg 19.2 Draft Plan by identifying new and alternative sites to meet the housing target in what remained at that time a draft version of the New London Plan. At this juncture, the Board could not have foreseen all the consequences of this new approach for the spatial and transport content of the Draft Local Plan, nor the full extent of further preparation work required.

47. Nothing in the Examination Library indicates any view from the Inspector on the merits of this approach, and whether he was content that the extent of these changes could realistically take the form of modifications to a submitted Local Plan, while remaining within the framework of PCPA 2004. There is no sign of OPDC considering alternative options (such as reverting to the Mayor of London and asking for the housing target for the OPDC Opportunity Area to be revised downwards in light of all the constraints on 'developable' sites which OPDC had already encountered). **Our understanding of London Plan housing targets for Opportunity Areas is that these are clearly**

defined as ‘indicative’ and to be tested by London Boroughs and MDCs for realism and deliverability. The New London Plan remained at this time a draft document, with an Intend to Publish version submitted to the Secretary of State in December 2019 (i.e. after publication of the Inspector’s findings on the OPDC Reg 19.2 version). A revised and reduced overall housing target for the OPDC area would seem to have been possible, albeit we accept that this was not the direction of travel which the Inspector asked for in terms of modifications.

48. Nothing was made available in the Examination Library throughout 2020, on the status of the examination. **The 2004 Act is very clear that at during the s20 ‘examination’ stage the process is in the control of the Inspector, but what form of control was being exercised?** If that part of the Inspectorate Guidance referenced below ⁷ on the subject of paused examinations was observed, **nothing in the library demonstrates that this guidance was met.**

49. The concluding paragraph of the interim findings on the Sustainability Appraisal (ID-34 29th October 2019) comes closest to meeting this part of the Inspectorate Guidance. This says only that *Without listing them here, it should now be clear to the OPDC what Major Modifications are necessary to make the Plan sound but, if there is uncertainty, I would be happy to provide clarification. I therefore now invite the OPDC to prepare a Schedule of Major Modifications for me to endorse prior to their publication for public comment. No ‘detailed brief and timetable’ for this modification stage was published.*

50. OPDC argues in its response to representation on the modifications that *The majority of the modifications are focussed on spatial aspects of the Local Plan and modifications to site allocations and place-based policies. The cross-cutting policies dealing with matters like housing, transport, employment, environmental sustainability remain largely unchanged.*

51. To those living or working in the area, this is a wholly insufficient response. This first Local Plan for London’s largest remaining regeneration area will set the spatial parameters and transport connections for decades to come (or should do). ‘Cross-cutting policies’ can be reviewed and updated every five years. The 2021 London Plan, given its level of detail, already provides policies which are part of the development plan for the Old Oak area. But the basic spatial and transport framework for a future Old Oak will be set by this first Local Plan. The location of the area’s ‘major town centre’ is not a matter which can be altered at five yearly reviews of a Local Plan. Hence the strong reaction of local people to the OPDC claim that the 19.2 Plan remains ‘*largely unchanged*’ by post submission modification.

52. The OPDC response to representation 120/11 from a local resident reads *Old Oak North is now proposed to be (a) Strategic Industrial Location and it is not appropriate for this location to continue to comprise of part of Old Oak Major Town Centre. This part of the town centre has instead been flipped into Channel Gate...* To local people and businesses in Old Oak this is symptomatic of OPDC’s approach. Should key elements of a submitted spatial plan (and its transport network) be ‘flipped’ simply to arrive at a contested housing target? The justification given to us in meetings with OPDC officers is that ‘we have no choice but to meet our housing target’.

53. The March 5th 2021 modifications were submitted to the Inspector under cover of a 22 page letter from the OPDC Director of Planning. This letter gave an explanation for the modifications,

⁷ The Inspectorate Guidance on Pausing the Examination states (para 9.1) *The Inspector will normally outline, in a letter to the LPA, the scope of the additional work he or she considers is necessary to address the issues. The LPA will be asked to prepare a detailed brief and a realistic timetable for the additional work for the Inspector’s agreement.*

using the language of ‘*officers therefore propose*’ (e.g. at 2.6). This letter was not included on the agenda of the OPDC Board held the preceding day. There is no evidence of Board approval to this detailed rationale for the modifications. **There was no opportunity for the public to question and challenge the assertions made in this letter, in the run up to the OPDC Board meeting.**

54. At the March 4th 2021 Board meeting, the Leader of Hammersmith & Fulham Council voted against submission of the modifications. This followed a Board discussion, as minuted in the footnote below⁸. There is nothing in the Examination Library which reveals that the Inspector gave a deadline of January 2021 for modifications. If no further examination hearings are held, in what way will there be any realistic ‘*opportunity for further refinements*’ to the PSMDLP, as the Board on March 4th was assured was possible?

55. We have hitherto looked to the resumed independent examination of this Local Plan to ensure that an adopted Local Plan meets all tests of soundness or is withdrawn. We now fear that neither of these two outcomes will materialise and that an unsound plan may be allowed to proceed to adoption.

56. OPDC has argued in its responses to representations that the work, actions and decisions of the ‘delivery’ arm of the OPDC are not part of Local Plan ‘preparation’ (see for example OPDC’s response to our representation 117/8 at which OPDC states *The Western Lands programme does not form part of the Local Plan’s evidence as this work relates to OPDC’s delivery functions*). **We find this a spurious argument, designed to hide the full extent of ‘preparatory’ work undertaken on the Local Plan throughout 2020.** A succession of the reports to the OPDC Board in 2020/21 set out work on the Western Lands strategy and sought approval for additional expenditure on such work, **while making clear in these reports the relationship between this activity and the preparation of Local Plan modifications.**

57. As a measure of ‘preparatory work’ from September 2018 to March 2021, we have analysed OPDC reports and ‘Director’s Decisions’ approving or commissioning external work on evidence gathering for the PSMDLP. The detail is given in Table 1 at the end of these submissions. This excludes all in-house preparatory work undertaken by OPDC staff (with a planning policy team of six full-time staff). **On any reasonable and objective assessment, we do not see how the scope, volume and cost of this work can be treated as other than ‘preparatory’ activity on a Local Plan.**

58. We think it is time that the Planning Inspectorate issued clearer guidance on the limits of ‘modification’ at examination stage, if the Local Plan process is to retain the confidence of the public. **We also believe that there is a very arguable case that the OPDC PSMDLP has drifted into unlawful**

⁸ The draft minutes of the 4th March 2021 Board note in relation to Cllr Stephen Cowan *He informed Members that he would be voting against the proposal to submit the Plan to the Planning Inspector as it stood. A delay in the submission was requested to allow for several matters to be addressed – these included additional community consultation; Hammersmith and Fulham Council to review the content; and the opportunity to feed in elements of the borough’s Industrial Strategy. The Director of Planning explained that the timescale was already stretched as the Planning Inspector had initially requested submission in January 2021 and agreed to an extension* (our emphasis). *OPDC had engaged with officers from LB Hammersmith and Fulham and residents and the Council’s Industrial Strategy would not be precluded if submission of the Plan was agreed at this meeting. Further delay would result in the Plan either being regarded as unsound, due to the length of time taken for the public examination, or having to be withdrawn. It was noted the examination process did provide for opportunity for additional refinements. An approved Plan was a necessary precondition for accessing external funding and so it was important to submit the Plan according to the proposed timetable* (our emphasis).

'hybridity' in merging preparation and modification/examination, were all the evidence to come before a court.

59. The Samuel Smith case was on the issue of the Duty of Co-operation and was not centred on the extent to which 'modifications' can in practice become a process of extensive additional plan preparation, post submission.

60. It seems evident to us that OPDC's decisions on making 'no change' in the PSMDLP other in respect of 40 out of 1,460 representations is indicative of their wish to minimise evidence of yet further 'preparation' during the examination stage. But without substantial further modification, an adopted PSMDLP would include unevidenced assertions, contradictions, and errors where the 2018 draft text no longer relates to a 2021 modification. These instances are covered in our 254 representations.

61. OPDC has argued (in response to our representation 117/53 and elsewhere) that *The approach undertaken by OPDC accords with the Planning Inspectorate's Procedure Guide for Local Plan Examinations and was agreed by the Planning Inspector. OPDC's proposed modifications have been produced in response to requests by the Planning Inspector including those made in response to the Inspector's Interim Findings. From the documents in the Examination Library we remain unclear how and when this approach by OPDC was 'agreed' by the Inspector?*

62. In referring to requests made by the Planning Inspector including those made in response to the Inspector's Interim Findings, **what other such requests have been made beyond his two sets of findings?** (If this OPDC comment relates to the Inspector's March 2021 email to the Programme Officer at ID36 in the Library, can this please be confirmed?)

63. In relation to The Inspector's note of 15th March (ID35), we question whether it should be a matter for 'congratulation' to OPDC staff *for conducting such an extensive re-write of the plan within the period since I issued my Interim findings*. This period had initially been promised by OPDC as a few months but turned into 18 months. We are aware of Local Plan examinations notorious for their longevity, including suspensions. But such scenarios damage public confidence in the system. This is why we strongly question the extent of discretion seemingly being applied in this case, on the statutory distinction between 'preparation' and 'examination'.

64. As found by Ouseley J in his judgment on the Samuel Smith case at para 29, *the 2004 Act makes the position quite clear: there is a clear distinction maintained throughout this group of sections between plan preparation on the one hand and examination to adoption on the other, and in the powers which the Council has at those two stages. The different stages are apparent from s19 and 20. S19 clearly deals with the duties on a Council during preparation, and s20 deals with the obligation to submit it for public examination. Preparation is then over (our emphasis). The duties are laid upon the Inspector. The plan is out of the Council's hands, apart from the possibility of withdrawing or in effect abandoning the plan, until it can exercise the tightly constrained powers of adoption (our emphasis)*. We don't see how this judgment is compatible with an eighteen month 'extensive rewrite' (to use the Inspector's own description). This activity during the examination stage has involved externally commissioned expenditure by OPDC of £1.157m on what seems to us on any reasonable assessment to be 'preparation' activity in reality (see Table 1 below).

65. The examination has become one vulnerable to legal challenge on grounds that the PSMDLP document (in its current form) *"is to any extent outside the appropriate power"*. We also contend that the interests of the applicants for potential challenge (in this case the local residents who are

members of the Old Oak and StQW Neighbourhood Forums) risk being substantially prejudiced by a failure to comply with the procedural requirements inherent in s19 and s20 of the PCPA 2004.

66. We argue that the extent of preparatory work, **initiated and undertaken wholly afresh following the Inspector's interim findings of September 2019**, cannot reasonably be considered as falling within the 'examination' stage as provided for in s20. Although Inspectors have significant discretion on the conduct of examinations, we do not accept that this can encompass a scenario in which a plan at this late stage is revised and redrafted to the extent of the PSMDLP.

67. We go along with that part of the judgment of Ouseley J (27th October 2014) at the earlier stage of Samuel Smith that *a planning authority cannot change the plan after submission. It can only ask the Inspector to recommend modifications to it. There must be some limit on the scope and extent of modifications if the construction of the 2004 Act, and the statutory distinctions therein between s19 'preparation' and section 20 'examination', are to be met.*

68. If the scope of 'modification' is allowed by the Planning Inspectorate to widen to include what are clear and obvious major spatial and transport changes to a Local Plan, there is the real risk of Draft Plans being submitted with little serious consideration by the plan-making body on whether these documents are '*ready for independent examination*'. Planning authorities will increasingly assume that they can have a shot at examination of Plan A with every opportunity to switch to Plan B or Plan C in the course of the s20 examination stage.

69. Such a trend will render increasingly meaningless the Local Plan system as currently enshrined in legislation. It will further diminish public confidence in the planning system, in that statutory consultation at Regulation 18 and 19 stage(s) will come to be seen as potentially provisional exercises.

70. We accept that OPDC carried out a full further stage of consultation on its PSMDLP modifications. But as pointed out in our representations (117/74) this exercise was communicated by OPDC (on its website and in leaflets) with claims that '*the majority of the Local Plan will stay the same*'. This assertion is repeated in the OPDC's response to our representation 117/64. From the perspective of local people this claim is simply not true.

ISSUE 3: Conformity of the PSMDLP with New London plan Policy D9 on Tall Buildings

71. Our arguments on this point are set out at OONF/StQW representations 117/28 and in more detail at 117/43 and 117/111. The unanticipated intervention and Direction Statement from the Secretary of State on London Plan Policy D9, in December 2020, post-dated much of the work undertaken by OPDC in preparing modifications.

72. In its response to our representation 117/4, 117/115 and elsewhere, OPDC points out that the Mayor has confirmed the Local Plan is in general conformity with the London Plan in respect of its approach to tall buildings. See comment reference 82/15.

73. We do not see this as being the end of the story on this issue. In the period since the 2021 London Plan was adopted, with its new Policy D9, there have been a number of questions and potential challenges raised across London over the interpretation by GLA officers and the GLA Planning Delivery Unit on the modified Policy D9. This includes occasions when Mayoral Stage 2 decisions are made on individual applications. Many amenity and resident groups have concerns

that the interpretation by GLA officers of 2021 London Plan Policy D9 does not properly reflect the intent of the SoS Direction, nor the plain wording of the modified and strengthened policy.

74. We await the outcome of the application made by LB Hillingdon against the Mayor's decision on the application at the former Master Brewer site, Freezeland Way. To our knowledge, this case (due to be heard in November 2021) will be the first occasion when the modified text of London Plan Policy D9 is tested in the courts.

75. The case will have implications for Local Plans and decision-making on applications across London. Depending on the judgment, it may prove possible for the PSMDLP to achieve conformity with the London Plan via further modifications to policies, maps and other development documents relating to Tall Buildings.

76. The New London Plan was formally adopted on March 2nd 2021. Policy D9 of the NLP addresses 'tall buildings'. It states materially as follows:

Policy D9 Tall buildings

Definition A

Based on local context, Development Plans should define what is considered a tall building for specific localities, the height of which will vary between and within different parts of London but should not be less than 6 storeys or 18 metres measured from ground to the floor level of the uppermost storey.

Locations B

Boroughs should determine if there are locations where tall buildings may be an appropriate form of development, subject to meeting the other requirements of the Plan. This process should include engagement with neighbouring boroughs that may be affected by tall building developments in identified locations.

*Any such locations and appropriate tall building **heights should be identified on maps in Development Plans** (our emphasis).*

*Tall buildings should only be developed in locations that are identified **as suitable** in Development Plans (addition of the term 'suitable' being a modification).*

77. The covering letter from the Secretary of State sent with the Direction states:

I am issuing a new Direction regarding Policy D9 (Tall Buildings). There is clearly a place for tall buildings in London, especially where there are existing clusters. However, there are some areas where tall buildings don't reflect the local character. I believe boroughs should be empowered to choose where tall buildings are built within their communities. Your draft policy goes some way to dealing with this concern. In my view we should go further and I am issuing a further Direction to strengthen the policy to ensure such developments are only brought forward in appropriate and clearly defined areas, as determined by the boroughs whilst still enabling gentle density across London.

I am sure that you share my concern about such proposals and will make the required change which will ensure tall buildings do not come forward in inappropriate areas of the capital.

78. Firstly, we see no sign that the PSMDLP material (Draft Local Plan and supporting documents relevant to Tall Buildings) paid adequate heed to this Direction, and to its acceptance by the Mayor of London as a modification to the 2021 London Plan. GLA officer comments in PDU reports subsequent to the March 2021 adoption of the new London Plan imply a GLA assumption (incorrect in our view) that little has changed as a result of modified London Plan Policy D9. We think this is an incorrect interpretation. Our concern is shared by amenity bodies and residents associations across London, including the London Forum.

79. The PSMDLP includes maps which identify, reasonably specifically, locations for tall buildings in for example Scrubs Lane. Planning consents for such buildings have already been issued. **We consider that the PSMDLP as of now fails to conform with the 2021 New London Plan.** Further locations for tall buildings (e.g. Channel Gate and North Acton) are identified only as broad areas or 'Places' with little or no specificity on sites.

80. Secondly, 'appropriate heights' are not defined in the PSMDLP, other than in some references to 6-8 storeys along the Grand Union Canal and in very generic (and opaque) terms in a 2021 Tall Buildings Statement Update as a supporting document. The public are given no indication in the PSMDLP, to alert them of past decisions on building heights by OPDC (or LB Ealing on its behalf). These decisions have found heights of 55 storeys for residential towers to be an acceptable outcome. The language used by OPDC in its 'Place' policies, of '*a variety of building heights*' is inadequate to meet London Plan Policy D9.

81. The intention of the Secretary of State in his December 2020 Direction Statement was very clear. In this new context, we do not see that it is acceptable for this Direction to be subverted by a Local Plan which has consistently and deliberately avoided giving the public clear information on the housing densities and building heights likely to flow from its policies.

82. The pending JR application of LB Hillingdon v the Mayor of London should provide greater certainty on the interpretation of 2021 London Plan Policy D9, prior to the conclusion of the examination of the PSMDLP. Hence we flag up this issue 3 with the Inspector as a new factual context that has emerged since his interim findings. It is one, at present, less relevant to the need for further hearings.

83. 2021 London Plan Policy D3(B) includes a new section reading *Higher density developments should generally be promoted in locations that are well connected to jobs, services, infrastructure and amenities by public transport, walking and cycling, in accordance with Policy D2 Infrastructure requirements for sustainable densities. Where these locations have existing areas of high density buildings, expansion of the areas should be positively considered by Boroughs where appropriate. This could also include expanding Opportunity Area boundaries where appropriate.* Channel Gate, Atlas Road and Scrubs Lane do not meet recognised criteria of being 'well connected', however much the PSMDLP material attempts to make this case.

84. Nor (in our view) do these PSMDLP site allocations meet the requirements of 2021 London Plan Policy D2 A (2) 2) *be proportionate to the site's connectivity and accessibility by walking, cycling, and public transport to jobs and services (including both PTAL and access to local services).* OPDC's proposed site allocations and densities, as revised in light of the 2019 interim findings, are driven solely by an attempt to meet an adequate 10 year housing target and will lead to unsuccessful and unsustainable new development.

Conclusion

85. We contend that

- The OPDC Local Plan was not ready for examination in September 2018 and should not have been approved by the OPDC Board for submission – given information known to the OPDC but suppressed.
- The statutory distinction between activities to be undertaken under s19 and s20 of the PCPA 2004 is there for good reason and should not be set aside in the interests of ‘pragmatism’.
- The activities of OPDC between September 2019 and March 2021 clearly breached the requirements built into s19 and s20 of the PCPA 2004.
- Given the complex, fact-based, and contested sequence of events leading up the present state of the PSMDLP, one or more further hearings is the most sensible next step in the examination.

Old Oak Neighbourhood Forum

St Quintin and Woodlands Neighbourhood Forum

October 2021

TABLE 1

OPDC EXPENDITURE DECISIONS ON ‘PREPARATORY’ ACTIVITY ON MODIFICATIONS TO THE POST SUBMISSION DRAFT LOCAL PLAN FROM OCTOBER 2019 TO MARCH 2021	£000'S																												
<p>This activity and expenditure relates to externally commissioned work only. OONF and StQW contend that the extent, nature and scope of this activity has formed preparatory work in the drawing up of a Local Plan. OPDC itself uses this term in its reports and refers to the Corporations’s ‘new’ approach subsequent to the Inspectors 2019 findings.</p> <p>Similarly we do not accept that OPDC’s activity on ‘delivery’ and ‘business strategy’ can be separated or divorced from the task of preparing an evidence base to support and justify the content of the Draft Local Plan. A joint report to the Board on 13th October states <i>2020 OPDC’s Planning and Development directorates have been working closely together to support the submission of Local Plan modifications</i>. OPDC is a single organisation with all its teams reporting to the Board.</p> <p>OPDC response to representation OPDC’s response to our representation 117/8 states <i>The Western Lands programme does not form part of the Local Plan's evidence as this work relates to OPDC's delivery functions</i>. We do not see this distinction as tenable given the evidence set out in this table.</p> <p>Input from the consultancy commissions identified below has clearly informed and been used to underpin and justify the Modifications in the PSMDLP.</p> <p>It is not possible to map or quantify the activities undertaken by OPDC’s own staff in preparing and drafting modifications since the submission of the 19.2 Draft Plan in September 2018. The OPDC budget is not broken down below a high level as below. But over the 18 month period prior to the submission of modifications in March 2021, there has clearly been extensive activity (lasting a year longer than initially proposed to the Inspector). We do not see how such activity can be defined as anything other than ‘preparation’ of a Local Plan under the terms of s19 of the PCPA 2004.</p>																													
<p>Table 1 – 2020/21 Outturn</p>																													
<table border="1"> <thead> <tr> <th data-bbox="225 1429 692 1462">Expenditure</th> <th data-bbox="692 1429 916 1462"></th> <th data-bbox="916 1429 1139 1462"></th> <th data-bbox="1139 1429 1273 1462"></th> </tr> <tr> <th data-bbox="225 1503 692 1536">Directorate</th> <th data-bbox="692 1503 916 1536">Outturn</th> <th data-bbox="916 1503 1139 1536">Budget</th> <th data-bbox="1139 1503 1273 1536">Variance</th> </tr> </thead> <tbody> <tr> <td data-bbox="225 1536 692 1570">CEO</td> <td data-bbox="692 1536 916 1570">839,960</td> <td data-bbox="916 1536 1139 1570">1,040,500</td> <td data-bbox="1139 1536 1273 1570">-2</td> </tr> <tr> <td data-bbox="225 1570 692 1603">Corporate Operations</td> <td data-bbox="692 1570 916 1603">1,624,007</td> <td data-bbox="916 1570 1139 1603">2,221,588</td> <td data-bbox="1139 1570 1273 1603">-5</td> </tr> <tr> <td data-bbox="225 1603 692 1637">Delivery</td> <td data-bbox="692 1603 916 1637">1,938,300</td> <td data-bbox="916 1603 1139 1637">2,277,912</td> <td data-bbox="1139 1603 1273 1637">-3</td> </tr> <tr> <td data-bbox="225 1637 692 1671">Planning</td> <td data-bbox="692 1637 916 1671">1,051,699</td> <td data-bbox="916 1637 1139 1671">1,260,000</td> <td data-bbox="1139 1637 1273 1671">-2</td> </tr> <tr> <td data-bbox="225 1671 692 1711">Total</td> <td data-bbox="692 1671 916 1711">5,453,966</td> <td data-bbox="916 1671 1139 1711">6,800,000</td> <td data-bbox="1139 1671 1273 1711">-1,3</td> </tr> </tbody> </table>	Expenditure				Directorate	Outturn	Budget	Variance	CEO	839,960	1,040,500	-2	Corporate Operations	1,624,007	2,221,588	-5	Delivery	1,938,300	2,277,912	-3	Planning	1,051,699	1,260,000	-2	Total	5,453,966	6,800,000	-1,3	
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<p>Text in this table is copied from the relevant OPDC report</p>																													
<p>Report to Board January 30th 2020 New Focus for Old Oak and Park Royal Regeneration Summary: <ul style="list-style-type: none"> • A new approach to the regeneration of the ‘Western Land’ along Old Oak Common Lane, Old Oak Lane and Victoria Road where key sites are owned by DfT and Network Rail; </p>																													

<ul style="list-style-type: none"> • Developing an evidence base of the benefit of a comprehensive and coordinated approach to land, development and infrastructure funding to optimise the strategic opportunities that the area offers; • Securing the support of major partners including public sector landowners and funders; and • Developing an engagement plan to ensure local and future communities in the area can influence the development and delivery of this major opportunity for London. <p>Decisions: Note that the costs associated with the next stage of this new approach will be contained within the existing budget for 2019/20 and the approved draft budget for 2020/21</p> <p>Expenditure on Prior + Partners</p>	130
<p>Report to OPDC Board 24th June 2020</p> <p>Western Land Update</p> <p>Summary: The Board approved the Western Land approach at its 30 January 2020 meeting. Since that time, OPDC has:</p> <ul style="list-style-type: none"> ▪ concluded its commission with Prior + Partners ▪ developed a preliminary evidence base for a comprehensive approach to delivery ▪ established a steering group – with HS2, Network Rail and the London Borough of Ealing – to guide its efforts ▪ established a complementary working group of officers from those organisations, to work collaboratively to develop proposals ▪ continued to be in active dialogue with the Ministry of Housing, Communities and Local Government (MHCLG), Homes England (HE) and the Infrastructure and Projects Authority (IPA) as potential future funding partners. <p>Decisions: Approve a delegation to the Chief Executive Officer to authorise expenditure of up to £150,000 to support the Corporation’s revised delivery strategy; noting this will take the approval limit to Western Land preparatory work to £358,000.</p>	150
<p>Joint report to OPDC Board 13th October 2020</p> <p>Western Lands and Local Plan Modifications Update</p> <p>Report of: Ben O’Neill, Development Director and Emma Williamson, Director of Planning</p> <p>Summary: This report updates the Board on work that has been progressed since its last meeting to develop the revised approach to major redevelopment that we have designated as the ‘Western Lands’. This aims to bring forward major sites to the north and west of the new HS2 interchange at Old Oak Common, including significant public sector land holdings and catalytic infrastructure improvements. In so doing, the strategy has the potential to support delivery of over 20,000 homes, up to 60,000 jobs and over 5 million square feet of new employment space over the course of our Local Plan period.</p> <p>To further these ambitions, OPDC’s Planning and Development directorates have been working closely together to support the submission of Local Plan modifications to enable a fundable infrastructure delivery and development plan and meet these London Plan housing targets.</p>	

<p>Decisions</p> <ul style="list-style-type: none"> • Review the proposed Local Plan modifications and approve these as the basis for the next stage of formal landowner and community engagement. Note the potential funding sources that will be explored further in the Western Lands funding strategy. • Approve expenditure of £257,000 in this financial year for preliminary technical work required to prepare a Single Housing Infrastructure Fund (SHIF) bid and business case. Together with two previous approvals, this will commit the remainder of OPDC's £440,000 budget for Western Lands preparatory work in 2020/21. 	257
DELEGATED DECISIONS BY CEO AND OPDC DIRECTORS	
<p>CD130 - Western Land, Old Oak and Park Royal - Appointment of Prior & Partners CEO decision 23 January 2020</p> <p>Summary - Following OPDC's decision not to pursue its early regeneration plans for Old Oak North, OPDC intends to revise its plans and develop a new approach to the regeneration of the "Western Lands" along Old Oak Common Lane, Old Oak Lane and Victoria Road where key sites are public sector owned. This presents a significant opportunity for OPDC, alongside its public sector partners - DIT, HS2 (acting as DfT's agent) and Network Rail - to deliver a significant number of jobs and homes. This paper seeks approval for consultancy support to assist OPDC in articulating and realising this ambition. OPDC intends to appoint Prior & Partners to support the development of the new approach. Prior & Partners will produce a short document and accompanying presentation which will set out a strong narrative, spatial plans, images and precedents to support OPDC's new focus and engagement with stakeholders. The documents and presentations will be accompanied by a forward action plan and programme, setting out key steps to realisation.</p> <p>Decision That the Chief Executive approves: A total expenditure of up to £100,000 for Prior & Partners consultancy services to support the development of a new approach for OPDC on the Western Lands;</p>	100
<p>CD133 Western Land, Old Oak & Park Royal - Appointment of Savills Decision by Executive Director Housing and Land and Interim CEO of OPDC 24 February 2020</p> <p>The Corporation is now focusing on a new approach to the regeneration of land along Old Oak Common Lane, Old Oak Lane and Victoria Road, much of which is owned by public sector partners, Department for Transport (DfT), HS2 (acting as DfT's agent) and Network Rail to deliver a significant number of jobs and homes.</p> <p>This paper seeks approval for consultancy support from Savills to assist OPDC in evidencing this ambition by undertaking a review of development capacity for two regeneration scenarios for this area:</p> <p>This decision should be read in conjunction with CD130, which approved expenditure of £100,000 for Prior + Partners to develop a strategy and approach to the major public sector land holdings on Victoria Road, Old Oak Lane and Old Oak Common Lane referred to as "Western Lands". The work approved in this decision will provide the</p>	

initial commercial testing of strategy Prior + Partners are developing. Cumulatively, CD130 and this CD133 request approval for £140,000 of expenditure.	40
<p>CD144 Procurement of Newbridge Advisors for Western Lands Financial Consultancy Support CEO Decision 20 October 2020</p> <p>Seeks approval for expenditure on Newbridge Advisors LLP, whose services are being procured via the TFL property consultancy framework, to assist OPDC in developing its Western Lands proposal and formulating an Outline Business Case (OBC) in contemplation of submitting a bid to government for funding. Since approving the revised approach in January, OPDC's Board has approved a budget for developing this work including at its October 2020 meeting. This expenditure will be committed from that approval in line with the delegation to officers set out in therein.</p> <p>Newbridge Advisors will support OPDC's development team providing client-side resourcing and expertise in regeneration, property development, funding and development viability.</p>	<p>Part of 'Western Lands' budget for 2020/21</p> <p>75K</p>
<p>CD145 Preliminary Infrastructure Design and Cost Study CEO decision 21 October 2020</p> <p>Summary: OPDC's revised approach to major redevelopment - 'Western Lands' - aims to bring forward major sites to the north and west of the new HS2 interchange at Old Oak Common, including significant public sector land holdings and catalytic infrastructure improvements.</p> <p>The revised approach is informing OPDC's proposed modifications to the draft Local Plan, in response also to the Planning Inspectors' Interim Findings, with changes to the sites allocated for mixed use development and industrial intensification.</p> <p>In October 2020, the OPDC Board endorsed the revised approach to the delivery strategy and Local Plan modifications and approved expenditure to undertake preliminary technical work to support this.</p>	<p>Part of 'Western Lands' budget for 2020/21</p> <p>150</p>
<p>CD148 - Procurement of Savills for Western Lands Valuation Support CEO decision 09 December 2020</p> <p>Approval for expenditure for consultancy expenditure on development viability, valuation and cashflow modelling required to develop the Strategic Outline Business Case (SOBC) for OPDC's Western Lands delivery strategy. This work in the emerging strategy is being developed ahead of submitting a bid to government and/or the GLA for funding support. The commission will directly support the viability and deliverability of the Western Lands approach and provide greater certainty on funding requirements over time</p>	100
<p>CD149 Western Lands: detailed site capacity studies CEO decision 18 January 2021</p> <p>Summary - This decision form seeks approval to procure and appoint an architecture practice to carry out detailed site capacity studies to support the development of the Western Lands delivery strategy. The commission will support the development of a strategic outline business case relating to the future potential of public sector landholdings in Old Oak and Park Royal. In addition, the team appointed will also be required to produce a number of key visualisations for the consultation on the Local Plan modifications. The consultants will be appointed from the GLA's Architecture,</p>	

Design and Urbanism (ADUP) framework through a competitive procurement process led by OPDC.	80
<p>DD138 Infrastructure Funding Strategy Assessment (Director's Decision) 01 February 2021</p> <p>To support the proposed modifications, OPDC is updating its Infrastructure Delivery Plan (IDP) to identify what infrastructure is required to support development within the plan period, the likely cost, and how that may be funded.</p> <p>Initial analysis identifies that a funding gap is likely to exist between the cost of infrastructure and estimated income from S106 of CIL. To demonstrate that the Local Plan is deliverable, OPDC must demonstrate to its Planning Inspector that the funding gap can be addressed through other means, including potential public funding initiatives, public and/or private investment, or other sources. To ensure OPDC's had a robust and compelling argument in place, consultancy support is required to draft this aspect of the IDP.</p>	25
<p>DD139 - Old Oak Common Station Eastern Access - Preliminary Concept Design, Cost and Constructability Study (Directors Decision) 03 March 2021</p> <p>High Speed 2 Limited (HS2) is required to enable and part-fund an eastern link to Old Oak Common Station. Previously Old Oak Bridge was proposed to provide an all-modes eastern link from the station to Old Oak North. However, as comprehensive development in Old Oak North is no longer proposed, Old Oak Bridge is no longer deliverable. OPDC is now investigating an alternative eastern link providing pedestrian/cycle connectivity from the station to the Grand Union Canal towpath. This decision seeks approval for expenditure to pay for consultancy services from Mott MacDonald to develop a preliminary design cost and constructability study for the pedestrian/cycle bridge.</p>	50
	1,157

ANNEX A – RESPONSE TO THE INSPECTOR’S NOTE 1D-37

For reasons not clear to us, the Inspector’s note ID-34 picks out only one of the 254 representations from OONF/StQW as a possible matter for a further hearing. This is our representation 117/94 where we argued *Policy SP2 Good Growth – in the policy box sub-paragraph f) reads Proposals should .. design, construct and manage a smart and resilient city; ‘Part of the city’ should be substituted. This Local Plan is not going to create ‘a new city’ at Old Oak’*. The OPDC response was *No change proposed. The proposed modifications did not amend this part of the Local Plan*.

We are not going to argue over all other representations which have been ignored by OPDC and not commented on by the Inspector. But by way of example, the three instances below are other examples where we have commented on the wording of the PSMDLP and cannot understand why OPDC are refusing to make any change.

Our representation 117/15 on OPDC SP1 flagged up that OPDC’s use of a completion date for OOC station of ‘after 2028’ is *imprecise and disingenuous*, in the face of the National Infrastructure Commission timeline of 2029-33 for the station to be operational. OPDC’s response is ‘no change’ and that the date is correct. In the latest report to Parliament, the Ministerial Statement of 20th October states *In my last report, I confirmed that Phase One remained within its projected delivery into service (DIS) range of 2029 to 2033*. This date range has been the official position for well over 6 months. It is misleading the public for OPDC to continue to use the language of ‘after 2028’.

Our representation 117/20 was that *For those living in North Hammersmith and North Kensington, the eventual opening of OOC station will result in only modest improvement to PTAL levels*. OPDC’s response was *No change proposed. These areas are outside the OPDC Local Plan boundary and OPDC is therefore not planning for development delivery within these locations*. Local people see this as a ridiculous response, especially given Modifications that promote Scrubs Lane as a ‘place in its own right’ and emphasise the potential links with the Kensal Canalside Opportunity Area in RBKC. PTAL levels apply across LPA boundaries.

Our representation 117/83 argued *‘Thinking Big (2) The words ‘Old Oak’ have been deleted and replaced by the text ‘The OPDC area will become a major new London centre providing high-density mixed use development, that will shape west London and support London’s continued growth’. It cannot sensibly be argued that the whole ‘OPDC area’ will ‘become a major new London centre. This is one of many simplistic modifications to text which make parts of the PSMDLP document near incomprehensible’*. The OPDC response was *No change proposed. OPDC considers the proposed modification is sound reflecting the OPDC area’s role, opportunity and significance within London*.

Unless some of the unevidenced assertions and exaggerated hyperbole is stripped out of the PSMDLP through minor modifications, an adopted OPDC Local Plan will have no credibility with those who live and work in the area or who know it well. As we have pointed out, a Local Plan with language that plays fast and loose with reality carries a real risk of creating false expectations amongst the wider public who may be considering a relocation to Old Oak.

A Local Plan should be a clear, accurate and succinct document that sets out planning policies. It is not the role of this statutory document to play into and reinforce developer aspirations or to market an area to potential house buyers and tenants.