

**Q2 I am not clear about the relationship between the various figures within the plan and the Policies Map; for example, the mixed use area on figure 3.7 does not appear on the Policies Map, the provisions of figure 3.13 do not appear to be translated to the Policies Map, nor do the tall buildings provisions of figure 3.15, the Local Nature Reserve provisions of figure 6.3, the Metropolitan town centre provisions of figure 10.3 or some of the detailed provisions of figures 4.2, 4.5, 4.6, 4.7, 4.10, 4.13, 4.15, 4.17, 4.19, 4.21, 4.23, 4.25, 4.27, 4.30, 4.32, 4.34, 4.36, 4.38, 4.40, 4.42, 4.44 and 4.45. To what extent are the figures within the text to be regarded as inset maps to the Policies Map?**

### **OPDC initial response**

Figures illustrating policies within the Local Plan should not be considered as inset maps to the Policies Map. Figures within the Local Plan are indicative and have been included to help illustrate spatial implementation of policies. Given their indicative function, they could be regarded as inset figures to the key diagram.

The Local Plan Appendix paragraph A1.26 defines the difference between the figures in the Local Plan and the Policies Map as follows:

*"A1.26 Figures in the Local Plan should be treated as indicative. The exact boundaries for spatially specific policies are set out in OPDC's Policies map."*

The submitted Proposed Minor Modifications Schedule (KD4) includes a modification to include the above sentence within paragraph 1.23 of the Introduction to the Local Plan (MINOR/General1).

Due to the indicative function of the figures in the Local Plan it is not considered appropriate to depict these on an Ordinance Survey map as required for Policies Maps by Town and Country Planning (Local Planning) (England) Regulation 9 (2012). This is a common approach used in Local Plans to help to illustrate the broad locations of development, particularly in areas of change including site allocations. Examples include Croydon Local Plan (2018), London Legacy Development Corporation (2014), Tower Hamlets Core Strategy (2010) and emerging Local Plan (2018) and Lambeth Local Plan (2015).

With regard to the individual figures identified:

- Figure 3.7 Mixed use area – the mixed use area is indicative as the exact locations have yet to be defined. The mixed use area seeks to illustrate the mix of uses sought by Local Plan policies outside of town centres, Strategic Industrial Locations, the proposed commercial centre, existing residential areas and publicly accessible open spaces. As stated above, due to its indicative function it is not considered to be appropriate to depict this on the Policies Map.
- Figure 3.13 Open spaces and Figure 3.15 tall buildings – the content of these figures are indicative as the exact locations have yet to be defined. These designations seek to illustrate the locations of publicly accessible open spaces, green streets and urban greening corridors. As stated above, due to their indicative function, it is not considered to be appropriate to depict this on the Policies Map.
- Figure 6.3 Local Nature Reserve – Local Nature Reserves are a statutory designation made under Section 21 of the National Parks and Access to the Countryside Act (1949) by principal local authorities. Guidance for the management of the Local Nature Reserve at Wormwood Scrubs would be provided by the London Borough of Hammersmith and Fulham in their role as local authority. As such, the Local Plan does not provide policy for the management of the Local Nature Reserve and figure 6.3 depicts the Local Nature Reserve for information purposes only. OPDC as the local planning authority for

Wormwood Scrubs is responsible for Sites of Importance for Nature Conservation; therefore, the Policies Map depicts these and not the Local Nature Reserve.

- Figure 10.3 Metropolitan town centres – the Policies Map depicts policy guidance only within the OPDC boundary. The Local Plan does not include policies for Metropolitan town centres as these are located outside of the OPDC area. However, it was considered appropriate to reflect their locations to provide context for the town centre hierarchy of west London. The hatching included within Old Oak South is a desktop publishing error and is proposed to be removed.
- Place Policy diagrams (including figures 4.2 – 4.45) – Although only 650 hectares in size, there is huge diversity across the OPDC area in terms of land use, transport access, environment, topography, communities and heritage. Place and Clusters policies provide specific guidance at a greater level of detail than the Strategic Policies in Chapter 3 and the Development Management policies later in the Local Plan. Each Place and Cluster policy is supported by an indicative diagram to illustrate the implementation of the policy. As stated above, due to their indicative function, it is not considered to be appropriate to depict all the components of Place Policy diagrams on the Policies Map.

These amendments will be included in the Post-Submission Modifications Schedule. This Schedule will be submitted to the Inspector.

### **Inspector's initial response**

I am not convinced by the responses to Q2, Q6, Q8, Q14 or Q15, for the following reasons. The policies map is meant to show the spatial incidence of policies. It should be capable of being used by potential developers and by development managers in consideration of applications to try to ascertain the effect of the plan on a particular piece of land. If a spatially applicable policy or proposal is not shown on the proposals map then its effectiveness and hence, the effectiveness of the plan, is likely to be compromised. Effectiveness is a component of soundness. The extent to which items are omitted from the policies map and only shown indicatively on figures because exact locations have yet to be defined is an indication of the extent to which further work may need to be done for the plan to be found sound. This subject may benefit from further discussion at a hearing session.

### **OPDC's second response**

OPDC officers have given consideration to the Inspector's initial response. In doing so, OPDC has further reviewed the legislation and national guidance and relevant case law. These comprise of:

- [Regulation 9 of the Town and Country Planning \(Local Planning\) \(England\) Regulations 2012:](#)

*(1) The adopted policies map must be comprised of, or contain, a map of the local planning authority's area which must—*

*(a) be reproduced from, or be based on, an Ordnance Survey map;*

*(b) include an explanation of any symbol or notation which it uses; and*

*(c) illustrate geographically the application of the policies in the adopted development plan.*

*(2) Where the adopted policies map consists of text and maps, the text prevails if the map and text conflict.*

- [National Planning Practice Guidance \(NPPG\) Paragraph: 002 Reference ID: 12-002-20140306:](#)

*A policies map must illustrate geographically the application of policies in a development plan. The policies map may be supported by such other information*

*as the Local Planning Authority sees fit to best explain the spatial application of development plan policies.*

- Relevant case law:

[\*Tiviot Way Investments Ltd v Secretary of State for Communities and Local Government \[2015\] EWHC 2489 \(Admin\).\*](#)

The NPPG guidance enables the Policies Map to be supported by such other information as the local planning authority sees fit to best explain the spatial application of development plan policies. The indicative figures in the Local Plan seek to explain the spatial application of development plan policies where precise locations of development/infrastructure and/or boundaries have yet to be determined in addition to the other precise designations depicted on the Policies Map. This reflects the need to accommodate an element of flexibility in the plan for spatial designations where exact locations and/or boundaries are not able to be defined due reasons related to long-term phasing. Where possible, places have been identified to provide information for the location of social infrastructure.

OPDC recognises that the Local Plan will need to be reviewed promptly and regularly after adoption to reflect updates. OPDC envisages that the indicative diagrams in the Local Plan will be able to be updated to become precise maps and able to be shown on the Ordinance Survey based Policies Map. OPDC considers that this approach of using indicative figures within the Local Plan to illustrate indicative locations at this point in time is supported by the case law referred to above.

OPDC also recognises that the Policies Map currently shows indicative designations. Having given OPDC's response further consideration, OPDC proposes to remove the indicative designations from the Policies Map and rely on existing and updates to the illustrations within the Local Plan. The indicative designations proposed to be removed are from the Policies Map and relevant Local Plan figure are below:

- New key routes in Old Oak – figure 3.10
- Old Oak Major town centre – figures 2.2, 3.7, and 10.3
- Atlas Junction neighbourhood town centre - figures 2.2, 3.7, and 10.3
- North Acton neighbourhood town centre - figures 2.2, 3.7, and 10.3
- Old Oak South commercial centre - figures 2.2, 3.7, and 10.3
- West London Waste Plan sites not benefiting from a defined boundary – figures 4.32 and 4.17 (modifications are required)

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**Q3e Policy D1 (Comment; the requirements of this policy are entirely related to the process of drawing up a planning application, there is nothing substantive with which the development as built is to comply).**

#### **OPDC initial response**

OPDC notes that Policy D1 provides policy for the delivery of a process. However, OPDC considers that delivering on the principles of Good Growth will require a high quality development design process. Therefore, this policy will be critical to helping to deliver the NPPF (2012) core planning principle (paragraph 12) for seeking to secure high quality design, Delivering Good Design as set out in Draft New London Plan Policy D2, delivering the principles of Good Growth set out in Local Plan policy SP2 and the highest design quality as set out in policy SP9.

#### **Inspector's initial response**

Concerning the response to Q3 in relation to policy D1, I have no quarrel with the OPDC's view that a high quality development design process can help to achieve the

government's core planning principle of securing high quality design. But: NPPF(2012) paragraph 154 advises that only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in a plan. The implication of policy D1 as drafted is that any development proposal that does not follow the process outlined in policy D1 will be refused planning permission, even if it manages to achieve a high quality outcome without having followed the prescribed process. It gives no other indication of how a decision maker should react to the proposal. I am not clear that that can be or has been justified.

It may be that OPDC wishes to take the view that the characteristics which identify high quality design are too nebulous or too individual as to be capable of definition in a policy and that they can only be identified through a process such as that described. If so, that may be a good justification for the plan to omit a policy which seeks to identify specifiable design characteristics and to rely on process only but as it is, there is nothing in the policy to indicate to a developer or decision maker.

### **OPDC's second response**

OPDC officers have given consideration to the Inspector's initial response. In doing so, OPDC has further reviewed relevant case law and considers that the judgment of Lord Clyde in the case of R (on the application of Alconbury Developments Ltd) v Secretary of State for the Environment, Transport and the Regions [2001] UKHL, 23 is relevant to justify providing a policy that sets out the process that the decision maker requires an applicant to follow. The relevant section is below (our emphasis is underlined):

*"The formulation of policies is a perfectly proper course for the provision of guidance in the exercise of an administrative discretion. Indeed policies are an essential element in securing the coherent and consistent performance of administrative functions. There are advantages both to the public and the administrators in having such policies. Of course there are limits to be observed in the way policies are applied. Blanket decisions which leave no room for particular circumstances may be unreasonable. What is crucial is that the policy must not fetter the exercise of the discretion. The particular circumstances always require to be considered. Provided that the policy is not regarded as binding and the authority still retains a free exercise of discretion the policy may serve the useful purpose of giving a reasonable guidance both to applicants and decision-makers"*

Policy D1 sets out what is required from applicants to secure high quality design and as such OPDC considers that it provides reasonable guidance to applicants and is therefore supported by the judgment in the above case.

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**Q3ab 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.)**

### **OPDC initial response**

OPDC considers that 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 D1, 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.

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**Q5 The Plan delegates details to the Infrastructure Delivery Plan at paragraphs 3.49, 3.64, 3.89, OOS.15 (two references), OOC.3, OON.14, OON.23 (two references), GUC.15, NA.16 (two references), NA.18, OCL.2, SL.12, WJ.8, WS.7, 6.12, 6.34, 6.101, 6.110, 6.124, 7.14, 7.24, 7.45, 10.26, 10.27, 10.33, 10.35, 10.37, 10.50, 10.61, 11.7 (three references), 11.11, 11.33(b) (two**

references), 11.50(c), table 11.1 (P4) policies SP10(c) and (e), EU10(f), T2(a), T3(a), T5(a), T6(a), TCC4(c) and (d(i)), TCC6(c(iv)) and DI1(b).

**National Guidance (Paragraph 018 Reference ID 12-018-20140306) accepts that the detail concerning planned infrastructure provision can be set out in a supporting document such as an infrastructure delivery programme that can be updated regularly. However, Guidance is clear that the key infrastructure requirements on which delivery of the plan depends should be contained in the Local Plan itself.**

**It is not clear to me that the plan as submitted complies with this aspect of national Guidance. The Local Plan should make it clear what is intended to happen in the area over the life of the plan, where and when this will occur and how it will be delivered (Guidance paragraph 002 Reference ID 12-002-20140306). Where sites are proposed for allocation, sufficient detail should be given to provide clarity to developers, local communities and other interests about the nature and scale of development (Addressing the "what, where, when and how" questions). (Guidance paragraph 010 Reference ID: 12-010-20140306). I invite the OPDC to revisit these references to the Infrastructure Delivery Plan to ensure that there is no material left to the IDP which should in fact be included in the Local Plan itself and indicated on the policies map (or the various figures included in the text of the plan, if they are to count as insets to the Policies map).**

#### **OPDC initial response**

OPDC notes the guidance set out in NPPF (2012) paragraph 156 requiring Local Plans to set out strategic policies for the provision of infrastructure. OPDC considers that the use of policies in the Local Plan and the Infrastructure Delivery Plan, which sets out detailed infrastructure requirements for the plan period, is the most pragmatic appropriate approach for Old Oak and Park Royal that recognises the need for a level of flexibility while according with the NPPF and National Guidance. Where sufficient clarity is provided through evidence base for the indicative location of infrastructure, this is set out in the Local Plan policies and/or supporting text.

This approach reflects the proposed significant scale of change and development, long-term development timeframes of the OPDC area and complexities in delivering development generated by landownerships, viability constraints and site-specific constraints. It also meets the practical need to provide information that can readily be updated to provide clarity to stakeholders and can be used to inform the review of the Local Plan through the annual Authority Monitoring Report.

In light of this approach, indicative locations of infrastructure are depicted in the Local Plan and Infrastructure Delivery Plan. Where confirmed locations of infrastructure are known, these are shown on the Policies Map. Locations on the Policies Map are restricted to location of key routes. As greater certainty for the location of infrastructure is determined, the Infrastructure Delivery Plan will be updated through the annual review process and the need for a Local Plan review based on this greater clarity considered.

In regard to social infrastructure, supporting text has been used to set out the social infrastructure required for each place; however, identifying specific locations at a greater level of detail than the place scale could infer the precise locations of infrastructure which is not considered to be appropriate until greater certainty can be provided. Therefore, locations of social infrastructure are not depicted on the Policies Map.

#### **Inspector's initial response**

I am not convinced by the OPDC's response to Q5, Q7 and Q17 for the reasons given in the references to national Guidance in my question. The OPDC's response refers to

NPPF(2012) paragraph 156 but consideration must also be given to NPPF(2012) paragraph 157 with its repeated references to the indication of land-use designations on a proposals map, to the allocation of sites and the identification of areas and of land. This subject may benefit from further discussion at a hearing session.

### **OPDC's second response**

OPDC officers have given consideration to the Inspector's initial response. As referred to in OPDC's initial response to Q5, the intention of references to the Infrastructure Delivery Plan (IDP) is a pragmatic approach to set out the detailed infrastructure requirements of the plan period. However, in response to the Inspector's response, Officers have undertaken a further review of the elements of the Local Plan referred to Question 5. This review is set out in table Q5. This demonstrates where the key infrastructure requirements on which delivery of the plan depends are located within the Local Plan. Where additional information and/or clarification is required to ensure that key infrastructure is identified within the Local Plan, officers have set out proposed modifications within the table and the reasons for these.

In relation to identifying infrastructure on the Policies Map, please see the response to Question 2. In relation to identifying social infrastructure on place diagrams (also referenced in Questions 7 and 17), further to OPDC's initial response OPDC would be happy to illustrate these at the place scale on an OPDC area wide map to support policy TCC4 and provide a cross reference within the supporting text of the relevant place policies.

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**Q7 Paragraph OOS.15 refers to a need to deliver one community hub, one supernursery and one sports centre in Old Oak South. But these do not appear to be shown on figure 4.2 (or indeed on the Policies Map) Should they be?**

### **OPDC initial response**

Please see the response to Question 5.

### **Inspector's initial response**

I am not convinced by the OPDC's response to Q5, Q7 and Q17 for the reasons given in the references to national Guidance in my question. The OPDC's response refers to NPPF(2012) paragraph 156 but consideration must also be given to NPPF(2012) paragraph 157 with its repeated references to the indication of land-use designations on a proposals map, to the allocation of sites and the identification of areas and of land. This subject may benefit from further discussion at a hearing session.

### **OPDC's second response**

OPDC officers have given consideration to the Inspector's initial response. Further to OPDC's initial response, OPDC propose to include an additional figure to support policy TCC4. This figure (current reference figure Q7) identifies the Places where social infrastructure are identified in the supporting text to policy TCC4. In addition, OPDC proposes to provide a cross reference within the supporting text of the relevant place policies.

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**Q8 Paragraph The "vision" section of Policy P2 refers to a Grand Union Canal food and beverage quarter (also referred to later in paragraph GUC3(a)) but this does not appear to be shown on figures 4.7 or 4.10 (or indeed, the Policies Map). Should it be?**

### **OPDC initial response**

In addition to the sections referenced in Question 8, policy P2(b) requires development along the Grand Union Canal to contribute to the delivery of the Grand Union Canal food and beverage quarter.

The food and beverage quarter has not been shown on figures 4.7, 4.10 or the Policies Map reflecting the need for flexibility for its location during the lifetime of the development of Old Oak North, including meanwhile uses. The Old Oak North Development Framework Principles supporting study provides a high level indicative location.

Therefore, any proposal for food and beverage uses would be determined using policy wording.

### **Inspector's initial response**

I am not convinced by the responses to Q2, Q6, Q8, Q14 or Q15, for the following reasons. The policies map is meant to show the spatial incidence of policies. It should be capable of being used by potential developers and by development managers in consideration of applications to try to ascertain the effect of the plan on a particular piece of land. If a spatially applicable policy or proposal is not shown on the proposals map then its effectiveness and hence, the effectiveness of the plan, is likely to be compromised. Effectiveness is a component of soundness. The extent to which items are omitted from the policies map and only shown indicatively on figures because exact locations have yet to be defined is an indication of the extent to which further work may need to be done for the plan to be found sound. This subject may benefit from further discussion at a hearing session.

### **OPDC's second response**

OPDC officers have given consideration to the Inspector's initial response. In doing so, OPDC has further reviewed the legislation and national guidance and relevant case law. These comprise of:

- [Regulation 9 of the Town and Country Planning \(Local Planning\) \(England\) Regulations 2012:](#)

*(1) The adopted policies map must be comprised of, or contain, a map of the local planning authority's area which must—*

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*(2) Where the adopted policies map consists of text and maps, the text prevails if the map and text conflict.*

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- Relevant case law:

[Tivot Way Investments Ltd v Secretary of State for Communities and Local Government \[2015\] EWHC 2489 \(Admin\).](#)



The NPPG guidance enables the Policies Map to be supported by such other information as the local planning authority sees fit to best explain the spatial application of development plan policies. The indicative figures in the Local Plan seek to explain the spatial application of development plan policies where precise locations of development/infrastructure and/or boundaries have yet to be determined in addition to the other precise designations depicted on the Policies Map. This reflects the need to accommodate an element of flexibility in the plan for spatial designations where exact locations and/or boundaries are not able to be defined due reasons related to long-term phasing. Where possible, places have been identified to provide information for the location of social infrastructure.

OPDC recognises that the Local Plan will need to be reviewed promptly and regularly after adoption to reflect updates. OPDC envisages that the indicative diagrams in the Local Plan will be able to be updated to become precise maps and able to be shown on the Ordinance Survey based Policies Map. OPDC considers that this approach of using indicative figures within the Local Plan to illustrate indicative locations at this point in time is supported by the case law referred to above.

OPDC also recognises that the Policies Map currently shows indicative designations. Having given OPDC's response further consideration, OPDC proposes to remove the indicative designations from the Policies Map and rely on existing and updates to the illustrations within the Local Plan. The indicative designations proposed to be removed are from the Policies Map and relevant Local Plan figure are below:

- New key routes in Old Oak – figure 3.10
- Old Oak Major town centre – figures 2.2, 3.7, and 10.3
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- North Acton neighbourhood town centre - figures 2.2, 3.7, and 10.3
- Old Oak South commercial centre - figures 2.2, 3.7, and 10.3
- West London Waste Plan sites not benefiting from a defined boundary – figures 4.32 and 4.17 (modifications are required)

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**Q14 Policy P3 sets out requirements for development along the canal. Paragraph GUC.3 lists possible mooring locations. Should these be shown on figure 4.10 (and the Policies map)?**

**OPDC initial response**

Paragraph GUC.3 sets out information to support policy P3(c) for the location of moorings. This information states that moorings will be supported along the length of the canal with a focus at publicly accessible open spaces and other accessible locations including those locations stated in points a to f. Although figures within the Local Plan are indicative, depicting these 6 locations could infer that moorings would only be supported in these locations when OPDC would support moorings along the length of the canal in accordance with policy P3(c). Therefore, mooring locations have not been depicted in figure 4.10 or the Policies Map.

The Canal and River Trust have not raised concerns with these locations. OPDC is working with the Canal and River Trust to develop a Canal Place Making Study during early 2019 which will further define mooring locations. This information will be used to inform the Old Oak North and Scrubs Lane Supplementary Planning Documents.

**Inspector's initial response**

I am not convinced by the responses to Q2, Q6, Q8, Q14 or Q15, for the following reasons. The policies map is meant to show the spatial incidence of policies. It should be capable of being used by potential developers and by development managers in

consideration of applications to try to ascertain the effect of the plan on a particular piece of land. If a spatially applicable policy or proposal is not shown on the proposals map then its effectiveness and hence, the effectiveness of the plan, is likely to be compromised. Effectiveness is a component of soundness. The extent to which items are omitted from the policies map and only shown indicatively on figures because exact locations have yet to be defined is an indication of the extent to which further work may need to be done for the plan to be found sound. This subject may benefit from further discussion at a hearing session.

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- West London Waste Plan sites not benefiting from a defined boundary – figures 4.32 and 4.17 (modifications are required)

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**Q15 Paragraph OPR.5 refers to two allocation sites but these are not shown on figure 4.17. Should they be? (and on the Policies map?)**

**OPDC initial response**

Due to the extensive number of site allocations within the OPDC area they have not been depicted on the indicative figure diagrams supporting Place Policies to assist in the clarity of these diagrams. Therefore OPDC does not consider it appropriate to show the Land at Bashley Road and 40-54a Minerva Road site allocations in figure 4.17. These are shown in figure 3.17 and on the Policies Map (the complete map and individual layer shown on page 16).

**Inspector's initial response**

I am not convinced by the responses to Q2, Q6, Q8, Q14 or Q15, for the following reasons. The policies map is meant to show the spatial incidence of policies. It should be capable of being used by potential developers and by development managers in consideration of applications to try to ascertain the effect of the plan on a particular piece of land. If a spatially applicable policy or proposal is not shown on the proposals map then its effectiveness and hence, the effectiveness of the plan, is likely to be compromised. Effectiveness is a component of soundness. The extent to which items are omitted from the policies map and only shown indicatively on figures because exact locations have yet to be defined is an indication of the extent to which further work may need to be done for the plan to be found sound. This subject may benefit from further discussion at a hearing session.

**OPDC's second response**

OPDC officers have given consideration to the Inspector's initial response. In line with our second response to questions 12, 13 and 16, OPDC proposes to indicatively illustrate the two site allocations within figure 4.17. This reflects their specific role in supporting industrial intensification within Old Park Royal.

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**Q17 Paragraph NA.16 notes that the IDP identifies that there is a need for one supernursery and an on-site 9FE secondary school. But there is no indication of this on figure 4.21 (or on the Policies Map) Should there be?**

**OPDC initial response**

Please see the response to question 5.

**Inspector's initial response**

I am not convinced by the OPDC's response to Q5, Q7 and Q17 for the reasons given in the references to national Guidance in my question. The OPDC's response refers to

NPPF(2012) paragraph 156 but consideration must also be given to NPPF(2012) paragraph 157 with its repeated references to the indication of land-use designations on a proposals map, to the allocation of sites and the identification of areas and of land. This subject may benefit from further discussion at a hearing session:

### **OPDC's second response**

OPDC officers have given consideration to the Inspector's initial response. Further to OPDC's initial response, OPDC propose to include an additional figure to support policy TCC4. This figure (current reference figure Q7) identifies the Places where social infrastructure are identified in the supporting text to policy TCC4. In addition, OPDC proposes to provide a cross reference within the supporting text of the relevant place policies.

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**Q18 Paragraph 5.8 says that OPDC will expect a s106 monitoring contribution to be payable if the original architects are not retained for the detailed design stage. The contributions will be used to secure design advice on revisions to the scheme to ensure that the original design quality is maintained through detailed design. This is tantamount to an additional fee for processing a planning application over and above the fee allowed by regulation. The test for acceptability of a planning obligation is that it is necessary to make the development acceptable, not necessary to process the application. Can the OPDC please convince me that this provision is not ultra-vires or contrary to the statutory test for a planning obligation?**

### **OPDC initial response**

OPDC considers that this requirement is legally compliant and is necessary to make the development acceptable in planning terms to ensure proposals accord with Policy SP9(a) which seeks to deliver buildings, public realm and infrastructure of the highest design quality. It is not intended to be used to provide funding for processing a planning application.

Supplementary guidance for securing this contribution will be provided in the forthcoming Planning Obligations SPD. This will require contributions to cover reasonable costs incurred by the planning authority in securing design review advice and not exceed a capped amount set out in the s106 agreement. An extract of the draft Planning Obligations SPD is provided in Appendix B.

This is an approach utilised in Section 106 agreements for decisions made by the London Legacy Development Corporation and has been used in the OPDC area for the First Central development where the original architectural team were replaced.

### **Inspector's initial response**

I am not convinced by the OPDC response to my Q18 for the following reasons. Paragraph 5.8 of the submitted plan states that the money will be used "to secure design advice on revisions to the scheme." Presumably, revisions to the scheme will require an application to be made to the OPDC. The evaluation of such applications and the procurement of such specialist advice as may be required to assist in their determination is intended to be covered by any fee which the OPDC is entitled to charge. A financial contribution secured via a s106 obligation would duplicate any fee which OPDC is legally entitled to charge. It appears to me to be contrary to the statutory tests for s106 obligations, if not actually ultra vires. If there is specific statutory provision which authorises OPDC to make this charge, I need to be informed of it before I can find this element of the plan sound. I make no comment on agreements which have been reached by the OPDC or the LLDC because I am not concerned with the soundness of such agreements; my concern is with the soundness of the plan and its proposed policies.

**OPDC's second response**

OPDC officers have given consideration to the Inspector's initial response. The justification for Policy DI(b)(iv) is to ensure high quality design. This would not duplicate any other fees. This is because the purpose of the obligation is to ensure that OPDC can retain the services of an appropriately qualified architect or landscape architect to provide feedback and advice on detailed scheme designs in the event that the applicant has not retained the original architect or landscape architect.

OPDC officers consider that the obligations meets the three statutory tests for section 106 planning obligations, which are contained in regulation 122(2) of the CIL Regulations. This is demonstrated below:

**(a) necessary to make the development acceptable in planning terms** – the obligation is necessary to ensure that the detailed designs of the development approved are of a high quality as required by the policies of the OPDC Local Plan

**(b) directly related to the development** – the obligation relates to the detailed design submissions for the particular development so are clearly directly related to it

**(c) fairly and reasonably related in scale and kind to the development** – the amount of any payment would be limited to the costs incurred by the OPDC in obtaining design advice from an appropriately qualified consultant.

In addition, OPDC does not consider that this obligation is not anti-competitive. Architect retention clauses are relatively common and ensure the highest degree of likelihood that the development is completed in line with what is approved and in particular where design is of high importance.