OLD OAK PARK LIMITED

Written Statement in Response to Matter 3

Old Oak and Park Royal Development Corporation Local Plan Examination

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1. INTRODUCTION

1.1 This Written Statement has been produced by DP9 Limited, DS2 LLP and Jam Consult Limited on behalf of Old Oak Park Limited ('OOPL') in response to Matter 3, parts (a), (b) and (c) and an additional section on sustainability, and should be read in conjunction with the accompanying Written Statements on Matters 4, 9 and 13 and the accompanying Explanatory Note relating to the change in OOPL's representations from the Regulation 18 and 19 stages of the Plan.

2. MATTER 3(A) – DOUBTS ABOUT VIABILITY OF DEVELOPMENT

2.1. OOPL considers that the Plan would not be effective in light of the doubts over the viability of development of the Cargiant site, on which the Plan relies for delivery of 6,200 homes (5,300 on the Cargiant site, 600 on the Triangle Business Centre and 300 on the Cumberland Business Park), 2,920 jobs (2,650 on the Cargiant site, 160 on the Triangle Business Centre and 110 on the Cumberland Business Park) and the delivery of primary infrastructure including new roads, new public open spaces and new social infrastructure including a school and health centres.

2.2. In their response to Matter 9, DS2 have raised numerous doubts over the validity of the viability testing that has been undertaken in relation to the Whole Plan and the Plan's affordable housing policies. OOPL considers that the evidence base is flawed in relation to the testing of the viability of development and in particular the viability of development on the Cargiant site. The main doubts are summarised below.

Approach to site typologies

2.3. The Affordable Housing Viability Assessment ('AHVA') (SD41) tests 5 different site typologies which it considers to be representative of different locations within the plan area. However, given that the Local Plan relates only to a very small number of actual sites (31 are identified for housing), the typologies that have been tested are not considered to reflect the mix of sites upon which the plan relies. In considering what sites should be tested, PPG (para 006) *"does not require testing of every site or assurance that individual sites are viable"* however notes that *"a more detailed assessment may be necessary for particular areas or sites on which the delivery of the plan relies"*. The approach adopted by OPDC does not give even high level assurance that the policies within the Plan are set in a way that is compatible with the likely economic viability needed to deliver the Plan.

Site specific viability testing

2.4. Given the concern over the OPDC's approach to site typologies, DS2 has sought to make the Inspector aware, in their Written Statement response to Matter 9, that OPDC commissioned a site-specific viability appraisal for the Cargiant site from GL Hearn. The report was issued by OPDC in February 2018 and found that:

- At 35% affordable housing with all infrastructure paid for by the developer, the scheme makes a loss of £420m;
- At 35% affordable housing with no infrastructure paid for by the developer, the scheme still makes a loss of £20m;
- The report considers the Cargiant land to be worth £160m, reflecting a valuation at £3.25m per acre, which is low in the current market – it is less than half of the most recent benchmark for industrial land in Park Royal;
- The report recognises that an EUV based level of return to a landowner may not be appropriate when considering the viability of redevelopment of an operational business such as Cargiant, and as a result relocation costs would form a reasonable element of the benchmark/threshold land value. However, it does not take any account of relocation costs in the results.

2.5. Cargiant is no longer relocating its business as a result of the cost of relocation, resulting largely from the increased cost of industrial land in and around Park Royal which has been stimulated by the proposal to release a significant amount of SIL in Old Oak. Without a viable relocation solution and a viable form of development for the site, the Cargiant site will not come forward for development. This confirms that the Plan will not be effective if it is adopted in its present form.

Market changes

2.6. Both the AHVA and Whole Plan Viability Study (SD60) are dated May 2017 and April 2017 respectively. DS2 consider that there have been important changes to the key assumptions that should be taken into account through an updated evidence base, namely:

- Average house prices have reduced by up to 5% in the surrounding boroughs;
- Construction costs have remained constant; and
- Industrial land values have risen dramatically. Because these form the basis of the level of Benchmark or Threshold Land Value included within the viability studies, this is of critical importance. Data for the period from Q1 2017 to Q4 2018 indicates growth of 30% for London industrial land in and around Park Royal.

Approach to viability in setting an affordable housing target

2.7. The approach taken by the OPDC to establishing an affordable housing target is not in accordance with the National Planning Policy Framework 2012 (‘NPPF’) (OSD1). The OPDC appears to have been blinded in its status as a Mayoral Development Corporation by a desire to support Mayoral policies on affordable housing, and has ignored its evidence base and the legal requirements of sustainability assessment in order to do so.

2.8. This is in sharp contrast to some historic Opportunity Areas which have followed the Plan-led approach – Vauxhall Nine Elms and Battersea, for example, where the affordable housing policy was set at 15% in recognition of the significant cost of infrastructure (more than £1bn). Delivery in that Opportunity Area is now well advanced and is over-delivering on affordable housing.

3. MATTER 3(B) – DOUBTS ABOUT FUNDING OF INFRASTRUCTURE

3.1. The Plan will not be effective given the lack of certainty that is provided on the funding of infrastructure.

Funding and viability

3.2. One of the Key Recommendations of the AHVA is that *"the assessments take no account of infrastructure requirements which will reduce the amount of affordable housing that can be delivered"*. At the same time however, it assumes that the future infrastructure has already been provided and thus reflected within the sales values.

3.3. The OPDC's response to this matter is that *"sales values have been based on findings of comparable evidence of transacted new-build and re-sale properties in the area and are also based on a comparison of the sales values adopted on emerging developments in the area."*

3.4. This is incorrect. The AHVA clearly states at section 3.4 *"Whilst our assessment has been undertaken on the basis of current cost and current values, we have assumed that the future infrastructure associated with the OPDC area has been provided and reflected this within the adopted sales values."*

3.5. Fundamentally, it cannot be the correct approach to include the value increase that the delivery of new infrastructure generates, but then not include the cost of providing this infrastructure. As the AHVA notes, taking account of this infrastructure would depress viability. The result of ignoring the cost of infrastructure is to overstate the viability of the site typologies being tested, and in turn, inflate the Plan's affordable housing target to an unrealistic level.

3.6. When questioned over the inclusion of infrastructure the OPDC notes *"in accordance with National Planning Policy Guidance, for an area-wide viability assessment, a broad assessment of costs is required. It includes the level of Community infrastructure Levy identified in the Preliminary Draft Charging Schedule. It cannot consider all the infrastructure costs as these will be identified through planning."*

3.7. The OPDC further state, *"…these will be identified through the development management process and depend on external funding available to support infrastructure delivery. Policy DI1 in the Local Plan identifies a key priority to secure additional public and private funding sources to support infrastructure delivery, in addition to developer contributions."*

3.8. Planning Practice Guidance ('PPG') (OSD1) states that for an area-wide viability assessment a range of development costs need to be taken into account including (3rd bullet point) *"infrastructure costs, which might include roads, sustainable drainage systems, and other green infrastructure, connection to utilities and decentralised energy, and provision of social and cultural infrastructure"*. However, PPG also requires *"the potential cumulative costs of emerging policy requirements and standards, emerging planning obligations policy and Community Infrastructure Levy charges"* to be included. As such, the inference at comment AHVA/2 that the omission of infrastructure costs is mitigated by the inclusion of CIL contributions is incorrect, as PPG requires that both be included within plan making viability assessments.

3.9. The Viability Testing of Local Plans Report prepared by Sir John Harman ('the Harman Report') notes that where policy requirements (in this case the provision of infrastructure) may not be a straightforward cost, it is important that attempts are made to consider the impact of these costs . In our representations we recommended that the identified infrastructure cost estimates from the Development Infrastructure Funding Study ('DIFS') (SD57), in conjunction with the Infrastructure Delivery Plan ('IDP') (SD58), be used to establish a reasonable, area-wide appraisal assumption that could be included within the site typology testing. This would allow a broad assessment of all relevant costs to be included, as the OPDC suggest is required. On reflection, we would note that the DIFS is dated March 2015. The Planning Inspectorate's Procedural Practice in the Examination of Local Plans (June 2016) notes that evidence base documents in relation to housing should be no more than 3 years old and key documents updated to include findings from the year prior. Whether the DIFS is considered a key document or not, it is in any case considered to be out of date and should be updated.

3.10. In response [to identifying an infrastructure cost estimate] the OPDC states, *"the OPDC is not proposing for all infrastructure costs to be borne through Section 106 or Community Infrastructure Levy. Recognition of this is clearly set out within Policy DI1 and within the DIFS."*

3.11. Through Policy DI1 and the comments at AHVA/1,2,4,11 the OPDC concludes that infrastructure delivery will be paid for by a combination of CIL contributions and external funding streams. The Draft CIL Charging Schedule submitted by the OPDC identifies a gross aggregate funding gap of £1,178,719,000 . Early estimates of the projected CIL revenue suggest total revenues of £378,801,810 , leaving a funding gap of approximately £800,000,000 which is suggested will be bridged by additional funding sources. The reliance on the conclusions of the AHVA appear to be predicated on the assumption that this £800m funding gap can be filled, however no further details are provided.

3.12. It is not clear whether, through omitting the costs of infrastructure from the AHVA, the OPDC consider these funding sources (CIL plus others) would be solely responsible for bridging the funding gap and delivering all infrastructure. This has never been the expectation of OOP Ltd, which was that for a site of this scale and significance, there would instead need to be a sharing of the ‘pain’ in respect of these costs between local authority and developer. This assumption is given further weight by the scale of the funding gap, and the reasonableness (or otherwise) of assuming that this can be bridged solely by CIL and third-party funding sources.

<u>Design and delivery</u>

3.13. Given the timescales involved in designing and obtaining the approvals for the various items of infrastructure, such as bridges over and underpasses under railways, if the funding model is not in place early it is highly unlikely that the necessary infrastructure can be built in the timescales envisaged in the Plan.

3.14. This uncertainty over the design, funding and delivery of infrastructure has played a key role in preventing the Cargiant site from being brought forward for redevelopment in the Plan period.

3.15. At the first Regulation 19 stage OOPL noted that the Plan did not tackle the fundamental issue of development viability, by setting an affordable housing target that did not take account of the significant cost of infrastructure. At the second Regulation 19 stage OOPL advised that it would not restart work on preparing a planning application to bring the site forward for development until certainty was provided by the OPDC on key elements of transport infrastructure for the site.

3.16. As identified by DS2 in response to Matter 9, the OPDC’s own site-specific viability appraisal for the Cargiant site concluded that at 35% affordable housing and with all infrastructure paid for by OOPL, the development made a loss of £420m against the Threshold Land Value – even without the significant costs of relocation factored in. Without any infrastructure costs, 35% affordable housing remained unviable by £20m (plus relocation costs).

3.17. With no certainty on the delivery or funding of infrastructure, the OPDC itself concluded that development in accordance with its own emerging Local Plan was not viable on the Cargiant site, and as such in this regard it must be concluded that the Plan is not justified and will not be effective, and is therefore unsound.

4. MATTER 3(C) – THE FLUIDITY OF POLICIES FOR PARK ROAD AND OLD OAK STREET AND OMISSION OF PARTIALLY FORMED PROPOSALS FROM FIGURES OR POLICIES MAP

<u>Park Road</u>

4.1. OOPL has considerable concerns about the justification for the suggested alignment of Park Road and its potential impact on the continued ability of the Cargiant business to remain in operation throughout the Plan period.

4.2. If the Plan is to be taken forward, and be justified and effective, the alignment of Park Road needs to accommodate the Cargiant business. OOPL had been in discussion with the OPDC for some time to fix the alignment of Park Road, following the move away from OOPL's masterplan alignment which had been agreed and reflected in the first Regulation 19 version of the Plan. Now that the Cargiant site will not be coming forward for redevelopment, Park Road needs to be realigned in order to avoid Cargiant's operational land.

4.3. In order to be effective in light of these changed circumstances, we therefore consider that Figure 4.7 needs to be altered to relocate Park Road around Cargiant land, and Policy P2 needs to reflect the retention and continued operation of Cargiant during the Plan period. This change would make the Park Road policies effective, even if the reduced homes and jobs numbers that can be realised in Old Oak provide questionable justification for the new road.

<u>Old Oak Street</u>

4.4. Whilst Old Oak Street in Old Oak North is not indicated for delivery as early as Park Road, its provision relies entirely on the Cargiant site. Now that the Cargiant site is not being brought forward for development, this connection cannot be delivered within the Plan Period.

4.5. The work undertaken by AECOM on behalf of the OPDC to inform the diagrammatic location of the key routes, including principally Park Road and Old Oak Street, is contained within the Old Oak North Development Framework Principles Local Plan Supporting Study (SD5). This study was finalised in June 2018, based on work undertaken during 2017 and 2018. Whilst the study was considered to *"take into account viability and technical challenges of delivery"*, it was prepared on the basis that Cargiant would relocate from its current site in 2021. It identifies at 1.1.3 that the semi-consolidated land ownership means that Old Oak North can *"make a significant contribution to OPDC's homes and jobs targets in the short to medium term"*.

4.6. This key assumption is now wrong and the study is invalidated by it. The conclusions reached on the alignment of Park Road and Old Oak Street are now similarly invalid, and are no longer justified. This study needs to be revisited in order to take account of Cargiant's continued operation in Old Oak North, and the Plan's policies relating to these two key routes needs to be changed if they are to be justified and effective.

5. ADDITIONAL MATTER – SUSTAINABILITY

5.1. A review of the Integrated Impact Assessment ('IIA') has been undertaken by Jam Consult Limited and is enclosed at Appendix A.

5.2. It is clear from the London Plan (OSD27), Old Oak and Park Royal Opportunity Area Planning Framework ('OAPF') (OSD30) and the Sustainability Assessment ('SA') Regulations and guidance that different Spatial Options needed to be tested to ensure the selection of the most appropriate strategy for the regeneration of the area. It is evident from the findings in Appendix A that a sustainability assessment of the spatial options has not been undertaken and the IIA cannot have informed the development of the Plan. The SA is therefore totally deficient.

5.3. The IIA has not been prepared in parallel to the Local Plan to inform its development. A 'retrofitting' exercise to try and correct the failures in the IIA will therefore not be possible as it will not achieve the aims of the regulations or legal requirements.

5.4. The Local Plan cannot be considered justified as the IIA has not demonstrated that the plan is the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence (NPP 182). The failures identified in the assessment show that the findings cannot be considered credible, justified or robust and can only lead to the conclusion that the SA is not fit for purpose or legally compliant and that the OPDC Local Plan can therefore not be considered sound.

<u>WORD COUNT = 3,000</u>