

OPDC DRAFT LOCAL PLAN

HEARING STATEMENT FROM ST QUINTIN AND WOODLANDS NEIGHBOURHOOD FORUM (REP 82)

MATTER 1

Whether the Plan's definition of Strategic Policies and its role envisaged for Neighbourhood Plans is consistent with National Policy (derived from the first and sixth Key Issues of table 5 of Key document 5 identified at Regulation 19(1) stage and representations 2/G/25 and 2/SP6/6 from Old Oak NF and 2/G42 and G43 from the Midland Terrace RA and the St Quentin and Woodlands NF amongst others)

Notwithstanding the officers' response to the Key Issues and representations set out in Appendices E and J to Key Document 5, this Matter would benefit from a discussion at a hearing session.

The OPDC response to representations at 19.2 stage was

No change proposed. Policy DI3 sets out OPDC's commitment to supporting Neighbourhood Forums in the development of Neighbourhood Plans. The commitment to proactive engagement is also set out in OPDC's Statement of Community Involvement. OPDC will continue to support the Old Oak Neighbourhood Forum in the development of their neighbourhood plan for their neighbourhood area. Para 184 of the NPPF (2012) states that local planning authorities should set out clearly their strategic policies for the area. NPPG Paragraph: 076 Reference ID: 41-076-20140306 sets out considerations for whether a policy is a strategic policy. One of these considerations is whether the Local Plan identifies the policy is strategic. It is therefore clear that Local Plans are supposed to set out which policies it considers to be strategic. The Local Plan states that the Strategic Policies chapter, the Place Policies Chapter and the Delivery and Implementation Chapter are strategic policies. The Place Policies set out the overarching direction and objectives for each place, deal with strategic matters such as how many homes and jobs must be delivered in each place, support site allocations which are important to delivering the spatial vision and homes and jobs targets, and set out the important infrastructure required to support the sustainable regeneration of that place and of the wider plan.

The relevant text in the 19.2 Draft Local Plan is brief and reads:

1.22 The strategic policies, place policies and delivery and implementation policies (chapters 3, 4 and 11) form OPDC's strategic policies for the area and establish the framework for fulfilling the spatial vision for the future of the OPDC area. The strategic policies dovetail with the OPDC's corporate priorities and outline how the OPDC area will be transformed over the plan period.

*1.23 Chapters 3, 4 and 11 **will be treated as OPDC's strategic policies when considering the general conformity of neighbourhood planning policies** (our emphasis).*

We submit that it is a clear misreading of the NPPF(2012) and NPPG to assert that policies in the Chapter 4 of the Draft Plan are 'strategic' rather than 'non-strategic'. No justification for this assertion is provided in the Draft document, and there is no evidence that the authors of the Plan have applied their minds to the relevant content of the NPPF and NPPG when drafting paragraph 1.23.

The distinction between strategic and non-strategic policies in a local plan is a crucial one, in terms of the application of the 'general conformity' test, as one of the statutory basic conditions for any neighbourhood plan.

NPPF 184 states that *Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible.*

NPPF 185 states *Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area. Once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict. Local planning authorities should avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation.*

It is well established that since the 2011 Localism Act, the planning system in England involves preparation of local plans which include non-strategic as well as strategic policies. This is the 'planning space' that Parliament made available to local communities wishing to prepare neighbourhood plans, through the 2011 Localism Act.

The relationship between strategic and non-strategic policies is further clarified in the 2018 NPPF. While we accept that the OPDC Local Plan is being examined against the 2012 version, it is appropriate to take account of the relevant wording in the 2018 version.

This reads at NPPF paragraph 18 *Policies to address non-strategic matters should be included in local plans that contain both strategic and non-strategic policies, and/or in local or neighbourhood plans that contain just non-strategic policies.*

And at Paragraph 19 *The development plan for an area comprises the combination of strategic and non-strategic policies which are in force at a particular time.*

And at NPPF paragraph 21 *Plans should make explicit which policies are strategic policies. These should be limited to those necessary to address the strategic priorities of the area (and any relevant cross-boundary issues) to provide a clear starting point for any nonstrategic policies that are needed. **Strategic policies should not extend to detailed matters that are more appropriately dealt with through neighbourhood plans or other non-strategic policies** (our emphasis).*

It is clear from the 2012 NPPF that 'strategic' policies are not intended to extend into detail. This reflects the ordinary English usage of the term 'strategic'. It is also clear that the post 2012 planning framework envisages local plans (and other parts of the development plan) including policies which are 'non-strategic'.

For the OPDC to assert that Chapter 4 'place' policies are strategic mainly because the Corporation chooses to define them as such is wholly inadequate. This is but one of a series of 'considerations' on what makes a policy strategic, as set out at NPPG paragraph 076 (the content of which has not changed since 2014).

For the OPDC to argue that the Chapter 4 'place' policies are all 'over-arching' is a similar distortion of the OED definition of this term.

The 'considerations' set out in NPPG 074 are as below:

- *whether the policy sets out an overarching direction or objective*

- *whether the policy seeks to shape the broad characteristics of development*
- *the scale at which the policy is intended to operate*
- *whether the policy sets a framework for decisions on how competing priorities should be balanced*
- *whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan*
- *in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan*
- whether the Local Plan identifies the policy as being strategic

It is not reasonable to suggest that every site allocation included in Chapter 4 is 'central' to achieving the vision and aspirations of the OPDC Draft Local Plan. Nor that all policies in this extensive chapter covering twelve individual 'places' seek to *shape the broad characteristics of development* within the overall local plan. The draft policies in Chapter 4 go into very considerable detail. The *scale at which they are intended to operate* is very limited.

The current draft itself states at paragraph 4.2 that *Policies in this chapter provide specific guidance for each place at a greater level of detail than the Strategic Policies in Chapter 3 and the Development Management policies later in the Local Plan.*

This suggests that the authors of the document themselves recognise that the Chapter 4 policies are not 'strategic'.

Regrettably there are other examples, in the context of local plans drawn up by LPAs within London, of the tactic that 'all our policies are strategic'. Few of the local plans prepared or updated in London since 2012 have met the basic NPPF requirement to distinguish clearly between strategic and non-strategic policies, so as to assist neighbourhood forums (and examiners of neighbourhood plans) in applying the general conformity test. The issue has surfaced at examinations of NPs, with examiners dismissing the efforts of LPAs to argue that certain policies are 'strategic' with inadequate justification.

The issue has also arisen at the EIP of the London Plan, as a result of the unusual level of policy detail in the Mayor's new Draft as compared with its predecessor. The legal position here is complicated by the fact that the 1999 Act under which London's 'spatial strategy' is prepared restricts its content *only to matters of strategic importance to London*. A number of those parties making representations at the London Plan EIP hearings have argued that the current draft over stretches this restriction in terms of the detail and prescription of a number of its policies.

The term 'strategic' in the 1999 Act may ultimately be interpreted by the Courts as being different from when used in the 2011 Localism Act and 2012 NPPF. But both have to reflect normal usage of this term.

The report of the London Plan Inspectors Panel has yet to be issued, but it is notable that GLA officers have already proposed additional text which reads *In addition, the London Plan does not preclude boroughs and neighbourhood forums from bringing forward policies in their Development Plan Documents or Neighbourhood Plans that vary from the detail of the Policies in this Plan where locally-specific circumstances and evidence suggests this would better achieve the aims objectives of*

the London Plan and where such an approach can be considered to be in general conformity with the London Plan.

We also argue that that Table 3.1, which sets 34 site allocations with minimum housing targets for each, should be deemed as 'non-strategic' and hence amenable to some variation via a neighbourhood plan. Paragraph 23 of the 2018 NPPF states *Broad locations for development should be indicated on a key diagram, and land use designations and allocations identified on a policies map. Strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area (except insofar as these needs can be demonstrated to be met more appropriately through other mechanisms, such as brownfield registers or nonstrategic policies).*

The sites and specific figures given in Table 3.1 (which are then reflected and incorporated in Chapter 4 'place' policies) are not 'broad locations'. They are prescriptive site allocations, untested through any detailed design work and seemingly designed to reach a total housing target to which the Draft OPDC Local Plan has adhered through three iterations, despite many questions and challenges to the largely arbitrary origin of this target in the 2015 Further Alterations to the London Plan.

Conclusion

It cannot legitimately be claimed that each and every policy in chapter 4 of the OPDC Draft Local plan is 'strategic'. Nor should the figures in Table 3.1. be treated as 'strategic' rather than 'non-strategic policy. In making these assertions the current draft fails to meet the requirement to have regard to national policy.

This is an issue of interpretation of key sections of the 2012 and 2108 NPPF documents, which goes well beyond the examination of the OPDC Draft Local Plan. If left unmodified (as OPDC proposes) the resultant local plan is likely to be used as a precedent by all those local planning authorities antipathetic or hostile to the whole framework of neighbourhood planning.

Despite NPPF guidance to keep local plans 'strategic' and high level, it is now common for local plans in London to include detailed 'place' chapters in a form which would previously been drawn up as area action plans or SPDs.

We will be providing evidence at the hearing that the stance taken by the OPDC on this strategic/non-strategic issue is a deliberate one, aimed at blocking or limiting the scope for any neighbourhood plans within the OPDC boundary to bring forward policies of any substance or impact.

Modifications required

Substitution of paragraph 1.23 in the current text with an alternative that makes clear that all policies in Chapter 4, and the housing target figures in Table 3.1 are 'non-strategic' in terms of the application of the general conformity requirement for neighbourhood plans, and can be varied or added to via neighbourhood plan policies subject to meeting independent examination requirements for evidence, justification and compliance with the basic conditions set out in the 2011 Localism Act and success at a local referendum.

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