



## OLD OAK NEIGHBOURHOOD FORUM

Doug Wilson  
Chief Operating Officer  
Old Oak and Park Royal Development Corporation  
(Sent by email only)

April 30<sup>th</sup> 2019

Dear Mr Wilson,

### **FoI/EIR request for sight of the OPDC application for Housing Infrastructure Funds**

I am responding to your letter of 15<sup>th</sup> April, declining to provide copies of items 2 and 3 in our FoI/EIR request of 6<sup>th</sup> March. These documents were:

- The Expression of Interest for £250m of HIF resources as submitted by the GLA to Homes England in September 2017.
- The '5 case' Outline Business Case as submitted by GLA to Homes England on September 10th 2018.

We also asked for sight of a copy of the Part 2 Mayoral Decision report MD2355. Your letter explains that all three of these documents are 'commercially sensitive'. We suggested redaction of any material of genuine commercial confidentiality. Your letter states that the Corporation's refusal to release this material *would impose an unreasonable burden upon OPDC* and refers to the views of the Upper (Information Rights) Tribunal in 'Craven v IC & DECCC [2012] UKUT442 (AAC)' and the Information Commissioner's Decision Notice FS50585926.

The Craven v IC & DECCC case, as I understand, is seen as one in which the Upper Tribunal addressed the question of whether a FoI request is 'vexatious' in the sense of being a 'manifestly unjustified, inappropriate or improper use of FOIA' or meets the test for 'manifest unreasonableness' under regulation 12(4)(b) of the Environmental Information Regulations 2004 (EIR). I note that the GLA has previously applied these tests when refusing other FoI/EiR requests.

I trust that you do not see this FoI/EiR request from the Old Oak Neighbourhood Forum as being either vexatious or manifestly unreasonable? The grounds for refusal of our request seem to rely on the workload involved in a process of any necessary redaction of a set of documents submitted by a public body (OPDC) to a Government department. We are not clear why there should be extensive redaction necessary to maintain commercial confidentiality in such a scenario? What are the 'commercial' elements involved, given that OPDC and MHCLG are both public bodies?

Events have moved on since our initial request in that a first stage of EIP hearings on the OPDC Draft Local Plan have taken place. These hearings have now been adjourned by the Inspector. The information that has emerged at the hearings has sharpened the public interest case for disclosure of the documents that we have asked for, as I explain below.

I hope that the Corporation will therefore reconsider the decision to refuse disclosure.  
**Please treat this letter as a formal request for a second stage internal review of this decision.**

**Public interest case for disclosure of documents 1 and 2 above**

a) local community organisations were assured at OPDC consultation sessions in mid 2017 that information on the OPDC's 'masterplanning' exercise for Old Oak would be made available by the end of that year.

b) subsequently the only relevant material published has been the Old Oak North Development Framework Principles document, and a subsequent 'Addendum' added to the EIP Library (with no public consultation) shortly before the hearings commenced.

c) the realism and viability of the plans of the OPDC delivery arm for Old Oak North have been the subject of much discussion at the EIP hearings. Given the oppositional stance now adopted by Cargiant/L&R Properties as the major landowner at Old Oak North, there are major questions over the viability of what local people understand (from very limited information) to be the intentions of the OPDC delivery arm in relation to infrastructure and housing delivery at this location.

d) In terms of public statements on the content of the OPDC application for HIF funds, and how this £250m of public resources will be spent, the information as yet placed in the public domain is very limited.

e) Inspector Paul Clark has adjourned the EIP hearings to provide time for OPDC to meet his request for a detailed explanation on how OPDC (as a development corporation) intends to proceed at Old Oak North in current circumstances. A further day of public hearings, primarily involving OPDC officers and Cargiant and their respective legal advisers is to be arranged. Dates in early June were discussed at the final session before the hearings were adjourned.

f) At present, with limited information available, it is very hard for the public to assess the realism and deliverability of OPDC plans for the critical first phase of major housebuilding at Old Oak. Residents are well aware that a series of proposed developments along Scrubs Lane, granted permission by OPDC in the last two years, have not started on site. There are now serious doubts about the prospects of the two 'potential' new Overground stations (especially that at Hythe Road) on which these planning permissions were premised.

g) A letter from David Lunts to the Planning Inspector, dated 18<sup>th</sup> March and published via the EIP Library, gives some further information on OPDC intentions for Old Oak North. It alerts the Inspector to the success of the OPDC's HIF bid and explains why intervention by the Corporation is seen as necessary in the context of 'market failure' at Old Oak. But it

provides no detailed content on the masterplanning work undertaken since 2017 by the AECOM led consortium working with the OPDC delivery arm.

h) At the last session of the initial stage of the EIP hearings, I explained to the Inspector that this lack of information made it difficult for the public to assess the soundness and justification of a series of policies in the Draft Local Plan that are due to apply to Old Oak North. The Inspector confirmed that he too currently had no further information beyond the letter from David Lunts. And that were further documents to emerge as a result of any Fol/EiR requests, he would be interested to see these, with copies being added to the EIP Library.

This is an unusual scenario, and one which I would hope would be considered carefully by the Information Commissioner should it prove necessary to an appeal be lodged against the OPDC's decision to refuse disclosure. In essence the position now reached is one where:

- A Draft Local Plan is being examined with major questions about the deliverability and realism of the policies, designations, and site allocations proposed for the first five year period of the Plan. The soundness and justification of these, at Old Oak North, are being challenged by several parties including a major landowner, three neighbourhood forums, and a network of community organisations.
- David Lunts has asserted to the Planning Inspector that *It is the role of OPDC as a regeneration body to remedy this market failure, to facilitate development and to build market confidence to ensure the long-term success of the area. To this end, 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.***
- Neither the Inspector nor other participants at the EIP hearings have yet been able to see the details of this 'bold and deliverable plan'. In what ways is it 'bold' and how can its 'deliverability' be assured?
- The Examination hearings have been told by OPDC officers that the masterplan for Old Oak North 'is a process and not a plan' as such and that nothing further by way of documents could be provided to the Inspector at this time. We note from the copy of the ITT which you have provided that those consultants tendering were expected to deliver *a vision and spatial masterplan for Old Oak*. There must surely have been a range of maps, slides, plans and drawings that featured in the HIF bid?
- The OPDC is a public body which has since April 2015 spent significant public funds (Cargiant estimate at £30m) and now proposes to spend a further £250m of Government funds.

### Next steps

It seems clear that some additional information will emerge from the Corporation in terms of OPDC plans for Old Oak North, including provision of infrastructure, and location of initial housing sites, as a result of the Inspector's request for further material to be considered at the extra hearing day. The public will have access to this, and to the hearings session at which this documentation will be discussed.

In the meantime, I ask that OPFC reviews its position on releasing a copy of the 3 documents itemised in our previous Fol/EiR request of 6<sup>th</sup> March, redacted as necessary. In the view of

our Forum, there is a strong public interest case in doing so. OPDC, from its first days, has committed to transparency in its workings. On a range of issues, the Corporation's actions, decisions and governance/accountability arrangements are increasingly being questioned by the public.

Cargiant in its 7<sup>th</sup> February 2019 letter to OPDC Board members repeated the call in its press statement for *A full inquiry into the spending and strategy of the OPDC, including the open publication of the bid for £250 million of Housing Infrastructure Fund (HIF) money so this can be properly scrutinised to see if it represents value for money.*

We share the view that this documentation should be in the public domain, at a critical stage in the Examination of the OPDC Draft Local Plan.

While the Development Corporation is a body with a different legal status to the Garden Bridge Trust, there are some parallels. Both are/were bodies set up at the instigation of the former Mayor of London. Both were established to take forward a particular 'vision' of the former Mayor. Both initiatives experienced a combination of unforeseen planning, financial and infrastructure problems that rendered original aspirations unrealistic or unachievable. The Garden Bridge project was abandoned at cost of £50m of public funds with no demonstratable benefit. The original 2013-2015 Mayoral 'vision' for a new Old Oak has had to be significantly curtailed.

At the time of the publication of the Dame Margaret Hodge report on the Garden Bridge project, the current Mayor stated *I'm clear that since the beginning of the project there hasn't been the necessary standard of transparency and openness around the Garden Bridge. Nearly £40m of public money has already been spent on the Garden Bridge project, and Londoners deserve far more information about the decisions that have been made around how their money is being spent* (our emphasis).

Please recognise that our request for sight of the HIF bid, as also made by Cargiant, comes from Londoners wishing to ensure that the next stages of proposed regeneration at Old Oak is tested as fully as possible at the current Examination in Public on the OPDC Local Plan. This testing needs to happen now -- and before further large sums of public money are spent.

Residents in the three Boroughs involved are well aware that matters could have taken a different course pre 2015, with these three local authorities retaining their planning functions and working alongside HS2. Four years on, the evidence to date is that regeneration on the ground has been very largely limited to development at North Acton, with planning decisions made by LB Ealing rather than by OPDC. The added value of a MDC remains questionable, in the eyes of local people and increasingly in the planning press.

This is not a moment for the Corporation to demonstrate a lack of openness and transparency, simply on the grounds that some officer time may need to be spent on redacting a set of documents which must already have been widely read within OPDC and by civil servants at OPDC.

As before, I am copying this letter to Andy Slaughter MP and to a number of Assembly Members, as well as to Liz Peace and David Lunts. I am also copying it the Programme Officer for the EIP, given its relevance to the final stage of the Examination of the OPDC Local Plan.

Yours sincerely,

Henry Peterson  
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0207 460 1743

Cc Andrew Slaughter MP  
Cllr Steve Cowan, Leader LBHF  
Cllr Wesley Harcourt LBHF  
Nicky Gavron, Tony Devenish, Navin Shah, Onkar Sahota (GLA Assembly members)  
Liz Peace, Chair OPDC Board  
Mark Walker, Chair Old Oak Neighbourhood Forum  
David Lunts, OPDC Interim Chief Executive Officer  
Charlotte Glancy, EIP Programme Officer