

OPDC POST SUBMISSION MODIFIED DRAFT LOCAL PLAN

Agenda 2 for Modifications Hearings: Conformity with London Plan policy D9 on Tall Buildings 2pm Tuesday 11th January 2022

The Inspector's agenda ID-40v2 identified the following matters for discussion:

1 Has the Court case referred to by OONF/StQW reached a conclusion?

2 To what extent does London Plan policy D9 B require specific or generalised locations to be defined in a local development plan (as opposed to any supplementary planning document)?

3 Do the Modified allocations adequately specify locations for tall buildings?

4 To what extent do tall building heights require specification in a local development plan (as opposed to any supplementary planning document) in order to comply with London Plan policy D9 B?

5 Do the Modifications adequately specify appropriate tall building heights

We have set out below our response to these five questions. At the end of what is necessarily a detailed submission, we have added evidence on the GLA's own view of conformity of the OPDC PSMDLP with 2021 London Plan Policy D9. This evidence is in the form of a survey of all London planning authorities, reported to the London Assembly in November 2021.

This latest representation from OONF/StQW includes a response to the December 29th further Statement of Common Ground between OPDC and the GLA.

Question 1 *Has the Court case referred to by OONF/StQW reached a conclusion?*

Judgment in the case was handed down on 15th December 2020.

In this court case, LB Hillingdon was seeking judicial review of the Mayor of London's decision to grant planning permission for the construction of a mixed-used development of up to 11 storeys, on the former Master Brewer site in Hillingdon. Conformity with 2021 London Plan policy D9 was one of the features of the case.

Media coverage of the decision has suggested that the Mayor and GLA officers were correct in their interpretation of Policy D9, and that the modification to this policy (imposed through the Secretary of State's intervention in December 2020) had not strengthened this policy to the extent as viewed by some who commented at the time.

We consider that this case has not in fact resolved how London Plan D9 should be interpreted, when assessing local plan conformity with the London Plan. This is for several reasons:

- The judgment deals with the specifics of a planning application that includes 11 storey buildings. The judge held that '*context is critical to the interpretation*' and that in this case partial non-compliance with D9 did not render the Mayor's decision unlawful, taking into account the planning balance and the development plan as a whole.
- The judgment did not address that part of D9(B) that states *Any such locations and appropriate tall building heights should be identified on maps in Development Plans (see*

e.g. paragraph 81 of the judgment which (strangely) omits inclusion of the words in bold in Part B(2) as set out above).

- The judgment did not explore the question of whether the wording of D9(B) referring to ‘Development Plans’ should be extended to include non-statutory documents including SPDs. We consider the plain wording of the policy is what should prevail and that it refers to inclusion of information in ‘development plans’ only.
- Mrs Justice Laing stated in her judgment *I consider that I ought not to have regard to the letter from the Secretary of State to the Defendant dated 10 December 2020 (paragraph 46 above) as it is not a public document which members of the public could reasonably be expected to access when reading Policy D9.* This part of the judgment has been questioned by observers. The SoS letter and ‘Direction Overview’ were widely commented on at the time of issue, and many Londoners (including our members) are well aware of the content of these documents. We would hope that the Planning Inspectorate *does* take account of the content of policy guidance from the Secretary of State.

Hence we consider the outcome of the Hillingdon JR case to leave unresolved the question of what information needs to be included in a local development plan to satisfy the London Plan general conformity requirement.

Question 2 To what extent does London Plan policy D9 B require specific or generalised locations to be defined in a local development plan (as opposed to any supplementary planning document)?

We argue that the ordinary meaning of the words in Policy D9, read as a whole, in the light of its context and objectives, sets out a clear process for the grant of planning permission for tall buildings. It gives primacy to the planning judgment of the local planning authority at the plan-making stage in terms of the definition and location of tall buildings. This principle was accepted by all parties in the Hillingdon case.

This makes it essential that Local Plans as prepared by local planning authorities in London are clear on ‘suitable locations’ and on ‘appropriate heights’ as referred to in D9 Part B. Different local plan policies and site allocations on tall buildings may co-exist across London, but these need to be made explicit within individual local plans (and during preparation of these documents) so that Londoners can participate in plan preparation and also understand the implications of such policies and site allocations for tall buildings in a local plan when adopted.

We do not see that that this London Plan requirement can be left to SPDs or supporting studies. NPPG 008 states (in full) *Supplementary planning documents (SPDs) should build upon and provide more detailed advice or guidance on policies in an adopted local plan. As they do not form part of the development plan, they cannot introduce new planning policies into the development plan. They are however a material consideration in decision-making. They should not add unnecessarily to the financial burdens on development.* SPDs are not subject to examination, and hence are not tested at EIP hearings.

Various ‘supporting studies’ published by OPDC, as referred to below, have not achieved the status of SPDs. As such they do not (in our view) begin to meet the requirements of D9(B). The purpose of preparing such studies as an evidence base is so that their conclusions can be reflected in the content of a local plan – this being the main document that the public can be expected to read.

Question 3 Do the Modified allocations adequately specify locations for tall buildings?

Given that the PSMDLP is required to '*generally conform*' with the 2021 modified version of D9 (which changed after December 2020) we suggest this question needs to be cast more widely and to refer to all parts of the Draft Plan, pre and post modification.

In the PSMDLP, the following policies, tables and figures in our view offer no substantive information on suitable locations for tall buildings or on appropriate heights. These are parts of a Local Plan where the public might look for such information. They would not find it here.

Policy SP2 on Good Growth

Policy SP6 Places and Destinations

Table 3.1 Site Allocations (no figures on densities despite repeated requests)

Policy D4 on Well Designed Buildings

Policy D5 on Tall Buildings (other than avoiding the RAF Northolt Safeguarding Zone)

Policy D6 on Amenity

Policy D7 on Views

Policy D8 on Heritage

Policy H1 on Housing Supply

Policy TCC1: Locations for and Impacts of Town Centre Uses

Table 11.1: Opportunities and Challenges for Delivery within the OPDC Places

OPDC are therefore heavily reliant on **Policy SP9, modified Figure 3.15, and the content of certain 'Place' policies** to demonstrate that the Local Plan identifies 'suitable locations' in general conformity with London Plan Policy D9.

PSMDLP Policy SP9 on Built Environment states that *proposals should optimise development in a sustainable manner that*

a) delivers building, public realm and infrastructure of the highest design quality and architecture that:

i) positively responds to context and enhances local character and identity

ii) responds appropriately to the setting of sensitive locations identified in figure 3.15.

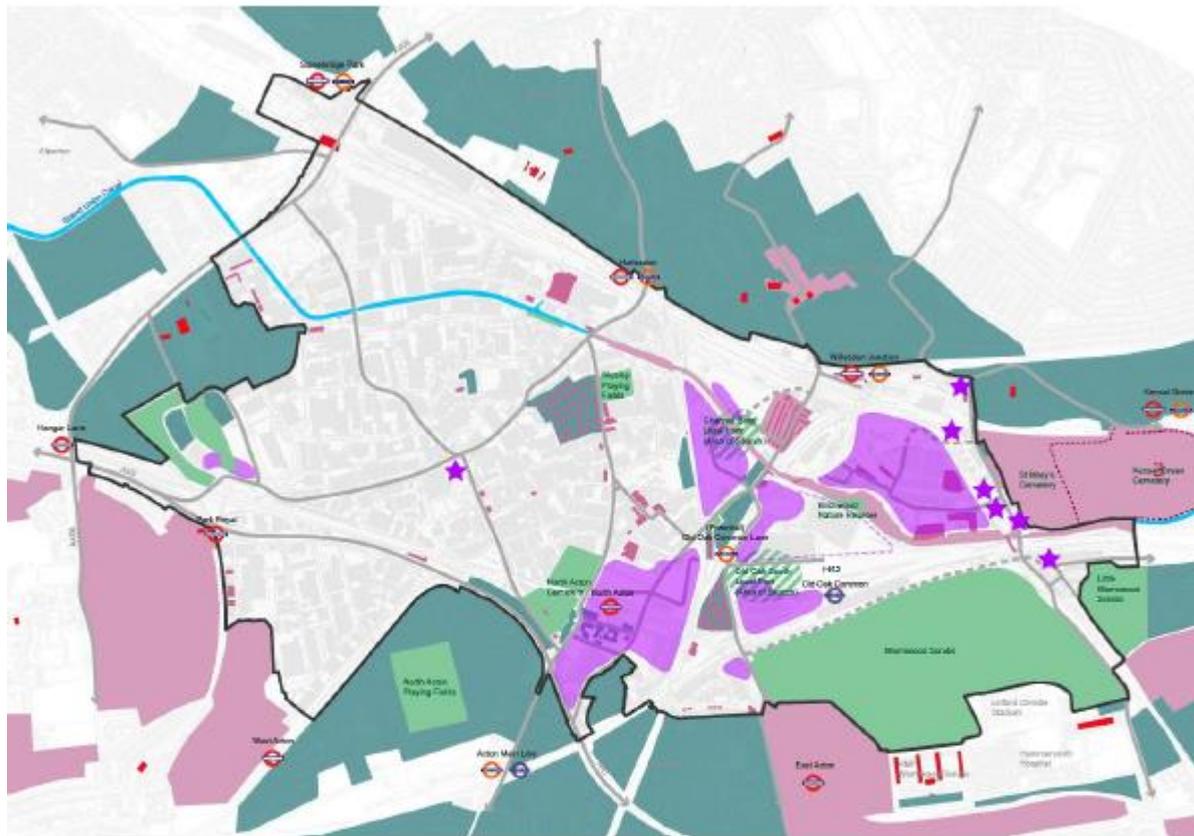
b) delivers high densities and a range of building heights, including tall buildings in the locations identified in figure 3.15.

As commented separately below (in response to the Inspector's Question 5) neither the wording in Policy SP9 nor the content of Figure 3.15 has anything to say on the subject of 'appropriate heights' at each suitable location.

OPDC would seem to be assuming that the modified figure 3.15 is sufficient to achieve general conformity with the '*suitable location*' requirement in London Plan Policy D9.

This map of the OPDC area identifies (with asterisks) a series of specific locations for tall buildings along Scrubs Lane. All but one of these asterisks show sites on which OPDC has since 2015 granted planning consent to such buildings (in the 20- 30 storey range). As we have argued in the past, this has been an exercise of retro-fitting a Local Plan around sites acquired by speculative developers in advance of plan preparation. Nevertheless we accept that these locations are identified with sufficient specificity to meet London Plan D9.

In relation to other areas where tall and very tall buildings are planned by OPDC, this map at 3.15 defines sizable areas of several hectares in each case. The purple areas of North Acton/Acton Wells is an area of 32.9 hectares¹. Channel Gate/Atlas Road is approximately 14 hectares.



- ▭ OPDC Boundary
- Areas where tall buildings are appropriate
- ▭ Areas where tall buildings are appropriate beyond the plan period
- ★ Specific locations where tall buildings are an appropriate form of development
- Residential areas
- Existing publicly accessible open space
- Local Park area of search
- Statutory Listing Building
- ▭ Kensal Green Cemetery Registered Park and Garden
- Conservation Area
- Local Heritage Listing

The term ‘location’ in plain English means ‘a particular place or position’. It does not mean a substantial area of many hectares or a ‘Place’ as used by OPDC in its Local Plan. The whole intent of the SoS Direction of December 2020 was that the public should be made aware, through Local Plans, of specific locations considered suitable for tall buildings. Part C of London Plan D9 sets out criteria in assessing what makes a location ‘suitable’. For London, where tall buildings have been a growing public concern, local plans are now expected to have been through a full process of consultation leading up to the identification of such locations as being ‘suitable’.

Many planning authorities have in the past carried out ‘sifting exercises’ and character studies to identify specific locations where tall buildings are considered appropriate or ‘suitable’. The Government in its National Model Design Code encourages such preparation work in Local Plans,

¹ The 2015 OPDC OAPF gives a figure of 32.9 hectares for ‘North Acton’

along with the use of digital modelling tools to help the public to visualise the impact of tall buildings on their setting.

Paragraph 3.79 of the supporting text to PSMDLP SP9 states *Tall buildings are defined in OPDC's evidence base as buildings providing 15 or more residential storeys or being 48 metres above ground level. Figure 3.15 shows the locations within the OPDC area where tall buildings have been identified to be appropriate in principle. Any proposal for a tall building would however, need to be assessed on its own merits and would need to respond appropriately to identified sensitive locations and accord with all other relevant policies within OPDC's Local Plan (including policies P5 and P7), the Mayor's London Plan and any other relevant material planning considerations.*

We do not see SP9 and its associated map as being even close to meeting the requirements of London Plan D9. As one of the first new Local Plans to be adopted post the Secretary of State's intervention on the Tall Buildings policy in the London Plan², we see the outcome of this examination to be critical to future interpretations of the 'general conformity' requirement on this important planning issue for all Londoners. (Nor do we see Places P5 and P7 (as referred to above) being the most significant Places where much clearer policy content is needed than in the present PSMDLP. Renumbering may be needed?).

The Place chapters in the PSMDLP

There is no argument that these chapters form part of the Local Plan, and have full status as compared with e.g. SPDs and other supporting documents. They are therefore relevant to conformity with London Plan Policy D9.

In this next section, we set out the material included in each of the Place chapters that is relevant to location and heights of tall buildings, at each of the 'places' and sub-places in the PSMDLP. This makes for a lengthy submission, but the detail is important. In terms of identifying 'suitable locations' for tall buildings, a number of these 'place policies' provide some level of information for the reader of the local plan.

² The 2021 London Plan was formally adopted on March 2nd 2021. Policy D9 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. Tall buildings should only be developed in locations that are identified as suitable in Development Plans.** (our emphasis).*

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 (our emphasis)*

Scrubs Lane is the example that comes closest to information on 'location' which meets London Plan D9 requirements. In the cases of North Acton/Acton Wells, the North Acton Cluster, and the new material on Channel Gate **we consider the information provided to fall well short of what D9(B) requires to achieve 'general conformity' of a new local plan from a London planning authority. Locations, in the ordinary meaning of the word, are not identified.**

P1 Old Oak South refers at sub paragraph k) to *Contributing to a variety of building heights that respond to public transport access and sensitive locations by:*

- i. supporting the delivery of tall buildings in Old Oak South in accordance with Policies SP9, D5 and where relevant, subject to HS2 operational constraints and where enabling works for such building works are included within the HS2 scope;*
- ii. appropriately responding to existing residential areas, including Wells House Road, Shaftesbury Gardens and Midland Terrace; and*
- iii. appropriately responding to Wormwood Scrubs as Metropolitan Open Land.*

P1C1: Old Oak Common Station Cluster makes no mention of building locations/heights

P2 Old Oak North includes the statement f) *delivering increased building heights and multi storey industrial typologies where this will deliver industrial intensification and SIL compliant broad industrial type activities and g) Appropriately responding to the Grand Union Canal Conservation Area.*

P3 Grand Union Canal includes the statement n) *Contributing to a variety of building heights that support the functioning, designations, amenity and character of the canal and canalside spaces by:*

- i. subject to the impact on the heritage, character, biodiversity and amenity of the Grand Union Canal, within Channel Gate, delivering heights of generally 6 to 8 storeys fronting directly onto the Grand Union Canal with opportunities for tall buildings at key crossing points such as Channel Gate, Old Oak Lane and Scrubs Lane; and*
- ii. within Park Royal and Old Oak North, delivering appropriate heights that balance the need to conserve and enhance the heritage, character, biodiversity and amenity of the Grand Union Canal with the functioning and intensification of the Strategic Industrial Location.*

P4 Park Royal West includes the statement at n) *Supporting increased building heights where this will deliver industrial intensification and SIL compliant broad industrial type activities.*

P4C1 Brewery Cluster includes the statement k) *Contributing to a variety of building heights which respond to the context, with tall buildings and associated new publicly accessible open space focussed along Coronation Road;*

P5 Old Park Royal makes no mention of building locations or heights

P6 Park Royal Centre includes the statement n) *Contributing to a variety of building heights including a single tall building at the north-eastern corner of the ASDA site to support local legibility*

P7 North Acton and Acton Wells includes the statement l) *Contributing to a variety of building heights that includes:*

- i. tall buildings across North Acton and Acton Wells in appropriate locations in accordance with policies SP9, D5 and figure 3.15 that do not result in an overbearing wall of development;*
- ii. within Acton Wells East, generally 10 to 12 storeys along Victoria Road north of Old Oak Street;*
- iii. increased heights and massing adjacent to the A40 and railway lines; and*
- iv. generally lower heights adjacent to sensitive locations including Acton Cemetery, existing residential neighbourhoods at Wells House Road, Midland Terrace and along Jenner Avenue.*

The supporting text to this policy includes a table 4.1 with some further specifics in terms of locations. The tallest building height referred to is *Generally 10-12 storeys facing onto Victoria Road.*

P7C1: North Acton Town Centre Cluster makes no mention of building heights

P7C2: Old Oak Common Lane Station Cluster makes no mention of building heights

P8: Old Oak Lane & Old Oak Common Lane includes the statement *Contributing to a variety of building heights that respond to public transport access and sensitive locations including delivering:*

- i. a range of heights within the Westway Estate and adjacent sites facing onto Wormwood Scrubs including greater heights in the north of the site along the rail line and lower heights adjacent to existing housing to the south and next to Wormwood Scrubs;*
- ii. a range of heights on the Willesden Junction Bus Garage site, if demonstrated to be available for SIL compliant broad industrial type activities, including greater heights in the east of the site on to Station Road and lower heights adjacent to housing in the west of the site; and*
- iii. generally lower heights directly adjacent to sensitive locations including the Grand Union Canal, Wormwood Scrubs and existing residential neighbourhoods of the Island Triangle, Shaftesbury Gardens, Midland Terrace, Wells House Road, Harley Road and East Acton.*

P8C1: Atlas Junction Town Centre Cluster includes the statement

- i. on the eastern side of Old Oak Lane, building heights should be taller close to the canal, comparable to the existing height of The Collective, and should decrease in height to respond appropriately to the existing Victoria Terrace;*
- ii. on Oaklands North, generally 6 to 8 storeys facing on to the Grand Union Canal, with generally 10 storeys along Union Way and*
- iii. on the western corner of Atlas Junction, heights of generally 8 to 10 storeys.*

P9 Channel Gate includes the statement *o) Contributing to a variety of building heights across Channel Gate that respond to sensitive locations and optimise development capacity by delivering:*

- i. generally, 6 to 10 storeys along Victoria Road;*
- ii. generally, 6 to 8 storeys fronting the Grand Union Canal;*
- iii. lower heights and appropriate massing adjacent to the Island Triangle;*
- iv. increased heights and massing adjacent to rail lines and freight activity to mitigate impact on residential amenity;*
- v. tall buildings at appropriate locations throughout Channel Gate in accordance with Policies SP9 and D5; and*
- vi. heights appropriate to support intensified industrial uses on the Willesden Junction Depot.*

P10 Scrubs Lane includes the statement *h) Contributing to a variety of building heights which respond to public transport access and sensitive locations by delivering:*

- i. north of the Grand Union Canal, generally 6-8 storey heights onto Scrubs Lane and the Grand Union Canal and 6-10 storey heights onto Harrow Road;*
- ii. south of the Grand Union Canal, generally 6-10 storey heights onto Scrubs Lane with lower heights adjacent to Little Wormwood Scrubs;*
- iii. generally lower heights opposite the Cumberland Park Factory Conservation Area;*
- iv. increased heights adjacent to the railway; and*
- v. within clusters, a variety of building heights including generally a single tall building in each cluster; and*
- vi. visual permeability between tall buildings*

The supporting text for the Scrubs Lane Place includes a further table 4.2 which provides 'height guidance'. The tallest building heights referred to are *generally 6-10 storeys onto Scrubs Lane with lower heights adjacent to Little Wormwood Scrubs;* This table refers to 'clusters' and states *These six locations for tall buildings will support legibility at key east-west intersections with*

the street, help to meet homes and jobs targets, maintain the character of Scrubs Lane, support the delivery of social infrastructure and open space and manage impacts on the townscape and heritage assets.

P10C1: Harrow Road Cluster includes the statement f) *Contributing to a variety of building heights by:*

- i. locating a single tall building at the south western corner of the Scrubs Lane and Harrow Road junction to support local legibility; and*
- ii. delivering 8 to 10 storeys on to Harrow Road.*

P10C2: Laundry Lane Cluster includes the statement e) *Contributing to a variety of building heights including locating a single tall building on the northern side of Laundry Lane to support local legibility.*

P10C3: Hythe Road Cluster includes the statement e) *Contributing to a variety of building heights including locating two tall buildings at the Scrubs Lane and Hythe Road junction.*

P10C4: Mitre Canalside Cluster includes the statement e) *Contributing to a variety of building heights including:*

- i. locating a single tall building at 115-129 Scrubs Lane;*
- ii. ensuring the massing and height of development at Mitre Yard supports the functions of Mary Seacole Gardens; and*
- iii. ensuring the massing and height of development steps up away from Scrubs Lane while responding well to development at 115-129 Scrubs Lane.*

P10C5: Mitre Way Cluster includes the statement j) *Contributing to a variety of building heights including locating a single tall building on the North Pole East Depot at the junction of Mitre Way and Wormwood Scrubs Street;*

P11 Willesden Junction includes the statement i) *Contributing to a variety of building heights that respond to public transport access and sensitive locations by:*

- i. supporting the delivery of tall buildings in Willesden Junction in accordance with Policies SP9 and D5;*
- ii. delivering increased heights and massing adjacent to railway lines to mitigate impacts on the public realm and residential amenity; and*
- iii. appropriately responding to existing residential areas to the north.*

P12 Wormwood Scrubs – no mention of building locations/heights

Relevance of other supporting documents to the PSMDLP

In terms of achieving ‘general conformity’ with the London Plan we do not think it would be sufficient for OPDC to pray in aid various supporting documents that have been published as part of the evidence base for the PSMDLP. These documents are not part of the development plan.

On the **Tall Buildings Statement** (updated February 2021) we have commented in detail on the earlier version. This version identifies that a tall building within the OPDC area is defined as being a minimum of 15 storeys or a minimum of 48 metres above ground level. This statement is included in the Local Plan itself and meets Part A of 2021 London Plan D9. But the ‘locations’ identified in the Statement are no more specific than in the body of the Local Plan. As this is not a development plan document, we argue that it takes matters no further in terms of London Plan conformity.

Paragraph 3.7 refers to ‘visual’, ‘functional’ ‘environmental’ and ‘cumulative’ impacts of tall buildings. These refer to the four main headings of criteria in Part C of London Plan D9. But the document does not demonstrate that the choice of ‘suitable’ locations for tall buildings in the PSMDLP have been the product of any sieving exercise or character study which has considered these four elements.

A further **Tall Buildings Statement Update** was published in May 2021. This was after the OPDC Board had agreed on March 4th to submit what was understood to be a full set of modifications in the form of the PSMDLP and supporting material. The document’s stated purpose was to *To provide a definition for a tall building and appropriate locations for tall buildings outside of Strategic Industrial Locations to meet the requirements of the London Plan.*

The definition of a tall building remains as in the February version. A list of changes to tall building locations is shown, as below:

- Brewery Cluster – adjusted to reflect whole cluster.
- 3 School Road / 99 Victoria Road – included as an appropriate location.
- 5-7 Park Royal Road – included as an appropriate location.
- Hythe Road cluster identified with two tall buildings
- Mitre Way Cluster identified as an appropriate specific location.
- Channel Gate identified as an appropriate location.
- Old Oak North – adjusted to show site allocations 2, 3 and 4 as an appropriate location
- Old Oak South – adjusted to reflect refined development sites during the Local Plan period.

The Executive Summary opens with the claim that this document identifies:

- a tall building definition for the OPDC area; and
- locations where tall buildings are an appropriate form of development and indicates general heights.

In both the February and May versions of this Statement the words ‘in principle’ are deleted from this sentence at the second bullet above, as if this edit alone would somehow bring about conformity with London Plan Policy D9. The map in the document of tall building locations is less detailed than that at 3.15 in the body of the Local Plan. Only certain locations are identified.

Paragraph 3.16 of the document reads *Identifying maximum heights of tall buildings is not considered to be appropriate at this time.* The term ‘maximum’ has been substituted for ‘general’. This Tall Buildings Study is not a development plan documents nor SPD. Despite its title and summary, it adds nothing substantive to the content of the main PSMDLP document and Figure 3.15.

On the **Scrubs Lane Development Framework Principles** document (June 2018) this is similarly a ‘supporting study’ and was never progressed via statutory consultation to the status of a SPD. It includes maps of the proposed ‘clusters’ along Scrubs Lane, and some CGI images of views of potential tall buildings at these locations. It identifies locations, but no ‘appropriate heights’.

On the **Victoria Road and Old Oak Lane Development Principles** document (June 2018) the same situation applies. The map at 4.7 on Managing Heights and Massing does not show locations identified as ‘suitable’ for tall buildings. Comments on appropriate heights are limited (the

document refers to ‘*Generally 10 to 12 storeys along Victoria Road within Acton Wells*’. This too is a supporting document which has not progressed to the stage of a SPD.

The **Channel Gate Development Framework Principles** (February 2021) is a further new supporting study submitted to the Inspector with the March 4th set of PSMDLP documents. Unlike its counterparts for Victoria Road and for Scrubs Lane, the document was not consulted on at all, prior to the consultation on the Modifications. Again, it is not a SPD.

Principle 9 in the document states *Proposals should deliver the place vision by contributing a variety of building heights across Channel Gate that respond to sensitive locations and optimise development capacity by delivering:*

- a) generally, 6 to 10 storeys along Victoria Road;*
- b) generally, 6 to 8 storeys fronting the Grand Union Canal;*
- c) lower heights and appropriate massing adjacent to the Island Triangle;*
- d) increased heights and massing adjacent to rail lines and freight activity to mitigate impact on residential amenity;*
- e) tall buildings at appropriate locations throughout Channel Gate, including key junctions and spaces, where they assist with legibility and place making; and*
- f) heights appropriate to support intensified / multi-storey industrial uses on the Willesden Freight Terminal.*

Locations for tall buildings are not shown on the map at this section. OPDC has received a request from [Pocket Living](#) for a screening opinion for a development on the site for *circa 435 residential units with town centre uses at ground floor level, in three interlinked buildings of up to 130m AOD*. The nearby [Oaklands Rise development](#) (now part occupied) is part 26 storeys.

The Views Study (Allies and Morrison June 2018) provides a baseline study of views within and surrounding the Old Oak and Park Royal Development Corporation (OPDC) area. It seeks to identify important views and provides recommendations and guidelines in terms of future development. Again it is not a development plan document and takes matters no further in terms of identification of suitable locations and appropriate heights, as required by London Plan D9.

The Character Areas study (June 2018) Identifies character areas within and around Old Oak and Park Royal, and identifies the existing physical character of each area. It does not identify suitable locations or appropriate heights for future tall buildings.

Question 5 Do the Modifications adequately specify appropriate tall building heights

It is simpler to respond to this question in advance of Question 4, given that the relevant material in the Place Chapters of the PSMDLP is the same as set out above in relation to ‘locations’ of tall buildings.

What causes residents in the area to view the Draft Local Plan as seriously inadequate is that there are no mentions in the document of any specific building heights (or even ranges of heights) above 12 storeys. Forms of words such as ‘buildings of varying height’ tell us nothing that relates to the reality that local people have seen emerge from the ground in the OPDC area since the Corporation became the planning authority.

Local people are now aware that this part of London is seeing developer proposals at building heights previously encountered only in East London and at Vauxhall/Nine Elms/Battersea. This awareness has not resulted from the efforts of OPDC. **Their consultation material (and the 3**

iterations of the Local Plan) have all avoided any mention of buildings of 20, 30, 40 and over 50 storeys.

The three neighbourhood forums in the area, amenity groups in Ealing, and some specific campaign organisations ([Stop the Towers](#), [Red Block Rebels](#)) have tried to keep the public informed and to enable their voices to be heard on individual planning applications.

The Secretary of State was clear in December 2020, in intervening on the London Plan, that his further Direction on Policy D9 was **to strengthen the policy to ensure such developments are only brought forward in appropriate and clearly defined areas**. A first local plan for one of London's largest remaining regeneration areas should not be allowed to proceed to adoption when it manifestly fails to come close to meeting this modified London-wide policy.

Question 4 To what extent do tall building heights require specification in a local development plan (as opposed to any supplementary planning document) in order to comply with London Plan policy D9 B?

Our previous comments under Question 2, on the status of supplementary planning documents and supporting studies, apply similarly to this question on appropriate heights.

Planning authorities often prepare Supplementary Planning Documents that are specific to a location or to an individual major site, as a means of providing additional guidance on policies in a local plan. Such SPDs need to relate clearly to a relevant policy 'hook' in the local plan and cannot introduce new policy (NPPG 008).

A local plan will have involved capacity studies of potential sites for development, as has been the case in the OPDC Local Plan. Proposed densities for these sites will have been assessed, given the need for the local plan to deliver a housing target. Through these processes, it is not difficult for a planning authority to undertake some modelling to assess likely building heights needed to achieve proposed densities and housing numbers. Digital tools such as [Vu City](#) are available and becoming widely used in London.

Hence we see it as very reasonable of the Secretary of State to expect London's local plans to be able to include, in the main body of the document, information on 'suitable locations' and 'appropriate heights'. The only reason for OPDC's unwillingness to provide this information appears to be the fear of increased public objection to Corporation's local plan. **This is not a sound reason for ignoring and avoiding the new requirements of London Plan D9.**

The GLA position on general conformity of the PSMDLP with the London Plan

The Inspector's agenda ID-40 notes that *In its response to OONF/StQW 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*. This fact might (at first sight) have ended debate on this subject. But we strongly suggest that the Inspector needs to take account of the GLA's own analysis of the position of each London planning authority on conformity with D9.

We consider that the letter of Mayoral sign-off on 'general conformity' in July 2021 was inadequately researched by the GLA (on this aspect of the PSMDLP) at the time that it was sent. This

letter was sent from the GLA (Lucinda Turner, GLA Assistant Director of Planning) to OPDC (Emma Williamson) on 5th July 2021. It states *Directions received from the Secretary of State in December 2020 in relation to the London Plan 2021 resulted in changes to Policy D9 Tall buildings. In light of those changes, OPDC's approach to tall buildings as set out in the Tall Buildings Statement Update (May 2021) and the draft Plan is consistent with the approach in the LP2021.*

As made clear above, we don't see that the late edits made to the Tall Buildings Statement (May 2021 version) help to achieve general conformity. They are cosmetic, in adding wording relating the modified D9 without addressing the substance of what the policy requires of a local plan.

We have reviewed the OPDC document ***OPDC-44 Statement of General Conformity with the London Plan 2021***. This addresses conformity with London Plan Policy D9 Parts A, B and C alongside all other London Plan policies. As stated above, we accept that the OPDC PSMDLP Local Plan provides the necessary definition of a Tall Building and meets Part A of D9. We do not accept that the PSMDLP meets the requirements of Part B in identifying '*suitable locations*' and '*appropriate heights*' for Tall Buildings, for the reasons explained in detail in this submission.

The London Assembly's Planning and Regeneration Committee has taken an active interest over the past year on Tall Buildings in London. The Chair Andrew Boff AM [wrote to the Mayor on 16th March 2021](#) suggesting further work that is needed. We support the points in this letter, especially the comment that *Tall buildings can also be costly to build, operate and maintain, are not best suited for family housing (which is much needed in London), and can have significant environmental impacts.* The [response from the Mayor](#) we do not feel addresses the more important issues.

The Chair of the Planning and Regeneration Committee [wrote to all London councillors in September 2021](#), with the conclusions of a study by the Assembly on an investigation into Covid 19, Housing Typologies and Design in London. This letter flagged up that ***Our key finding is that the Committee does not believe that tall buildings are the answer to London's housing needs and should not be encouraged outside of a few designated and carefully managed areas.*** This reflects the aims of Policy D9.

At its 9th November meeting the Planning and Regeneration Committee received the results of an analysis by GLA officers on [London boroughs' compliance with Policy D9 Tall buildings Parts A and B \(Updated August 2021\)](#).

This GLA analysis of the position as of August 2021 interrogated Local Plans across London by asking the following questions:

Question 1 D9 Part A: *Does the Development Plan have a definition of a tall building for all or parts of the borough*

Question 2 D9 Part A: *Does TB (the?) definition meet policy requirement of not being less than 6 storeys or 18 metres measured from ground to the floor level of the uppermost storey - and is given as height in m/ storeys or is subjective?*

Question 3 D9 Part B 1) & 2): *Has the borough identified locations where tall buildings may be appropriate in its Development Plan in accordance with para 3.9.2?*

Question 4 Part B 2): *In identified tall building locations is there a maximum or appropriate height for tall buildings?*

Question 5 D9 Part B 3): *Does the Development Plan restrict tall building development to locations that are identified within the Plan as suitable for tall buildings?*

Question 6 *Other useful information (policy related e.g. SPD)*

Question 7 *Relevant evidence base information (e.g. study)*

Question 8 *Does the plan pre-date London Plan EIP? (Jan 2019)*

A full copy of the resultant schedule is at the link above. In relation to the OPDC PSMDLP the position as assessed by GLA officers was as follows:

Question 1 *Yes (Part) Definition (refer to policy D5): Above 15 storeys or above a minimum of 48 metres above ground level.*

Question 2 *Yes (Numeric)*

Question 3 *Yes Locations Mapped (refer to Figure 3.15) Underpinned by OPDC Buildings Statement Local Plan Supporting Study, 2018 (linked at right).*

Question 4 *No*

Question 5 *No*

Question 6 *(blank)*

Question 7 *Key documents: <https://www.london.gov.uk/about-us/organisations-wework/old-oak-and-parkroyal-developmentcorporation-opdc/getinvolved-opdc/localplan/submission-andexamination/opdc-local-plansubmission-key-documents> OPDC Buildings Statement Local Plan Supporting Study, 2018 Definition (refer to Part 2) Above 15 storeys or above a minimum of 48 metres above ground level. Locations Text (refer to Part 3) Mapped (refer to Figure 2) *Sensitive locations also mapped (refer to figure 3)*

Question 8 *Similar timescales*

We see this as clear evidence, based on analysis by GLA officers, that the PSMDLP does **not** in its current draft form conform with London Plan 2021 Policy D9 - despite the July 2021 letter from Lucinda Turner. Responses of 'no' to questions 4 and 5 are material. That to question 3 on 'locations' is a generous interpretation of PSMDLP content.

Conformity with other London plan policies

London Plan Policy D2A reads *The density of development proposals should:*

- 1) consider, and be linked to, the provision of future planned levels of infrastructure rather than existing levels*
- 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).*

The Inspector has accepted the need for a further EIP hearing in January 2021 on the subject of future PTAL levels in the Old Oak area. This is the subject of a separate representation from OONF/StQW for the relevant hearing session.

London Plan Policy D3 on *Optimising site capacity through the design-led approach* states at part B *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.*

A further link with **London Plan Policy D9** is that that this latter policy includes a requirement C2(d) that *it must be demonstrated that the capacity of the area and its transport network is capable of accommodating the quantum of development in terms of access to facilities, services, walking and cycling networks, and public transport for people living or working in the building.*

This sub-paragraph is a 'must' rather than a 'should'. The wording forms one of a set of criteria for assessing the 'suitability' of locations for tall buildings. This exercise is expected to take place at the stage of Local Plan preparation, with meaningful consultation with local people.

Response to December 29th further Statement of Common Ground between GLA and OPDC

This further document has been provided by OPDC for the EIP hearing on January 11th. In our view it adds little of substance on the Inspector's five questions or on the question of the general conformity of the PSMDLP to the 2021 Local Plan.

We have a problem with the OPDC/GLA initial assertion A that *That the OPDC area is wholly an Opportunity Area and unique from other London local planning authorities' areas and that this uniqueness requires a phased approach to producing planning policy for tall buildings that aligns with the progression of London's largest regeneration project.*

The Kings Cross Opportunity Area is 'wholly an Opportunity Area' that spans across two Boroughs. The LLDC covers parts of four boroughs. OPDC 'uniqueness' has been a constant refrain of the Corporation since 2015. The claim of *the largest regeneration project in the UK* is based on what measures, geographic size or the scale of redevelopment? The same question applies to the claim of *unrivalled connectivity across London and the UK*³. Kings Cross OA, with its five Underground and Overground stations, coupled with HS1 at St Pancras and several main train lines, has a better claim to connectivity.

Many local plans require a 'phased approach'. We cannot accept that a case for 'uniqueness' is a valid justification for the OPDC/GLA assertion at C of the document *That the phased approach to defining tall building locations at this point in time with the intention of defining appropriate tall building heights at a later date is appropriate.*

As we have reiterated many times, the OPDC Draft Local Plan allocates specific sites for specific housing numbers. The physical area of these sites is known. The combination of these two figures provides a net density (or a range of densities) for planning development capacity. Density ranges are not hard to translate into likely building heights – again within a range if not precise.

OPDC are well aware that no applications have come forward for well designed high-density low-rise housing schemes, in the Corporation's five year existence. The residential tower has been a component of almost all major applications. Hence likely building heights are predictable (within ranges) on the basis of housing numbers in site allocations (for which OPDC has had no problem in being precise).

³ These pieces of wording appear on the [introduction page](#) of the OPDC website and are also reflected in 'B' of this latest OPDC note.

We reiterate our view that OPDC has sought to obfuscate the position on building heights (and to a large extent) locations for tall buildings within the PSMDLP out of a wish to avoid local opposition to the content of the Local Plan.

To suggest at E of the document that *it would be premature to define specific site location boundaries for tall buildings*, and at F that *it is agreed it would be beneficial to define appropriate tall building heights through a review of the Local Plan, or a DPD, focused on this issue* are not adequate arguments. Beneficial for whom, other than the officers signing off the Statement of Common Ground and to developers looking for continued flexibility over site acquisitions?

The OPDC/GLA argument that the PSMDLP should be allowed to evade the requirements conformity of London Plan D9 because of its 'uniqueness' we find extremely weak.

As the GLA's London-wide survey of conformity with Policy D9 makes evident, there are a number of London LPAs with local plans which do not as yet conform, and which do not (as yet) identify '*suitable locations*' and/or '*appropriate heights*'. In determining applications for tall buildings, these planning authorities are having to set out justifications and make a case for partial or incomplete conformity on 'planning balance', should they wish to grant consent to a tall building. In doing so each authority weighs up the risk of legal challenge.

London LPAs can also discourage proposals for tall buildings at pre-application stage, on sites where suitability under London Plan D9 is going to be difficult to demonstrate, while they revise their local plans and carry out the work needed to achieve general conformity with D9 Part B.

The position on the OPDC local plan is that it is one of the first to approach adoption stage, since the New London Plan came into force in March 2021. There is the apparent concession at G of the OPDC/GLA document that *OPDC will include appropriate tall building heights within its Development Plan as soon as reasonably possible, but no later than three years from the adoption of the Local Plan*. We do not consider that e.g. a Tall Buildings SPD will be sufficient to achieve conformity. How would a further development plan document, short of a full review of the Local Plan, be brought forward? We think the issue has to be addressed through further modifications.

The approach at H of the OPDC/GLA document, of continuing to rely for decision-making on a mix of NPPF, London Plan and local plan (LBE and OPDC) policies misses the main point of the Secretary of State's December 2020 Direction. The aim of the Direction is for London LPAs to be explicit, within their main local plan documents, on proposals for *suitability of locations* and *appropriateness of heights*, taking their citizenry with them. The Direction reflects the growing unhappiness of Londoners who feel '*when were we ever asked if wanted the face of London to change forever?*'

Conclusion

Apart from the question of how best the PSMDLP can achieve conformity with D9, it is urgent that the level of weight to be attached to 'emerging policies' in the OPDC Draft Local Plan, and its supporting documents is clarified at the January EIP hearings. Tall buildings are a very live issue in the OPDC area.

Local people are all too aware that buildings of 55 storeys have previously been granted planning consent at North Acton, by LB Ealing's Planning Committee on behalf of OPDC under a contested 'scheme of delegation'.

A [current application from Imperial College at One Portal Way](#) involves a further 56 storey building, with outline permission sought for two further buildings of 'up to 50 storeys'. The published closing date for responses to OPDC on consultation on this application is January 10th 2022. OPDC has chosen to retain this application for its own decision, rather than to delegate it to LB Ealing.



CGI image from architects Pilbrow & Partners showing the 'North Acton Cluster' were the Imperial scheme and other consented schemes to be built out.

A further application has been submitted before Xmas by developers Pocket Living for a development at Atlas Wharf. This includes tall buildings on a site to the north of the Old Oak Conservation Area. 'Suitable location' and 'appropriate height'? Or not?



Pocket Living at Atlas Wharf

Application submitted December 2020 (not yet on OPDC website)

436 housing units for rent (not sale). 'Town Centre' commercial uses and 'activated' ground floors. 28 and 16 storey buildings. Site is behind the Collective Building.



Old Oak Neighbourhood Forum and St Quintin and Woodlands Neighbourhood Forum
January 2022