



(DRAFT)

4 PORTAL WAY, NORTH ACTON: APPLICATION 24/0051/FUMOPDC OBJECTION FROM OLD OAK NEIGHBOURHOOD FORUM

Background

The Old Oak Neighbourhood Forum was designated by OPDC in 2017. The Forum has a membership of 70 members living or working within the neighbourhood boundary as drawn up OPDC officers in 2017, and a further 75 'affiliate members' in the wider area.

OONF works alongside the Grand Union Alliance, the Harlesden Neighbourhood Forum, the St Quintin and Woodlands Neighbourhood Forum, Ealing Matters, the Hammersmith Society, the Friends of Wormwood Scrubs and other amenity bodies and community groups in the area.

We wish to object to this application, on grounds set out below. The grounds which we cite cover lack of compliance with various London Plan and OPDC policies. We also have a set of concerns specific to the weight to be given to the 'extant consent' argued by these applicants as **a material consideration of considerable weight**. We contend that this 2020 decision by Ealing's should be given very little if any weight. The background is complex and has added to the length of this objection. In summary our grounds for objection are:

Ground 1 Proposed building heights

Ground 2 Housing Density and Design

Ground 3 Inadequate public open space

Ground 4 Queries on S106 benefits (surface crossing of A40)

Ground 5 Weight to be given to extant consent (none or very little in our view)

Ground 1: Proposed building heights

The heights proposed for the two towers in the development are 43 and 57 storeys. The application argues that these heights are acceptable in the context of the 'North Acton Cluster' as it has developed over the past decade. Compliance with OPDC and London Plan policies is also claimed. The Planning Statement from Aldau and APT argues:

1.14 In addition, Policy P7 supports the development of tall buildings across North Acton and Acton Wells in appropriate locations. The Site sits within an identified location. This policy is supported by further guidance within Table 4.1 of the Local Plan which states an expectation that tall buildings south of the Central Line will predominantly be in the range of 20 to 55 storeys.

Tall Building policies within the OPDC 2022 Local Plan were the subject of representations and hearings during the Examination in Public, up until its closing stages in early 2022.

Planning Inspector Paul Clark, in response to representations from OONF and StQW, agreed to hold a further public hearing on this topic on 11th January 2022. His agenda ID-40v2 set out a series of questions on the extent to which the OPDC Post Submission Modified Draft Local Plan (PSMDLP) was compliant with 2021 London Plan Policy D9 on Tall Buildings.

The submission made to the Inspector and the discussion at the EIP hearing by OONF and StQW are a matter of record. **Without a further round of public consultation**, the Inspector accepted wording proposed by OPDC as a Major Modification to the Draft Local Plan text for the 'Place' of North Acton and Acton Wells.

This wording as below was added to the supporting text of the Draft Local Plan (but not to Policy P7 itself).

Based on the development capacities proposed for North Acton and Acton Wells and existing planning approvals, it is expected that tall buildings south of the Central Line will predominantly be in the range of 20 to 55 storeys and tall buildings north of the Central Line will predominantly be in the range of 20 to 35 storeys. Tall building proposals will be considered against all relevant development plan policies and material considerations.

The wording was supported by a table in OPDC document OPDC-51 giving building heights of consented developments at North Acton. These included Portal West at 54 storeys and the previous planning consent at 4 Portal Way at 55 storeys.

We argue that the OPDC Planning Committee, when considering this aspect of application should recognise that this additional wording was never put before the public and consulted on as part of the Examination of the Draft Local Plan. We argue that this wording is not 'policy' as such.

This last minute Modification was accepted by the Inspector as a highly 'pragmatic' decision in the final stages of an Examination which had started in late 2018 and had overrun its expected timespan by at least two years. This delay was as a result of the Inspector's November 2019 interim findings and OPDC's resultant change of direction to the 'Western Lands'. The table included in the OPDC proposed Modification showing 4 Portal Way as a 54 storey building is now immaterial, as this application was not built out and a 12 storey building consented at this site.

In terms of conformity with London Plan Policy D9 on Tall Buildings, we maintain our position that Part B of this policy (with wording imposed on the Mayor by the Secretary of State) requires that:

1) 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.

2) Any such locations and appropriate tall building heights should be identified on maps in Development Plans.

*3) Tall buildings **should only be developed in locations that are identified as suitable** in Development Plans.*

At the EIP we questioned the Planning Inspector of the OPDC Local Plan on whether an area of the size of North Acton and Acton Wells could sensibly be defined as a 'location' (or a 'particular place' as defined in dictionaries).

We continue to maintain that the Inspector erred in accepting these major modifications on building heights as a late insert to supporting text in the Local Plan. We also contend that in light of this background (and for further reasons relating to the extant consent) **application 24/0051/FUMOPDC should be looked at afresh. In our view the proposals fail to conform with London Plan Policy D9. The whole of North Acton and Acton Wells is far too large a geographic area to be treated as 'a location' suitable for tall buildings.**

Ground 2: Housing Density and Design

Since the demise of the 2016 London Plan Density Matrix and related policy, most developers and planning consultants have ceased to provide net density figures on planning statements. This is regrettable, as such figures are one of the basic measures which ordinary Londoners had become familiar with, as a means of assessing the basic 'liveability' of a proposed housing scheme.

Under 2016 London Plan policy the maximum density recommended for sites with the highest levels of public transport access and in a 'central' was 405 units/hectare. We do not view North Acton as 'central' London. This site has a 'good' PTAL level of 4, but not the highest levels of 6a or 6b.

We note the claims made in the Planning Statement that *The development potential of the Site in terms of land use, layout, public realm and height, bulk and mass has been forensically considered with OPDC officers and has been revised to address comments from the Place Review Group. A comprehensive townscape analysis, by Montagu Evans, has been undertaken to ensure that the Proposed Development creates two high-quality buildings in this prominent, sustainable, central London location.*

In our view these proposals are gross over-development of the site by the norms of what was deemed acceptable only a decade ago, even allowing for 'intensification' in Opportunity Areas.

The Planning Statement makes 39 references to the 'high-density' of the proposed development, **without giving any figures on the density level.** OONF asked the applicants for a figure (comparable to those used in the 2016 London Plan) when arranging a pre-application session. The subsequent consultation presentation from the Aldau team included the slide below giving a net density figure of 1,792 units per hectare.

Q2. What is the net density of the proposed development?

A2. Based on the requirements of the Sustainable Residential Quality (SRQ) density matrix in the superseded London Plan, the proposed scheme promotes the following densities :

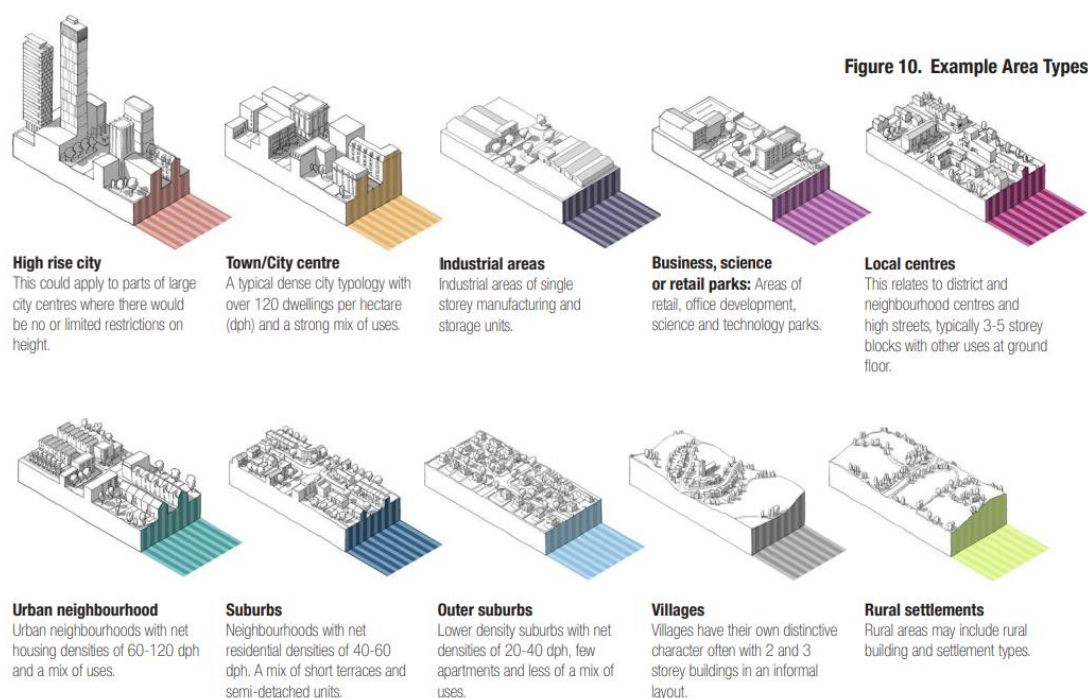
Units	= 1,792 units/hectare
Habitable Rooms	= 4,184 habitable rooms/hectare

These densities are comparable to the extant planning permission as noted in the Committee Report which states the consented scheme equates to a density of circa 1,800 units per hectare or circa 4,177 habitable rooms per hectare.

It may be that this density figure is ‘comparable’ to the previously consented scheme. But this does not make it acceptable in achieving a liveable development.

The figure of 1,792 units per hectare is way beyond what have been described as ‘superdensities’ and ‘hyperdensities’ in studies of housing density in London and other major cities.

The Planning Statement claims at 1.18 *The Applicant has aligned the Proposed Development with the National Design Guide*. This is simply untrue. The 2021 National Design Code gives examples of layouts and densities of Town/City centres and local centres urban areas that bear no relation to densities of 1,792 units per hectare (see below). North Acton is not at the centre of a ‘High Rise City’. Nor is it part of a ‘large city centre’. The density shown here for a *typical dense city typology* is 120 units/hectare. The OPDC Local Plan, insofar as it mentions density



North Acton now has a ‘Cluster’ which is largely the outcome of consents granted by LBE on behalf of OPDC and which was not envisaged (in the 2012/13 Ealing Core Strategy and Development Sites DPD) as being on anything resembling the scale built. It is a planning anomaly in London on which we believe the history of urban renewal in London will not look kindly. **It does not meet NPPF paragraph 130 expectations. The OPDC 2022 Local Plan lacks an authority-wide design code justifying further extremes of density and height in this part of London.**

OPDC planning officers may argue that the OPDC 2022 Local Plan includes no specific policy restricting densities of development. This is true, given that responses from the public arguing for such a policy were ignored during four iterations of the OPDC Local Plan.

Policy SP9 in the 2022 OPDC Local Plan states *Outside of SIL, modelling shows that in order to achieve the homes and jobs targets for the area, development will likely deliver average residential densities of 450 units per hectare. The indicative density range is 300 to 600 units per*

hectare. The is the nearest that the Plan gets to a density policy, **with a maximum figure which is one third of that proposed at 4 Portal Way**.

Similarly, the 2018 ‘submission version’ of the Draft OPDC Local Plan included no policy on ‘appropriate building heights’. Material was added via ‘modifications’ in the final weeks of the EIP, as explained above. **We suggest that OPDC Planning Committee members should not feel bound by officer assertions that the building heights for North Acton/Acton Wells, added to supporting text in the 2020 Local Plan, are soundly based ‘policy’.** These are storey heights retro-fitted via late Major Modifications to supporting text in the adopted Local Plan which bypassed public consultation at the Examination and Modification stage in early 2022.

Application 24/0051/FUMOPDC has to measure up to the requirements of OPDC Policies **SP2** (on Good Growth), on **SP3** (on Improving Health and Reducing Health Inequalities) and the policy wording at **SP9** (in Built Environment). **We do not see how this can be achieved given the choice of building typology proposed.** Nor do we view this scheme as meeting the requirements of OPDC Policy **D3(a)** on well-designed buildings.

In terms of London Plan policies, we see this application as being heavily reliant on arguments that the previous 2019 application and 2020 consent by LBE should play a major part in the ‘planning balance’ supporting consent – given the harmful impact of the development.

If London Plan **policies D1, D2, D3, D4 and D6** are applied de novo by OPDC in the terms in which they were prepared, consulted on, and adopted in by the Mayor in 2021 we do not consider that this application meets their requirements.

The Stage 1 GLA report (dating from when the 2016 London Plan was in force) commented on the previous application stating *The scheme would have a residential density of around 1,800 units per hectare. This substantially exceeds the guidance ranges in Table 3.2 of the London Plan and is well above the thresholds for increased scrutiny of design quality set out in draft London Plan Policy D6 (Part C). This very high density has resulted in a very tall building and officer concerns about this are outlined below* (the GLA stage 1 decision is at this [link](#)).

Ground 3 Inadequate level of public open space

In a 2023 study of levels of public open space provided as part of development in a series of London’s regeneration areas.

This study on [The Future of High Rise Housing](#) examined *the relationship between residential tall buildings and open space in the context of London’s current and recent growth. It looks at the amount of public and shared open space delivered by super-dense developments involving tall buildings, compares this with London’s existing open space provision, and puts it in the context of historic and current planning policies.*

In terms of levels of provision of public open space in areas of London recently undergoing ‘regeneration’ North Acton comes out bottom. OPDC efforts to improve the public realm at North Acton will not compensate for this basic deficiency.

QUEEN ELIZABETH OLYMPIC PARK	480 hectares development area
	226 hectares regional park
	100 hectares local open spaces
	Projected homes 33,000 by 2036
	Projected population 109,000
	Projected jobs 65,000
	18 m ² public and shared open space per person (excluding visitors)
	For comparison Newham average 30.4 m ² open space per person

KING'S CROSS	27 hectares development area
	10.5 hectares public open space
	Projected residents 6,000
	Projected students 5,000
	Projected office workers 30,000
	Projected users 41,000 (excluding visitors)
	2.57 m ² public open space per person
	Camden average open space per person 19

VAUXHALL, NINE ELMS, BATTERSEA	226 hectares development area
	4.5 hectares linear park
	(Residential shared open space unquantified)
	Projected homes 20,000 by 2030
	Projected population 33,000
	Projected jobs 25,000
	0.78 m ² public open space per person (excluding visitors)
	Wandsworth average 34.1 m ² open space per person

NORTH ACTON	33 hectares core development area
	Current population circa 6,000 (including 1,000 students)
	Projected population circa 19,400 (17,000 residents and 2,400 workers)
	0.6 hectares existing and projected public open space
	0.31 m ² public open space per person
	Plus 4.0 hectares nearby open space projected beyond the core to serve the wider area
	Ealing average open space per person 47 m ²

These figures speak for themselves. At a level of 0.31 sq m of public open space per person compared with (say) Kings Cross at 2.57 sq m, this is one of many factors which has led North Acton - its buildings, its roadways, and its public realm – having already become of the least successful examples of urban renewal in London. The fact that most of the development involved has been consented by LBE on behalf of OPDC has only added to local concerns about OPDC and its role. Consent to this application would consolidate the notoriety of the North Acton Cluster.

This application includes what the applicants say will be 36.5% of public open space around the perimeter of the buildings. **We ask that OPDC planning officer check this figure.** It will not contribute significantly to a severe deficiency of POS at North Acton.

Public Open Space Provision

Ground Level

Site Application Boundary = 3,942 sq.m
Total Provision = 1,437 sq.m

= 36.5% of the Site Application Area

 Public Open Space Provision
 Site Application Boundary



Ground 4: Public realm and S106 contributions

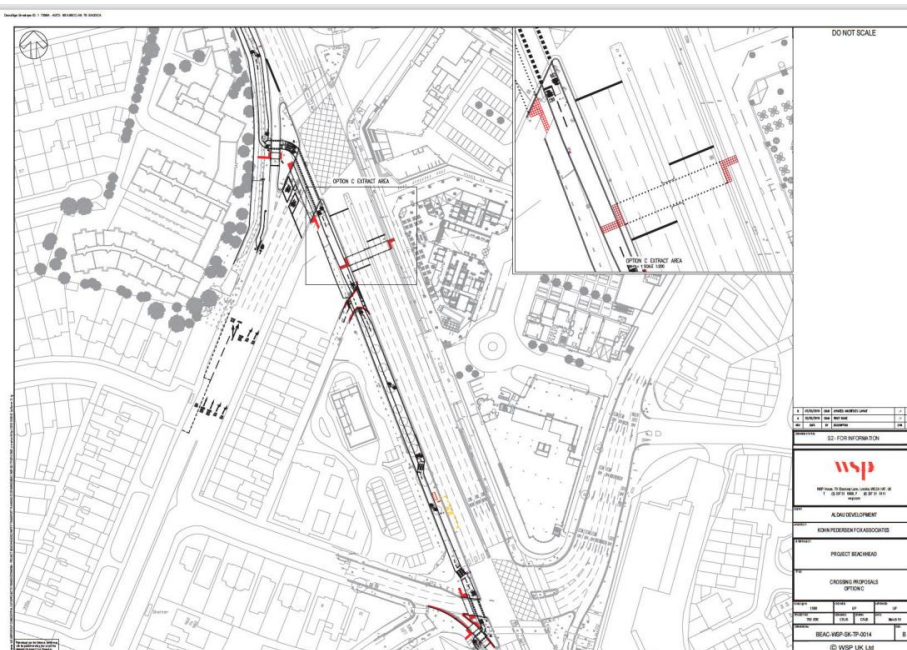
The 2018 application and the 2020 consent by LBE led on to a signed S106 agreement of 13th August 2021 between MANGO HOTELS (GYPSY CORNER) LTD, LB Ealing and the OPDC.

This included a Transport and Highways contribution of £1m for a Foot and Cycle Bridge across the A40 as shown below (from the 106 documents).

OONF sought a response on the position on this crossing as part of pre-application consultation with the applicants. An email exchange of 10th January 2024 is below.

OONF: Your letter refers to several 'enhancements' to the 2019 proposals but makes no mention of the 'at grade' crossing of the A40 which features as a £1m S106 obligation in the consented scheme. Does this community benefit remain a component?

Applicants: Like OPDC, TFL and LB Ealing, we remain supportive of an at-grade crossing. We expect to provide a contribution towards this, as was the case with the extant permission. The OPDC have indicated they wish to have a more comprehensive review of the crossing location and approach in conjunction with TFL & Ealing.



OPDC Planning Committee needs to establish the latest position. Such a crossing would be a significant community benefit to add into the ‘planning balance’, were this proposal to remain part of the application. **The Draft heads of Terms in the Gerald Eve Planning Statement do not refer to such a crossing.**

Reports of the OPDC Place Review Group and Community Review Group and pre-application advice

These reports are not of themselves a ground for objection. These two bodies undertake ‘design review’ on behalf of OPDC, with costs of these commissions met via fees paid by applicants. Both of these OPDC bodies are externally facilitated by Frame Projects, who now undertake this role for several London Boroughs.

The report of the OPDC Place Review Group focuses mainly on the changes made since the previously consented scheme. It finds the heights acceptable but notes *The panel thinks that changes to the proposals have improved the scheme, but still has concerns about massing, accommodation quality, amenity and public realm. The scheme is very high density, and is on a particularly difficult site. The panel is not yet convinced that the scheme has resolved the contradictions between the client's brief and the site constraints, and in consequence does not think it will create an acceptable living environment.*

The summary of the FRAME report of the second session of the Community Review Group says *The panel appreciates the opportunity to review the scheme again, and is pleased by the design team's response to many of its comments. However, it has concerns about the quality of homes, public space and amenity spaces.*

The Community Review Group also expressed concerns on public realm around the site and the lack of a solution for pedestrians wanting to cross the A40 to the immediate south of the site (as referred to above).

OPDC pre-application advice (12 separate notes dated from 23rd March 2023 to January 2024) start from the premise *Furthermore, consistent with the site's extant consent (LBE ref:*

191854OPDFUL), the site is allocated in policy SP10 of the OPDC Local Plan for a minimum of 702 homes, 1,946sqm NIA industrial/commercial floorspace and 140 resultant jobs.

If OPDC planning officers consider the extant planning consent from 2020 a starting points for pre-application advice, **we consider it incumbent that OPDC demonstrate that the 2020 decision by Ealing’s Planning Committee was properly and lawfully made. OPDC and not LBE was the planning authority for the site at the time.**

This task would require careful consideration of the circumstances, sequence of events, and correspondence leading up the decision made by Ealing Planning Committee. It would probably also require external legal advice since the scenario involved is unusual.

The next part of this objection covers the history involved and constitutes a fifth ground of objection. This objection would not be relevant if OPDC choose to set aside the 2020 consent and assess application 24/0051/FUMOPDC as a new application to be assessed on its merits.

Ground 5: The material weight to be applied to the ‘extant planning consent’?

We argue that no or very little weight should be given to the planning consent issued by LB Ealing in a Decision letter of 30th August 2021. This Decision Notice followed from a decision of the Ealing Planning Committee on February 19th 2020 and the subsequent completion of a S106 Agreement as referred to above.

We accept that the LBE approval has a five year duration and is deemed by the applicants to be ‘live’. We also acknowledge that the applicants have chosen to submit a full fresh application, rather than pursue the S96A and S73 route to vary the previous (questionable) consent.

Even so, the circumstances of the original LBE decision were such that we consider the committee decision and the 2012 Notification of this decision should be set aside and ignored by OPDC in considering the fresh application **24/0051/FUMOPDC**. This may an unusual ground for objection, but the circumstances of the LBE Planning Committee decision were themselves unusual.

We make this proposal for the following reasons:

- The handling of the OPDC Scheme of Delegation to Ealing was an administrative mess, at both OPDC and at LBE at the time of the February 19th 2020 LBE Planning Committee decision to grant consent.
- Ealing Planning Committee members at the committee meeting on February 19th were not properly advised on the nature of the Scheme and were given the impression that they had no choice but to make a decision that evening on the basis that the Scheme was a ‘*continued legally binding arrangement*’ between OPDC and the Council. A misleading briefing note was circulated to the committee in advance of its meeting.
- Separately from the above, it emerged that LBE had never taken the necessary formal decision to enter into this 2015 delegation arrangement with OPDC. This administrative lapse was corrected via an officer report to Ealing Council only on 15th December 2020 and several months after the Planning Committee decision on the application.

- Meanwhile OPDC Planning Committee members, for whom a decision was about to be made on one of the tallest building in West London, were left largely in the dark about the application being considered by Ealing officers.

There is extensive correspondence between the St Quintin and Woodlands Neighbourhood Forum, the OPDC and planning and legal officers at LB Ealing to support the statements made above.

OONF and the StQW Forum are happy to supply copies of this documentation to the OPDC case officer preparing a report on this application to OPDC Planning Committee. We would also be willing to meet with OPDC to go over this background. It is both complicated and unusual.

In terms of a ground for objection to this application we think OPDC should take to trouble to investigate and reach a conclusion on whether the LBE Decision Letter of 30th August 2021 is invalid for want of proper authority. And that the circumstances of the meeting of the Ealing Planning Committee on February 19th 2020 were such that the councillors involved were not properly advised and did not understand the decision that they were making.

We fully understand that the time limit for an application for judicial review of this February 2020 LBE decision has long since passed. But it is in no one's interest for OPDC to be placing irrational reliance on the 'extant consent' in making its own decision on this application.

We are not arguing that this LBE decision should now be declared as void and unlawful. **But we are contending that in (in an unusual scenario of one planning authority delegating decision to another) that when the OPDC Planning Committee comes to decide on a fresh application, the weight that might normally be applied to an extant planning consent should be ignored or treated as minimal.**

In our correspondence with applicants Aldau at pre-application stage we gave notice of these legal questions over the 2020 LBE committee decision (letter of 16th December from OONF to Aldau's Development Director).

Documents setting out the StQW Neighbourhood Forum objections to the previous 2019 application on this site remain on the LBE online planning register at [191854OPDFUL | Demolition of all existing buildings and structures on site and the mixed-use redevelopment of the site to provide two linked buildings of 45 and 55 storeys respectively, including up to 702 residential units \(Use Class C3\), a hotel \(Use Class C1\), flexible workspace \(Use Class B1\), restaurant \(Use Class A3\), flexible retail space \(Use Classes A1/A3/A4\), with a two level basement, access, car and cycle parking, refuse and service areas, hard and soft landscaping, public realm, all necessary enabling and mitigation works, and associated works. This application is accompanied by an Environmental Statement required by the Town and Country Planning \(Environmental Impact Assessment\) Regulations 2017. | Holiday Inn London West 4 Portal Way Acton Ealing W3 6RT.](#)

These documents on the LBE planning file include correspondence between the StQW Neighbourhood Forum and solicitors Brighton Cave Leighton Paisner. This material predates the emergence of the fact that LBE had failed to enter into the 2015 OPDC Scheme of Delegation at the time of the committee decision to grant a consent on the 2019 application. This has since become the primary reason why OONF and the StQW Forum argue that the 'extant consent' should be set aside in determining application 24/0051/FUMOPDC.

Aldau Developments may have made their own enquiries of LB Ealing and OPDC, and/or taken their own legal advice, prior to submitting a Planning Statement which asserts at 1.6 that *The Existing Planning Permission was granted subject to a condition that the development must be implemented within five years. The Existing Planning Permission is therefore still 'live' and represents a material consideration of considerable weight.* (our emphasis).

Failings by OPDC in handling the delegation to LBE of the 2019 application which led what is claimed as an 'extant consent'.

The points below are subsidiary to the main content of Ground 5 of our objection, as set out above. Back in 2015 at the time when the OPDC was established, there is extensive evidence that LB Ealing councillors and officers treated the 2015 OPDC delegation scheme as one which meant *'we carry on as before in respect of applications at North Acton'*. The arrangement was referred to by Ealing's Council Leader as 'our opt-out'. Pre-application discussions with developers, and negotiations on S106 Heads of Terms barely involved OPDC in the early years of this arrangement. Reports to the Planning Committee made little reference to an emerging OPDC Local Plan and included no OPDC officer input.

Documentation suggests that OPDC officers lost track for a time of the fact that an application for a major development at 4 Portal Way (due to be one of the tallest in West London) had been delegated to LBE and would be decided by LBE. Delegation of applications from OPDC to LBE was handled by junior staff and seemingly with no oversight or involvement by senior managers.

The previous 2019 application 191854OPDFUL was passed on by OPDC officers to LBE on 24th April 2019. OPDC operate a system of providing a 'Development Management Update' to most (but not all) Planning Committee meetings. This application was listed in the update to the update for the June 24th 2019 meeting. The July 10th meeting did not receive a DM Update, and the 10th September meeting was cancelled.

For whatever reason this application disappeared from the next update to the October 2019 Planning Committee, whereas a contemporaneous application to add an extra 10 storeys to the development at 6 Portal Way was included. In the DM schedule for the 14th January 2020 meeting, the application for 4 Portal Way reappears with a note stating *Pending consideration. Expected to be reported to Ealing Planning Committee in early 2020.*

The StQW Neighbourhood Forum in this period spent much time examining the inadequacies of the operation of the OPDC/Ealing Scheme of Delegation, particularly in relation to North Acton. Lack of information on the OPDC website on major applications being passed across was a concern. The Forum queried in a letter to OPDC of July 20th 2020, *how can even an assiduous member of the OPDC Planning Committee, let alone the public, be expected to be aware that planning applications of huge significance to the skyline of West London (and the responsibility of OPDC as planning authority) are being determined by another planning authority?*

Subsequent to this letter, OPDC's incoming Director of Planning reviewed and revised OPDC's administrative systems for delegation decision. Applications now appear on the OPDC online planning register with a *Record of reason for delegation* signed off by a more senior officer. But these arrangements were not in place in when the 2018 application at 4 Portal Way was processed. In November 2023 the OPDC Board agreed a revised Scheme of Delegation, taking back from Ealing decisions on applications in Ealing apart from approval of conditions in certain cases.

We rehearse this history to demonstrate weak administrative processes for delegating major applications, and for informing OPDC Planning Committee members of decisions being made at Ealing Town Hall, but in their name in terms of ultimate accountability.

We believe that OPDC's Planning Committee and Board members from 2015-24 have remained with limited knowledge of how the North Acton Cluster has come to appear on West London's skyline. Or the extent to which the new housing built to date is made up of student accommodation and short-term letting accommodation advertised through multiple platforms.

It may be that OPDC officers, having researched with care the background to the February 2020 decision by Ealing Planning Committee, will advise that this is indeed **a material consideration of considerable weight**. But if such a conclusion cannot be reached, we ask the committee to view application 24/0051/FUMOPDC with fresh eyes and reach its own conclusions on whether this development is policy compliant in reflecting the London Plan and the OPDC Local Plan.

Conclusion

The Old Oak Neighbourhood Forum objects to this application and asks that it be refused.

Old Oak Neighbourhood Forum
() May 2024