

## **Appendix 2 - Revised scheme of delegation with London Borough of Ealing**

### **Old Oak and Park Royal Development Corporation – Scheme of Delegation for Planning Functions in the London Borough of Ealing November 2023**

#### **1. Introduction and purpose**

This Scheme of Delegation is an arrangement between the Old Oak and Park Royal Development Corporation (“OPDC”) and the London Borough of Ealing (“LBE”), which formalises the delegation of certain planning functions from the OPDC to LBE in those parts of the OPDC area that fall within the LBE boundary. This scheme of delegation supercedes previous versions of the scheme of delegation.

What follows is a guide to the types of planning applications and other planning functions that will be delegated to and dealt with by LBE. It should be read in conjunction with the attached protocol for delegated applications (Appendix 1).

#### **2. Functions to be delegated to LBE**

- a) OPDC will delegate planning applications for the following types of development to LBE for determination on OPDC’s behalf:

- Discharge of conditions on a planning permission previously issued by LBE
- Non-material (S96a) and minor material (S73) amendments to a planning permission previously issued by LBE

- b) Appeals:

Where an appeal is made under Section 78 of the Town and Country Planning Act 1990 in respect of an application delegated to LBE, responsibility for defending that appeal will also be delegated to LBE.

- c) Section 106 agreements:

Where a Section 106 agreement is required to make a delegated application acceptable in planning terms, responsibility for negotiating the agreement will be delegated to LBE in consultation with OPDC. OPDC will be responsible for negotiating all new s106 agreements in consultation with LBE. Expenditure in relation to both new and historic s106 agreements will continue to be monitored and managed by the Planning Obligations Advisory Group (see protocol for more detail).

## **Protocol for handling planning applications and other planning-related functions**

### Background

On 1<sup>st</sup> April 2015, OPDC assumed all the powers of a local planning authority in respect of the entirety of the designated Old Oak and Park Royal Mayoral Development Area that are listed in sections 202 (2) to (5) inclusive of the Localism Act 2011.

A scheme of delegation was agreed with LBE and in force from 1<sup>st</sup> April 2015 and operated until the date of this revised agreement.

**From 1 April 2024 OPDC will no longer delegate new planning applications to LBE but LBE will be consulted on applications falling within its borough boundary.**

Under section 110 of the Localism Act 2011 and as set out in the National Planning Policy Framework (paragraphs 178-181), OPDC and LBE have a duty to cooperate on planning issues. The purpose of this protocol is to facilitate general cooperation between the parties with respect to the range of planning functions and to define roles and responsibilities in relation to those functions.

As a general principle, OPDC and LBE commit to work together to ensure a coordinated approach to development, the identification of strategic planning priorities and the resolution of joint planning issues and concerns.

Where information and documentation is exchanged between OPDC and LBE, this will be done electronically insofar as practicably possible.

### Pre-application advice

- All requests for pre-application advice will be submitted in the first instance to OPDC as local planning authority.
- For applications falling within LBE's boundary, OPDC will consider LBE as the principal consultee and request applicants put in place a parallel PPA with LBE and OPDC. Applicants that do not wish to enter into a PPA will be notified of the charge for any pre application meeting in line with the charges in the schedule for OPDC and a charge for Ealing's attendance which will be invoiced by Ealing. i.e. they will have to pay for LBE's attendance at such meetings in addition to the standard fee chargeable by OPDC
- In either case, the PPA timetable will be notified to and agreed with LBE ahead of the process commencing. LBE shall advise OPDC of the resources they intend to make available to support the PPA process and vice versa.

### Submission, validation and determination of planning applications

- All applications for planning permission and other types of planning consent will be submitted to OPDC in this first instance, as the local planning authority.

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- Any applications submitted to LBE in error shall be returned to the applicant, with advice to resubmit to OPDC.
- OPDC will assess the proposal against the Scheme of Delegation. Proposals that meet the criteria for delegation to LBE will be transferred no later than 5 working days after receipt.
- OPDC will transfer the planning application fee for all delegated applications, to LBE.
- LBE will be responsible for registering, validating, publicising and undertaking all necessary consultations and ensuring procedural requirements are followed on delegated applications.
- LBE will validate delegated applications in accordance with its Local Validation Checklist.
- LBE will be responsible for publishing delegated applications on its Part 1 (applications pending) and Part 2 (applications determined) registers in accordance with its normal practice.
- LBE will use all reasonable endeavours to determine delegated applications within the relevant statutory determination period as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2010.
- OPDC will carry out statutory consultation on planning applications that it will determine. OPDC will consult LBE on such applications within its area, allowing a minimum of 21 days to respond, such period to be extended by mutual agreement on a case-by-case basis
- OPDC acknowledge that for large scale developments, LBE may wish to report the application to its own planning committee for comment. In such cases, LBE will do so expediently and in accordance with any timescale agreed with OPDC, so as not to unduly delay determination of the application by OPDC.

## Enforcement

- OPDC will undertake planning enforcement functions in the Mayoral development area in a proactive and proportionate manner. OPDC and LBE will cooperate with one another to ensure a coordinated approach to enforcement against breaches of planning control in the Mayoral development area.
- OPDC will work proactively with LBE to cooperate on enforcement action where there is a failure to comply with legal obligations pursuant to section 106 of the Town and Country Planning Act 1990, particularly where those obligations relate to payments or infrastructure to be passed to the borough.

## Listed buildings

- Where it is considered appropriate to add a building or structure to the local list, OPDC and LBE will cooperate in that process.

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- OPDC will consult LBE on applications for listed building consent within its area. In determining applications for listed building consent, OPDC and LBE shall cooperate in making appropriate resources available to advise on matters in relation to the proposal.

## Applications for certificates of Alternative Development under Section 17 of the Land Compensation Act

OPDC does not have powers to determine these applications and as such they will be passed to Ealing for determination. Ealing will consult OPDC on its responses to these applications in the Old Oak West area and will agree its response with OPDC.

## Section 106 monitoring and spend

- Where OPDC determines a planning application subject to a section 106 agreement, it will be responsible for monitoring the section 106 agreement and will receive the monitoring fee from the developer.
- Where LBE determines a delegated planning application and signs a section 106 agreement on OPDC's behalf, LBE will be responsible for monitoring that section 106 agreement and will receive the monitoring fee either directly from the developer or via OPDC.
- All spend of section 106 funds by Ealing or OPDC will be agreed through the Planning Obligations Advisory Board except for CPZ, travel plan contributions and contributions to North Acton Station improvements unless they are to be put to an alternative use.
- Where s106 contributions are made towards offsite affordable housing, OPDC will ensure that LBE has oversight of planned expenditure through POAG and these will be spent in accordance with a 'local cascade principle' where on site is the first choice but if off site to be spent as close as possible to the site that has generated the receipt and all receipts generated in the borough of Ealing to be spent within the borough of Ealing unless otherwise agreed with Ealing.
- Ealing will report all receipts and spend of 106 on applications delegated to Ealing on a quarterly basis.
- OPDC as Local Planning Authority will report on 106 collection and spend by Ealing on delegated applications in its Infrastructure Funding Statement.

## Appeals

- Where an appeal is made under s78(a) of the TCPA 1990 or s20 of the Listed Buildings and Conservation Areas Act 1990 in respect of an application determined by OPDC, OPDC will be responsible for defending that decision and resourcing the appeal appropriately.
- Where an appeal is made under s78(a) of the TCPA 1990 or s20 of the Listed Buildings and Conservation Areas Act 1990 in respect of a delegated application determined by LBE on OPDC's behalf, LBE will be responsible for defending that decision and resourcing the appeal appropriately.

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## Planning history

- Where OPDC receives a planning application, it shall endeavour to obtain the planning history from the LBE website.
- Where OPDC is unable to obtain the complete planning history from the LBE website, OPDC will request the planning history direct from LBE. Where such a request is made, LBE will provide the planning history to OPDC within 5 working days.

## Community Infrastructure Levy

- When OPDC CIL is introduced, Ealing will calculate CIL liability, issue liability and demand notices and collect CIL on delegated applications where applicable.
- Prior to the introduction of CIL OPDC and Ealing officers will agree a quarterly return process for reporting on collection of CIL and monies received will be transferred to OPDC on a quarterly basis with Ealing retaining the 5% admin fee.
- Ealing will collect Mayoral CIL on delegated applications and will report on it to TfL and transfer money quarterly to TfL as per established procedures.

## Designation of Conservation Areas

- Where it is considered appropriate to designate a conservation area, OPDC and LBE will cooperate in that process both in defining the extent of the conservation area and the content of the appraisal document, making relevant resources available as appropriate.

## Local Land Charges

- OPDC will not be designated as the registering authority for the area and responsibility for registering local land charges under the Local Land Charges Act 1975 will remain with LBE.
- OPDC will provide LBE with sufficient information to register a local land charge, in relation to:
  - Planning applications, listed building, advertisement and other planning consents submitted to OPDC, and copies of resolutions and decision notices issued by OPDC in relation to such applications;
  - Copies of enforcement, breach of condition and stop notices served by OPDC; and copies of resolutions and decisions to instigate enforcement proceedings;
  - Environmental impact assessment screening and scoping opinions made by OPDC;
  - Provisional and confirmed tree preservation orders and conservation area designations made by OPDC;
  - Agreements made by OPDC under section 106 of the Town and Country Planning Act 1990 and sections 38 and/or 278 of the Highways Act 1980;
  - Local Development Orders made by OPDC;
  - Compulsory Purchase Orders made by OPDC;
  - traffic schemes;
  - details of assets of community value made pursuant to section 87 of the Localism Act 2011;

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- liability for community infrastructure levy;
  - any appeal against OPDC.
- OPDC will provide this information within five working days of the relevant document being received or completed, as appropriate.

## London Planning Data Hub

- Responsibility for completing information returns to the London Planning Data Hub will continue to be the responsibility of LBE.
- OPDC will provide LBE with sufficient information to report relevant planning permission and development completion information in relation to developments for which it grants planning permission. Such information will meet the criteria set in the document 'London Development Database – Guide for data submission', and any further details that LDD requires (contact LDD@london.gov.uk for queries / information).

## Annual Monitoring Report

- Where OPDC determines a planning application, relevant monitoring information will be provided to LBE. Where monitoring information has already been provided for the purpose of LDD inputting, the OPDC will not be required to provide this information to LBE. The additional monitoring information that will be required comprises of the following:
  - Details of CIL / Section 106 agreements where OPDC determines the planning application, this should include the amount of CIL / S106 monies expected or received, date agreement was signed / money received, and details with regards to the allocation of expected or received monies. Should the OPDC produce their own report on these specific details, LBE will rely on such information instead of requesting it directly from OPDC.
  - Details of applications formally advertised as departures.
  - Details of applications appealed and Inspector's decisions where available.
  - Details of changes (proposed or adopted) to planning designations (preferably in GIS form).
  - Relevant monitoring data, not captured through the LDD, relating to waste activities as detailed in the monitoring section of the West London Waste Plan.
  - For relevant planning applications where OPDC is the determining planning authority, relevant information regarding, Flood Risk, Sustainability, and Climate Change will be provided to LBE.

## Energy Monitoring and Sustainability Measures

- Key data relating to the performance of developments in respect of sustainable design and construction measures, including carbon emission savings achieved

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through the application of the Energy Hierarchy and performance ratings achieved where Code or BREEAM is employed.<sup>1</sup>

## Local Land and Property Gazetteer

- Responsibility for updating the Local Land and Property Gazetteer (LLPG), create new addresses and Unique Property Reference Numbers (UPRN) will remain with LBE.
- OPDC will provide LBE with sufficient information to maintain the LLPG and to allocate UPRNs. Such information will comprise:
  - Site plan
  - Address comprising Building Name (if applicable), Building Number (if applicable), Street Name, Postcode
  - Easting and Northing
  - Details of the use
  - What was previously on the site including the LLPG UPRN. If a building is sub-divided and each sub-division has its own address, the floor number of each unit should be provided
  - Information will be sent to LBE within three working days of receipt by OPDC
- LBE will process the above information according to its standard procedures and shall provide the information on new properties to OPDC by email (or another format as may be agreed) within five working days.

## Freedom of Information Requests

- Requests made under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 will be dealt with by the authority the request is made to.

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<sup>1</sup> See separate note detailing the specific data requirements.