ADDENDUM REPORT

Subject: Addendum to Planning Matters Report 10
Meeting date: 12 September 2017
Report to: Board
Report of: Will McKee, Chair of the Planning Committee
Author: Michael Mulhern, Director of Planning

FOR DECISION

This report will be considered in public

1 Summary

1.1 This addendum report provides supplementary information to the OPDC Board Report 10 – Planning Matters. It provides further information relating to:

i. The considerations and recommendations of OPDC Planning Committee in relation to:
   • The Neighbourhood Area and Forum applications (Recommendations 2.2, 2.3, 2.4 and Section 3 of the Planning Matters paper); and
   • The Article 4 Direction (Recommendations 2.5, 2.6 and Section 4 of the Planning Matters paper)

ii. the London Borough of Hammersmith and Fulham’s (LBHF’s) Cabinet decision on Old Oak Neighbourhood Forum and Neighbourhood Area applications;

iii. the role of OPDC as the lead authority; and

iv. the legislative and policy framework for designation of two neighbourhood areas.

2 Recommendation

2.1 The Board is asked to consider the contents of this addendum when considering recommendations 2.2 – 2.6 of the OPDC Board Report 10 – Planning Matters.
3 Addendum information

3.1 OPDC’s Planning committee met on 6 September 2017 and members recommended that OPDC Board:

i. designate the area as shown edged red on the plan in Figure 7 of the Planning Matters Board report as the Old Oak Neighbourhood Area rather than the full extent of the proposed neighbourhood area applied for shown edged blue;

ii. refuse the application for the designation of the Interim Old Oak Neighbourhood Forum. This is by consequence of there being insufficient members to meet the legal requirement set out in section 61F(5)(c) of the Town and Country Planning Act 1990 for a neighbourhood forum to have a membership of at least 21 individuals;

iii. delegate a decision to approve the designation of this neighbourhood forum for the designated Old Oak Neighbourhood Area to OPDC’s Chief Executive Officer should a neighbourhood forum application be submitted for the amended Old Oak Neighbourhood Area;

iv. confirms the direction made on 12 September 2016 under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO), having considered the representations received, and to come into force on 22 September 2017; and

v. delegates to the Director of Planning the arrangements for confirming the Article 4 direction including compliance with the notification requirements under the GPDO.

3.2 For both the recommendations relating to the Old Oak Neighbourhood Forum and Area applications (recommendations i-iii above) and the recommendations relating to the Article 4 Direction (recommendations iv-v above), there was unanimous support from Planning Committee members.

3.3 During consideration of these items by OPDC Planning Committee, the following comments were made by Planning Committee members. Table 1 below also sets out officer’s responses provided.

Table 1: OPDC Planning Committee comments and officer responses.

<table>
<thead>
<tr>
<th>No.</th>
<th>Comment</th>
<th>Officer response</th>
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<tbody>
<tr>
<td>Old Oak Neighbourhood Area and Forum applications planning committee comments</td>
<td></td>
<td></td>
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<tr>
<td>1</td>
<td>If you are approving two separate neighbourhood areas each in separate authorities is there still a requirement for a ‘lead authority’?</td>
<td>It was clarified that with two separate areas in two separate planning authorities, there would no longer be the requirement for a ‘lead authority’ OPDC officers would continue to</td>
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work closely with LBHF officers and would keep them informed on the progress of the forum applications and any future neighbourhood plan for the neighbourhood area.

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<td>2</td>
<td>If there are two separate neighbourhood areas are there legal barriers to prevent them from working together?</td>
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<td>3</td>
<td>Do officers know what the forum’s view is on the revision being proposed to the neighbourhood area boundary?</td>
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<td>4</td>
<td>There is likely to be concern that with the revised area, communities are not getting a say on the future regeneration of Old Oak</td>
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<td>What is the logic for including the stretch along the Grand Union Canal in the boundary connecting to the Wesley Estate?</td>
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<td>Can a neighbourhood forum have a greater say on how Community Infrastructure Levy (CIL) and section 106 monies are spent?</td>
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<td>How many forum members are there within the revised neighbourhood area boundary and how far short of the 21 members is it?</td>
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<td>How quickly could the community form a new forum, submit their revised application and get a forum designated?</td>
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<td>Question</td>
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<td>9</td>
<td>What does the forum want their neighbourhood plan to contain? How do these aspirations marry up with the revised area being designated?</td>
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<td>10</td>
<td>How will the neighbourhood forum fund evidence work?</td>
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<td>11</td>
<td>It was welcomed that it was helpful that the committee report included a section listing other engagement activities to show the other ways local communities are able to engage in the planning process and wider engagement activities.</td>
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<td>12</td>
<td>Does the neighbourhood area recommended for approval provide sufficient opportunities for a future neighbourhood plan to shape development?</td>
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<td>13</td>
<td>Does a neighbourhood area need to be contiguous? Can two or more separate locations be designated as the same neighbourhood area?</td>
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### Article 4 Direction planning committee comments

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<tr>
<th>14</th>
<th>Has there been a significant number of prior approval applications submitted in an attempt to receive prior approval in advance of the Article 4 coming into force?</th>
<th>Officers clarified that although there had been a few prior approval applications, there had not been anything to suggest that the numbers were significantly greater because applicants were trying to obtain prior approval in advance of the Article 4 coming into force.</th>
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<tr>
<td>15</td>
<td>How will the Article 4 Direction affect those parts of the area that are in North Acton, which are currently delegated for planning purposes to Ealing Council?</td>
<td>Planning applications for changes of use from office/industrial uses to residential in North Acton would be delegated to Ealing for determination as per the existing arrangements in the Scheme of Delegation.</td>
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<tr>
<td>16</td>
<td>Committee members notes that as an important and successful industrial location, it was vital that the Article 4 Direction is put in place to allow OPDC as planning authority to properly consider any applications for change of use of industrial premises to residential.</td>
<td>This was noted by officers.</td>
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3.4 LBHF Cabinet decision on Old Oak Neighbourhood Forum and Neighbourhood Area applications on 4 September 2017:

- designate the area identified in green to be referred to as the Old Oak Estate Neighbourhood Area as a Neighbourhood Area and to refuse the designation of areas in red in Figure 1; and
- refuse the proposed neighbourhood forum due to insufficient members for the designated Neighbourhood Area.

3.5 The LBHF Cabinet report included an addendum that clarified that the Old Oak Estate Neighbourhood Area is a separate area to the area recommended by OPDC officers to be designated as the Old Oak Neighbourhood Area. The LBHF Cabinet report and addendum are included at Appendices A and B.
3.6 The LBHF Cabinet Addendum report were not included in the original OPDC Board Report 10 – Planning Matters as the LBHF Cabinet Addendum they not been made public at the time that the OPDC Board papers were published.

Figure 1 - Neighbourhood area designated in LBHF and areas refused.

3.7 Role of OPDC as the lead authority

3.8 The National Planning Practice Guidance (NPPG) paragraph 031 identifies the benefits of Local Planning Authorities (LPAs) agreeing a lead authority for joint neighbourhood area applications. The benefits for agreeing a lead authority are to:

- simplify the process for the community
- minimise the duplication of work by the local planning authorities
- provide opportunities for authorities to share resources
3.9 The NPPG does not set out guidance or requirements for the role of a lead authority. The Local Government Association states that the lead authority “would manage the neighbourhood planning process, though each local planning authority would legally be responsible for agreeing the decisions taken”. The Act Section 61I identifies that OPDC and LBHF must determine applications individually as separate LPAs.

3.10 The majority of the proposed Old Oak Neighbourhood Area is within the OPDC area and OPDC and LBHF therefore agreed that OPDC should be the lead authority. As lead authority, OPDC has led on consultation activities and OPDC officers have met regularly with LBHF officers to provide updates on the consultation responses and discuss approaches to designations. Officers consider that, as lead authority, OPDC has successfully delivered the benefits as set out in NPPG paragraph 031.

3.11 **Designation of two neighbourhood areas**

3.12 As set out in paragraph 3.32 of the OPDC Board Planning Matters Report 10, OPDC has discretion in determining the boundary of a Neighbourhood Area pursuant to section 61G of the Town and Country Planning Act (the Act) 1990 (as amended). This discretion was confirmed by the Court of Appeal in the case of Daws Hill Neighbourhood Forum v Wycombe District Council (2014).

3.13 Section 61G of the Act also sets out legislation for guiding the process for designating Neighbourhood Areas. Part 5 enables one or more Neighbourhood Area to be designated from a single Neighbourhood Area application. As such OPDC and LBHF can designate separate Neighbourhood Areas.

3.14 The judgments of the High Court and Court of Appeal in the Daws Hill litigation state that in determining an application under section 61G, the LPA should have regard to a specific "factual and policy matrix" that applies to that area. The matrix used to inform officers’ recommendations includes considerations relating to:

- National Planning Practice Guidance;
- the strategic significance of sites;
- consultation responses; and
- the character of the proposed Neighbourhood Area.
3.15 The matrix is set out in table 3 and paragraphs 3.34 to 3.61 of the OPDC Board Report 10 – Planning Matters. Officers’ recommendations define the proposed boundary for the Old Oak Neighbourhood Area considered appropriate for designation in paragraph 3.65 and figures 7 and 8 of the report. Figure 2 below depicts the area recommended to be designated within the OPDC area and the area LBHF Cabinet determined to designate within LBHF’s planning authority area.

Figure 2 - Neighbourhood areas proposed / determined to be designated within OPDC area and LBHF

4 Appendices

Appendix A - LBHF Cabinet Report: Old Oak Neighbourhood Plan Area and Forum Designation

Appendix B - LBHF Cabinet Addendum: Old Oak Neighbourhood Plan Area and Forum Designation
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