



## St Quintin and Woodlands Neighbourhood Forum

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Dear Liz Peace,

### OPDC governance arrangements

Thanks for your letter of 29<sup>th</sup> November, replying to mine of October 24th

This answered some but not all of my questions. I hope you don't mind my coming back to you on certain points. There is continuing debate in Westminster and in Kensington and Chelsea on the workings of London's planning system, including the use of Planning Performance Agreements and the tactics of lobbyists and planning consultancies on hospitality and other inducements used to achieve a favourable outcome on applications.

### Planning Performance Agreements

Your letter says that *Where pre-application discussions are expected to be protracted then OPDC will continue to use Planning Performance Agreements (PPA's) which will include appropriate mechanisms to ensure that the cost to OPDC of entering into pre-application discussions is met by the developer.* While it is no surprise that OPDC use PPAs on major and 'strategic' schemes, I have not been able to find any information about the Corporation's approach to PPAs on the OPDC website. The public therefore gains little or no insight as to how such negotiations are conducted.

Your letter also says that *on the 9 May 2018, the OPDC Planning Committee approved publication of a pre-application fee schedule which then came in to effect on 6th August 2018.* I had problems finding an agenda for a 19<sup>th</sup> May 2018 Planning Committee meeting on the OPDC website, as the website shows that this committee did not meet between 14<sup>th</sup> March and 6<sup>th</sup> June 2018.

I eventually found the relevant report with the 6<sup>th</sup> June agenda papers. Its content prompted a couple of further queries.

There are two pages on information currently published on the OPDC web pages on 'OPDC pre-application advice' at <https://www.london.gov.uk/about-us/organisations-we-work/old-oak-and-park-royal-development-corporation-opdc/opdc-planning/opdc-planning-applications/opdc-pre-application-advice> and on 'Submitting a planning application' at <https://www.london.gov.uk/about-us/organisations-we-work/old-oak-and-park-royal-development-corporation-opdc/opdc-planning/opdc-planning-applications/submitting-planning-application-opdc>

As your letter mentions, the first of these web pages sets out the charging schedule adopted by the Corporation. But given that the OPDC decides only major applications, delegating others to the three Boroughs, I am not clear when these charges come into play? The highest fee charged, for *Strategic Development (more than 150 residential*

units or 10,000sqm of non-residential floorspace) is £5,500 and way below the fees likely to have been involved in the 9 PPAs negotiated by OPDC to date, as referred to in your letter.

Neither of these two web pages give any explanation to the public of Planning Performance Agreements – in terms of how they will be negotiated, what developers can expect from a PPA, or the extent to which developers are cautioned that positive PPA advice is not a guaranteed ‘green light’ to a planning permission. These are all matters of public concern.

Past OPDC Planning Committee agendas include reports on 11 major applications, as listed below

Oaklands, Old Oak Common Lane 13 July 2016 (and 1<sup>st</sup> Feb 2017 to amend Heads of Terms)  
North Kensington Gate North, 93-97A Scrubs Lane, 1<sup>st</sup> March 2017  
North Kensington Gate South, 115-129A Scrubs Lane, London NW10, 5<sup>th</sup> April 2017  
Mitre Yard, 104-108 Scrubs Lane, London NW10 12<sup>th</sup> July 2017  
First Central, Lakeside Drive, London, NW10 11<sup>th</sup> October 2017  
Parade Ground, Wormwood Scrubs Park, Scrubs Lane, London W12 0DF 11<sup>th</sup> October 2017  
2 Scrubs Lane, London, NW10 6RB 11<sup>th</sup> October 2017  
Land East of the Victoria Centre 13<sup>th</sup> December 2017  
Midland Gate House, Midland Terrace, London, NW10 6DR 14<sup>th</sup> March 2018  
Unit 1 Nucleus (change of use from warehouse) 6<sup>th</sup> June 2018  
Beirut Nights 19<sup>th</sup> Abbey Road 11<sup>th</sup> July 2018

It seems clear that all but two of these were the subject of the 9 PPAs referred to in your letter. Hence the Corporation’s pre-application dealings are conducted very largely through a process of discussion and negotiation which is not explained to the public – either on the website or in the OPDC Statement of Community Involvement.

The use of Planning Performance Agreements is coming under increasing public scrutiny across London. National Planning Practice Guidance states that *Planning performance agreements can be particularly useful in setting out an efficient and transparent process for determining large and/or complex planning applications*. ‘Transparency’ does not seem to feature in OPDC’s approach to PPAs.

Westminster, RB Kensington and Chelsea, Camden, Hammersmith & Fulham, Ealing, Lewisham and other planning authorities inside and outside London all have web pages explaining the role of PPAs and how they are used. Ealing and RBKC publish more detailed ‘charters’ on the subject.

In Kensington and Chelsea there are current queries from the public (and from councillors) as to the appropriateness of lead officers on PPAs also drafting committee reports and recommendations. What is the current practice at OPDC? I asked this question in my last letter but did not get an answer. In answer to another query, it is helpful to know that planning advice letters/reports will in future include the name of the officer responsible.

### **Delegated decisions**

There was a report on the agenda of the 10<sup>th</sup> December 2018 Planning Committee seeking approval to changed arrangements under which the Director of Planning can exercise powers under paragraph 8(1) of the Scheme of Planning Delegations. Can you please advise where such decisions are reported back to the public? The Development Management update to each Planning Committee shows applications either delegated to Boroughs or decided at OPDC Planning Committee. I had not realised that there is a further set of planning decisions that are delegated within OPDC (if this is indeed the case)?

As above, one of the reasons why London residents are becoming more aware of PPAs is what the public view as an inherent risk of planning officers becoming over-invested in seeing an application ‘succeed’ and losing their neutrality and objectivity along the way. Following the publicity on the Westminster scandal,

The OPDC Planning Code of Conduct starts with a paragraph *saying Planning Officers should ensure that they conduct themselves in a way that not only maintains their impartiality in advising Planning Committee Members or Board Members making planning decisions, but ensures that they are seen to behave in a way that maintains impartiality. Planning Officers should record meetings and dialogue with interested parties in the application file.*

It is the risk of *perceptions* of impropriety, as referred to in the Code, that have caused questions to be asked by the LGA/PAS team that recently investigated the workings of Westminster's development management department. A change of culture in the department has been required by Westminster's Cabinet, leading to the redundancy of the Director of Planning. As mentioned in my last letter, the same issues have been raised at Kensington and Chelsea Council, following a controversial application refused by committee despite extensive PPA negotiations which had led to an officer recommendation to approve. Assurances by that council's Director of Planning that officers conduct PPAs with complete objectivity and professionalism are not satisfying all critics, and the council has agreed to look at how PPAs are handled in other Boroughs.

It is hard for officers to be '*seen to behave in a way that maintains impartiality*' when the public become aware that an officer has been undertaking months of negotiations with a developer, and has then written the committee report and recommendations. In RBKC, FoI requests are now being made for email exchanges between officer and developer, in addition to formal pre-application advice letters. Perhaps these two sets of tasks are separate at OPDC? It would be helpful to know.

These issues will become evermore acute, attracting further public interest, when the OPDC as planning authority starts determining applications generated by the Corporation's own development arm.

### **Publication of pre-application advice**

It is welcome that OPDC publishes copies of pre-application advice once an application is submitted, including comments from the Place Review Group. This level of transparency has become good practice amongst London LPAs.

I asked in my previous letter about paragraph 4.13 of the OPDC Planning Code, and would like to know more about the distinction between the 'application file' and the 'pre-application file' referred to therein. I have no problem with the concept of a 'back office' file that holds information at pre-application stage and is not published, given that an application may never be forthcoming and some of the material may be justifiably commercially confidential. But it would help to have transparency as to what files are held, in what form, and what material is put into the public domain.

At present, notes of meetings with applicants or of substantive phone calls are not made public on the OPDC online system. Whereas in the days when planning authorities maintained paper files, such information would be available for inspection by the public.

I have asked in the past (without getting an answer) where OPDC holds its statutory Planning Register, and how the public should go about exercising their rights to inspect this? The Corporation's approach of redacting names and addresses of all those making representations on planning applications (a practice adopted by only a handful of London LPAs, even after GDPR) adds to the need for an answer to this question, as GDPR restrictions would not apply to a paper register.

### **OPDC Planning Code of Conduct**

The OPDC Planning Code of Conduct as adopted by the Board on May 18<sup>th</sup> 2015 is aimed primarily at members (while also covering aspects of officer conduct). The Code covers matters such as lobbying and pre-determination. It is silent on the subject of PPAs.

Paragraphs 3.3.1, 3.3.2 and 3.3.3 of this code set out various means by which OPDC Planning Committee members can become involved in pre-application and pre-decision discussions on application. These include 'briefings' and presentations by applicants and 'exhibitions' (which may be held 'in private').

Paragraph 3.3.2 suggest that applicants may like 'to send *short briefing letter(s) to all Planning Committee Members or Board Members making planning decisions, copied to the relevant Planning Officer, to provide information on key details of the proposal to Planning Committee Members or Board Members making planning decisions.* When sent, are such briefing letters put on the OPDC planning files along with representations from the public?

These processes of confidential 'briefings' and private exhibitions are opaque to the public. Can we be confident that all members of the Planning Committee start the formal meeting with open minds and no pre-determination? Political whipping of planning decisions is a breach of standards in a local authority. Discussions at OPDC Planning Committee meetings do not always inspire confidence that the outcome of decisions on applications is based on discussion at the meeting, and not pre-ordained.

### **Lobbying by planning consultancies - Gifts and hospitality.**

Thank you for pointing me in your letter to the reports submitted to the Corporation's Audit Committee.

The OPDC *Acceptance of Gifts and Hospitality Policy and Procedure* adopted in March 2017 gives different advice and guidance on this subject to that in the *GLA Code of Ethics and Standards for Staff*. The OPDC version has fuller (and more 'real world') content and it has been helpful to see the two lists of hospitality accepted by OPDC officers in 2016/17 and 2017/18, as reported to the Audit Committee.

The policy document says at paragraph 4 that details on the register will be published on the OPDC website. If this currently happens, I cannot find the information. Very few people will find a copy of the policy amongst the Audit Committee agenda papers, and this document could perhaps be published as part of the 'governance' page on the OPDC website along with the Planning Code of Conduct?. Is there some reason why OPDC operates different codes and reporting arrangements from the rest of the GLA?

I note the statement that *This policy applies to all OPDC staff. This procedure applies to all OPDC staff and to all Board and Committee Members.* The 'policy' on gifts and hospitality that applies to Board and committee members is presumably that in paragraph 4 of the OPDC Code of Conduct, this being an appendix to OPDC Standing Orders?

Again, this fact could be made clearer on the 'governance' or 'transparency' pages of the OPDC website. Only the more dedicated are otherwise likely to find this appendix to SOs, particularly when the GLA has other information at a much more accessible web page headed 'High standards of Conduct' at <https://www.london.gov.uk/about-us/governance-and-spending/good-governance/high-standards-conduct>

This GLA web page publishes a series of other documents which may or may not apply to OPDC staff?. The position is unclear, as these documents are undated and do not refer to the OPDC or LLDC as such. Do they apply or not? These are

- Planning Protocol for Staff Exercising Delegated Planning Functions
- General Planning Protocol for Staff (except those covered by the Delegated Planning Functions Protocol)
- Planning Code of Conduct for elected and co-opted Members of the Authority

If the OPDC codes and policies are completely separate, then it would help to have this explained (and links to the documents provided) on the GLA web page on 'High standards of Conduct' as well as relevant material being published on the OPDC website. I would not have had to ask a number of these questions had all this material been more accessible.

In terms of OPDC culture on the acceptance of hospitality, it is reassuring to see that there are few entries on the register from staff closest to planning decisions. In relation to Board and committee members, there are no declarations that I can see from the Audit Committee schedules. I hope that these registers set out the full position. It is a little hard to believe that an OPDC team spent several days at MIPIM in Cannes in March 2018 without accepting even a glass of wine.

The level of hospitality accepted by OPDC staff is significantly less than for senior GLA staff dealing with land, regeneration, housing and planning matters (details of which are published online). Attendance at dinners, sporting events, and other forms of hospitality are regularly reported. May be OPDC staff are more conscious of potential reputational damage to the Corporation, or perhaps too busy to attend the sort of events which feature in the GLA register.

At Westminster City Hall, the LGA/PAS team investigating the development management service concluded that excessive and unjustified acceptance of hospitality by council officers had become 'normalised'. To me, the GLA register shows signs of a similar culture. It is not clear why officers should need to accept most of the invitations offered, and claims of the value of 'networking' are unconvincing to the general public.

### **Register of Interests**

Since my previous letter in October, I note that the biographies of Board members on the OPDC website now include links to their ROI entries (with some 'to follow' for the new Board members). This is helpful.

But for Planning Committee members, no such links are provided. One that was there previously (for Wesley Harcourt) has vanished. Why is this? The various interests of Planning Committee members, beyond their role at OPDC, are as important for transparency purposes as for Board members – if the public are to maintain trust in London's planning system.

I appreciate that this letter contains a longish series of questions. Some remain unanswered from my previous letter and others are new. For convenience a numbered list is below:

- 1 Can you confirm that a large majority of all major planning applications determined to date by OPDC Planning Committee have been the subject of PPAs?
2. Will OPDC agree to publish on the planning applications pages of its website an explanation of how it operates PPAs, so that Londoners can understand how these agreements work in practice?
3. Is it OPDC practice for the lead officer on a PPA also to prepare the committee report and recommendations on an application?
4. How often (roughly) have the charges for pre-application advice published on the OPDC website been charged to an applicant? What sort of applications as handled by OPDC do these charges relate to?
5. If decisions on applications are delegated to officers (other than decisions to refer onwards to the three Boroughs) how are these reported to the public?
6. As referred to in the OPDC Planning Code of Conduct at paragraph 4.1.3, what are the 'application files' and the 'pre-application files' as held by the Corporation? What parts of the latter cannot be made public once an application is submitted?
7. Where does the OPDC hold its statutory Planning Register, and how are the public able to inspect this? Is a paper Register maintained, and if not how are the public able to see notes of meetings with applicants and other background material to an application?
8. Is the practice of recording notes of pre-application meetings and any significant phone conversations, as required by paragraph 4.1.3, being adequately maintained?
9. Are the OPDC Planning Code of Conduct as adopted in May 2015, and the Code of Conduct applying to members at Appendix 1 of the OPDC Standing Orders, the sole codes that apply within the OPDC? Or do the series of other GLA codes referred to above also apply? If the latter, which takes precedence?

10. Either way, can the relevant GLA and OPDC web pages be updated so that the public can be clear on the position? (The relevant GLA web page is at <https://www.london.gov.uk/about-us/governance-and-spending/good-governance/high-standards-conduct>)

11. Why are links to Register of Interest declarations published on the OPDC website for OPDC Board members, but not for Planning Committee members?

When the Corporation started life in April 2015, I recall meetings with OPDC staff at which it was said that the Corporation was aiming to be 'best in class' across London in terms of the openness and transparency with which it operated, and its approach to communicating information that the public need.

It may be that I send in more letters and emails than most on these subjects, but ask that you see my queries as attempts at constructive feedback rather than being adversarial or negative. Those inside an organisation are not always best placed to see what is confusing or non-transparent from the outside, and I am far from being the only citizen in west London with concerns at some of the governance aspects of the Corporation.

I hope to receive further information, and reassurances where possible, on the above list of questions. Given that some of my queries relate to GLA practices I am copying this to Emma Strain, whom I understand to be the GLA Monitoring Officer.

Yours sincerely,

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