



OLD OAK NEIGHBOURHOOD FORUM

Alice Sewell
Strategic Manager
Imperial College
London (by email)

16th January 2022

Dear Alice Sewell,

One Portal Way – consultation on the College’s application for a development including 3 towers of 50 storeys and above, at One Portal Way, North Acton.

I have not had a reply to the second part of my letter of 16th November 2021 or my further email of 29th December,

Meanwhile the OPDC has published copies of three sets of pre-application advice from GLA officers on planning application 21/0181/OUTOPDC. This material was made available to the public only after a series of requests, contrary to the OPDC’s commitments in its Statement of Community Involvement.

Given this documentation was slow to be added to the OPDC planning register, OPDC has agreed to extend the consultation period on the application to 28th January. Awareness of the College’s proposals for One Portal Way is growing locally in the Ealing and north Hammersmith area. This is unsurprising given their scale and proposed heights.

Our Forum has submitted a detailed objection to the application, which is now published on the OPDC register at this [link](#). There is one aspect of this objection which the College and its advisers may wish to investigate now with LB Ealing and OPDC, as a piece of due diligence (this is the questionable lawfulness of the 2016 planning consent granted by LBE on the site). We have never had an adequate response from Ealing Council to this question, despite trying hard. Emma Williamson at OPDC knows the background.

The College’s objects and vires

We have corresponded before on the College’s legal capacity to undertake a purely commercial property development, of the kind proposed at One Portal Way, via the College Endowment. Your email of 29th September 2021 referred me to College Ordinance F1 and advised that *The Endowment manages funds that are available for investment, known as “Non-Core Assets”, and has full authority from the College Council to invest these funds as it sees fit, including in land and property. The income and capital return generated by the Endowment supports the College’s academic mission.*

The note attached to this letter questions whether the College's Charter, Statute and Objects can be interpreted so widely as to allow for any form of investment activity, however unrelated this might be to the 'objects' of the university. I leave these questions with you and copy addressees.

The College's reputation as a leading source of expertise on climate change

When the proposals for One Portal Lane have been circulated amongst our members living in the area, and discussed at our open meetings, a further query raised is how the massive development project squares with the College's activities on climate change, and the commitments in the 2020-25 College Strategy.

The College Strategy states *In the Towards Zero Pollution initiative, our world leading research and education comes together with strength and purpose to systematically address the problems of pollution. This complements the way our community is rising to the challenges posed by climate change through Sustainable Imperial's work to help our campuses and every member of our community to reduce their carbon footprint*

In terms of College activities, we see on the one hand that the respected Grantham Institute *sits at the heart of Imperial College London's work on climate change and the environment. We read that The Institute coordinates a group of more than 70 UK universities working together to support ambitious outcomes for climate action.* A delegation of 25 academics from the College attended COP 26 in Glasgow.

We also see on the College website that *Imperial researchers and startup companies are working with partners in industry and government to develop insights and technologies needed to transition global energy system to net zero carbon emissions and eliminate other forms of pollution.*

We cannot see how these activities are compatible with the College Endowment pursuing a commercial development project involving three high rise residential towers of 50 storeys and above at One Portal Way?

The 2021 Pomponi study on building typologies and carbon emissions has received widespread attention this year in the planning press. By feeding 5,000 urban environment simulations into an algorithm, with varying height and densities, researchers concluded that taller urban environments significantly increase LCGEs (+154%), while low-density urban environments significantly increase land use (+142%).

As a study by Edinburgh Napier University, University of Colorado and Cambridge University, these conclusions can hardly have come as a surprise to the many academics at Imperial with expertise in this field. In the early days of the OPDC Local Plan, I and others from local organisations were involved in sessions with Professor Cedo Maksimovic on how the Old Oak area could become an exemplar demonstration of the College's Blue Green Dream Project.

Such aspirations were seemingly lost along the way by OPDC, in its acceptance of high-density high-rise as the primary building typology to deliver the housing numbers and development site capacity it feels it must achieve, to meet a questionable housing target set in the 2016 London Plan.

The London Assembly's Planning and Regeneration Committee has been looking at the consequences of tall buildings in a Covid era. Chair Andrew Boff AM wrote to all London councillors in September 2021 to alert them to the high servicing costs of tall buildings (passed on to tenants)

and to the study by Phil Steadman of UCL which found that the increase in storeys from six storeys to 20 doubles the energy intensity per square metre.

Mr Boff's letter concludes *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.* Our objection to the College's application at One Portal Way sets out why we think the proposals will fail this test, which is now reflected in the modified London Plan Policy D9 on Tall Buildings.

Andrew Boff came to a session this week of Kensington and Chelsea's Environment Scrutiny Committee to give a presentation on this subject. Kensington and Chelsea residents are a well informed audience, and will shortly be joining battle on proposals for 35 storey buildings at the Kensal Canalside Opportunity Area. The Kensington Society is well aware of the Imperial proposals for One Portal Way.

The outcome on the planning application at One Portal Way is one matter. Another is the long term reputational damage to the College, in preaching zero carbon and supporting related initiatives, while at the same time promoting highly contentious proposals to add extreme high rise towers to the 'North Acton Cluster'. I assume that copy addressees are familiar with the planning application for One Portal Way. If not, below is a CGI image from the College's architects of North Acton were these Imperial proposals (and others already constructed or with planning consent) to be built.



Residents in Ealing and Old Oak have been very unhappy to see this group of buildings emerge in the past five years. To now find that the College has joined with developers in proposing a further and yet more extreme scheme, has come as a major surprise.

We are not copying this letter to all of the 25 Imperial colleagues who spent time at COP. But we are copying it to President Alice Gast and to Muir Sanderson as the College's representatives on the Endowment and to some members of the College's Socially Responsible Investment Policy Working Group.

Your sincerely,

Henry Peterson, adviser to the Old Oak Neighbourhood Forum

cc Alice P Gast, President Imperial College
Muir Sanderson, CFO Imperial College and member of the Endowment Board
Chris Williams, College Council member and chair of Endowment Board
Professor Ian Walmsley, Chair Imperial College Socially Responsible Investment Group
Professor Terry Tetley, staff representative on Council and member of Socially Responsible Investment Group
John Anderson, Imperial College
Professor Cedo Maksimovic, Imperial College
Andrew Boff AM. Chair of London Assembly Planning and Regeneration Committee
Emma Williamson, Director of Planning OPDC
Mark Walker, Chair Old Oak Neighbourhood Forum

ANNEXE TO LETTER FROM OLD OAK NEIGHBOURHOOD FORUM TO IMPERIAL COLLEGE ON PROPOSALS FOR ONE PORTAL WAY.

Questions on the College's legal capacity to pursue speculative non-academic property development as part of the investment strategy of the College Endowment

Our understanding of the law is that the objects clause of an incorporated body such as the College establishes the lawful powers (vires) of the body beyond which it is not legally entitled to go. It must act *intra vires* and is not permitted to act outside its objects clause.

The powers of a body corporate in its objects clause are to be distinguished from the powers of its directors and agents which emerge from express or implied powers contained elsewhere within the constitutional documentation. The powers of the agents must be exercised within the vires of the body corporate and cannot permit the agents to exceed what is permitted by the objects clause.

The statute of the College defines its objects at sub **paragraph 4 of its Charter** as below

The Objects of the University shall be to provide the highest specialised instruction and the most advanced training, education research and scholarship in science, technology and medicine, especially in their application to industry; and in pursuit of these objects to act in co-operation with other bodies.

Sub paragraph 5 states *The University, subject to this Our Charter and Statutes, shall have power to do any lawful thing in furtherance of its objects and, without prejudice to the generality of the foregoing, shall have power:* (followed by a list of a series of activities).

The wording '*subject to this Our Charter and Statutes*' is surely important? The vires and lawful powers of the College, as with other corporate bodies, are not wholly unlimited.

Of the activities defined in the statute, the following are relevant:

(c) to acquire, own, maintain, manage and dispose of real and other property;

(f) to invest any monies in the hands of the University and available for investment in accordance with the relevant law and the Statutes;

(k) generally to do all other lawful acts whatsoever that may be necessary for and conducive or incidental to the attainment of the objects of the University.

The terminology of 'conducive or incidental' features in many versions of documents that determine the powers and vires of a public body, charity or corporate body. Similar wording applies to the powers and vires of Non Departmental Public Bodies. Interpretation has been the subject of much case law over the years.

In relation to local government, Section 111 of the Local Government Act 1972 gave local authorities the power to do anything "*which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions*". In using this power, authorities would in the past need to identify which of their functions an activity was 'incidental' to. Case law limited the degree to which functions could be justified on the basis that they were incidental to activities that were themselves incidental to local authorities' lawful powers and functions.

Following a number of legal cases where the extent of S111 was disputed, the Government introduced a general power of competence (GPC) for local authorities. This was brought into force on 18 February 2012.

We accept that universities operate under a different legal framework to local government and NDPBs. But (subject to the College providing evidence to the contrary) we believe that the same basic public law principles apply. We do not see how a university, including Imperial College, could lawfully engage in activities that are entirely remote from the 'objects' in its charter or statute.

Hence we argue that c) above (*to acquire, own, maintain, manage and dispose of real and other property*) should be interpreted as relating back to the College's objects. This would cover e.g. the provision of academic buildings, administrative buildings, and student housing.

Activity f) above (*to invest any monies in the hands of the University and available for investment in accordance with the relevant law and the Statutes*) appears at first sight to be wide-ranging and without limits. But this wording includes the qualifier '*in accordance with the relevant law and statutes*'.

Would it be lawful for the College to 'invest' by acquiring crypto currency, speculating via interest rate swaps, betting on horse races, or building and managing casinos? What limits on forms of investment has the College set itself?

We would assume that prior to undertaking development projects at the White City campus (part academic/ part commercial) and the Claygate apartments at North Acton (purely commercial?) the College took legal advice on the scope of activity by the Endowment – including those activities which have no link to the College's 'objects'. We would welcome sight of such advice, so that we can reassure our membership of local residents that the College is not straying into uncharted territory on the One Portal Way development.

Old Oak Neighbourhood Forum

January 2022