

SECOND OBJECTION FROM OLD OAK NEIGHBOURHOOD FORUM TO APPLICATION AT ONE PORTAL WAY 21/0181/OUTOPDC

The Old Oak Neighbourhood Forum is making a second objection to this application, following on from that which we submitted to OPDC on 7th January 2022.

We continue to ask that the application be refused or withdrawn. The Forum was designated by OPDC in 2018 and has a membership of 60 residents living within the neighbourhood boundary and a further 60 affiliate members within Ealing and the northern part of Hammersmith. The Forum has been involved in every stage of the preparation of the OPDC Draft Local Plan, and in responding to consultations on individual planning applications in the LB Ealing part of the OPDC area.

We submitted representations on the Modifications in summer 2021, leading to the Inspector agreeing to hold further hearings on two of our most fundamental concerns about the Draft Local Plan.

These two further hearing were held on 11th and 12th January, several weeks after application 21/0181/OUTOPDC was submitted. At one of the hearings held on January 11th 2022, the Inspector assessed the implications for the draft Local Plan of 2021 London Plan policy D9 on tall buildings. The Inspector accepted the arguments put forward from OONF that further modification are required to the OPDC Post Submission Modified Draft Local Plan.

In summary, this second objection covers the following seven grounds for refusal or withdrawal of this application from Imperial College, with material supplementing our previous representation..

1. Prematurity, given that the OPDC PSMDLP remains the subject of unresolved draft policies on which the Planning Inspector has yet to report on an Examination which remains in progress with Tall Buildings policy a live issue.
2. The risks involved in OPDC granting planning consent to a hybrid application, the outline elements of which will not be built out for many years to come, at a time when the planning context for London is highly uncertain.
3. Unresolved legal issues, including the lawfulness of the 2016 planning consent, claimed to be an extant and a material consideration.
4. Questions over the legal capacity of Imperial College as applicants to undertake this development and the College's willingness to fulfil S106 commitments as entered into as part of securing consent.
5. Fire safety, and the content of the Fire Statement and Fire Strategy submitted with the application.
6. Detailed material on environmental issues, accompanying the application on which members of our Forum with expertise in this area have reservations and questions (at Annex A to this representation).
7. Unfair consultation on the planning application, contrary to the OPDC Statement of Community Involvement, with the applicant team having been granted an opportunity to present to members of the OPDC Planning Committee on January 20th 2022.

We have been in direct correspondence with the College on the fourth of the above issues. The responses we have received to date have been very limited and unsatisfactory.

The College has told us that it will be responding to points made in representations on this planning application. We have yet to see this response and may need to question and challenge what is said by the College, in a third set of objections.

Ground 1 for refusal/withdrawal of the application – prematurity

We explained in our first objection why we consider that the application is premature, within the limited terms set out in paragraphs 48 and 49 of the NPPF. Following the EIP hearing on 11th January 2022, Planning Inspector Paul Clark required OPDC to provide additional draft modifications to the PSMDLP on tall buildings and conformity with London Plan Policy D9. OPDC has responded with a document [OPDC-51](#) submitted to the Inspector and published in the Examination Library for the PSMDLP. This proposes a set of modifications which (if accepted by the Inspector) would add text to the ‘Place’ policies in the PSMDLP.

The proposed additional text for North Acton/Acton Wells reads as below:

Addition after first sentence to the first column, first row cell of Table 4.1: 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.

Paragraph 3 of this submission to the Inspector states as below:

3. Height ranges are provided in either 0-5 or 0-10 storey ranges. There are two exceptions to this:
 - North Acton where a broader range has been provided reflecting the greater range in building heights with extant permissions, schemes under construction and recent completions within this portion of the North Acton and Acton Wells place. The heights of extant permissions and planning approvals are set out in the below table:

Site allocation / DCS site	Name	Tallest building height (storeys)	Status
12	Holbrook House	24	Completed
14	Perfume Factory North	25	Approved
15	Perfume Factory South	31	Completed
16	The Portal	36	Resolution to approve
17	2 Portal Way	35	Resolution to approve
19	Portal West	54	Under construction
35	4 Portal Way	55	Approved
DCS 36	1 Portal Way	32	Approved

It is clear that OPDC PSMDLP policy on tall buildings at North Acton remains in a state of flux, and unresolved during a continued examination stage of the draft Local Plan. OONF will be responding to this OPDC-51 submission to the Inspector, which we do not accept achieves compliance of the local plan with the London Plan. For a start ‘suitable locations’ of tall buildings, at North Acton and elsewhere, still do not appear to have been identified with enough specificity to meet London Plan Policy D9..

It would therefore be inappropriate and (in our view) unlawful for the OPDC Planning Committee to grant consent to application **21/0181/OUTOPDC** on the basis of OPDC PSMDLP ‘emerging’ policies. As we have pointed out in our Objection 1, under LBE Policy OIS1 for North Acton, LBE as planning authority would not even be considering a hybrid application at North Acton.

Ground 2 - The risks involved in OPDC granting planning consent to a hybrid application

As argued in our Objection 1, this application is made up of a full application for two buildings out of seven, and an outline application which would set 'parameters' for a remaining five buildings. The outline proposals include two residential towers of up to 50 storeys.

Our Forum discussed this aspect of the proposals at our open meeting on February 1st. We view a hybrid application as a very unwise basis on which a consent might be granted by OPDC. No one can predict with any certainty the planning context for this and other parts of London in 5-10 years time.

As explored below, there can be no certainty that Imperial College will be in a financial position to complete the development. There is the risk of planning consent being sold on. We remain of the view that 2022 may see a tipping point of 'peak tall building' in London, given the financial problems that are arising at Vauxhall/Nine Elms/Battersea and at the Royal Docks.

We have serious concerns that OPDC's desire to demonstrate housing delivery numbers, at a time when the Corporation's track record is under continued scrutiny, will lead to a decision to be regretted by Londoners living anywhere near the vicinity of One Portal Way, for many years to come.

Ground 3 – unresolved legal issues

In our Objection 1, we pointed out that the 2016 'extant planning consent' claimed for the One Portal Way site is of questionable lawfulness. LB Ealing has to date been unable to provide any documentary evidence that the Council had entered into its part of the OPDC Scheme of Delegation, over the period April 2015 until December 2020.

We have therefore questioned with the applicants, with LB Ealing, with OPDC and with planning consultants/applicants of other previously consented schemes at North Acton, whether the decision notices issued by LBE's Director of Planning over this period are void and invalid for want of proper authority.

There has been no response from any of these parties. The detailed representations from LB Ealing on application 21/0181/OUTOPDC make no mention of this question. Imperial as applicants have not commented. We have no idea whether any due diligence enquiries are being made behind the scenes.

We do not know whether, in any future OPDC committee report making recommendations on this application, the existence of this claimed 'extant consent' will feature as a material consideration for recommending approval to application 21/0181/OUTOPDC. If this proves to be the case, we reiterate in this second objection that were there to be a legal challenge to a grant of consent to this application, this would be one of several matters raised.

We consider it incumbent on OPDC, as the planning authority which has chosen to 'retain' this application for decision, to investigate the background to this issue. We would be happy to provide copies of relevant correspondence with LBE, as submitted to the Local Government Ombudsman as part of a previous investigation in 2020.

Ground 4 - legal capacity of the applicant and willingness to meet S016 consents

Our Forum has respect for Imperial College as a university of high global standing and as a pioneering research body. But we also have serious concerns that the College is over-reaching itself on this application and its highly ambitious set of development proposals.

We have been in correspondence with the College over several months on questions of the university's legal powers and vires to undertake major property development, with no academic content. The College has told us that it has unfettered powers to make any 'investments' that it chooses to, via the College Endowment.

Our correspondence continues (see at this [link](#)). We appreciate that it is not normally a material planning consideration that an applicant may not legally have the powers to implement a planning consent. But we ask that OPDC seek and obtain assurance on this score. There has been a surprising reluctance by the College to answer our queries in any detail. Our examination of the Statute and Ordinances of the College, on which we have asked further queries, leaves these questions unanswered.

On our concerns over the College's willingness to meet S.106 commitments, the representation on this application as submitted previously by the Grand Union Alliance questioned the extent to which the development will "secure additional benefits for the community and wider development" as a result of use of the GLA 'fast track route'.

As of the date of the submission of this second OONF objection there is no detailed information on the S106 commitments which the applicants are undertaking to provide. The Planning Statement from Gerald Eve gives brief information as below:

Draft Heads of Terms

6.113 With regards to S106 contributions, this would include, for example, health, education, play space and highways contributions. However, where health and play space facilities are intended to be met on site as payments in kind, these elements would need to be considered in the final calculation.

6.114 In the event that LBE CIL is not adopted at the time of the determination of this application, the Heads

of Terms of the Section 106, as discussed at pre-application stage with officers are likely to include the following:

- Affordable housing
- Affordable workspace
- Education contribution
- Healthcare – contribution or provision of space on site
- Off-site highways improvements
- Site Wide Management Strategy/Plan (Green Infrastructure/Open Space)
- Parking Management Strategy/Plan
- Off-site public realm improvements (Healthy Streets/Legible London/Wayfinding)
- North Acton Station (TFL)
- Bus capacity improvements (TFL)
- Employment and Training contribution
- CPZ amendment to prevent residents from applying for parking permits
- Energy monitoring and clauses (Carbon Offset/ DHN connection)
- Design Monitoring
- Travel Plans
- Build to Rent covenants
- Management Plans for Co-Living/BTR

Imperial's White City campus followed the same route in 2012/13 of a hybrid planning application with a masterplan, the first phase including a 35 storey residential tower.

We urge the OPDC Planning Committee to be very wary of assurances on 'community benefits' given by OPDC, including those written into S106 Agreements. The experience of local residents impacted on by the College's development of what is now called its 'White City Campus' has been that promised benefits have not materialised.

- In 2013, the College entered into a S106 agreement as part of obtaining part full and part outline consent for its masterplan at Wood Lane. Promises made to local residents (and incorporated in the S106 Agreement) included a day care centre/nursery and a health centre, both available for use by residents. Neither of these has since materialised. The College has delivered on certain training and education commitments in the S106 Agreement.
- local people were also promised that the new campus would be 'permeable' with a public open space between the tall buildings. This has not to be proved the case as of 2022, albeit that there remain two buildings on Wood Lane at an early stage of construction. The College maintains security on its Kensington campus, which is not open to the public. Undertakings in relation to a 'public' open space at One Portal Way would need to be soundly secured in perpetuity as would management and maintenance commitments.
- the most significant S106 commitment at Wood Lane/White City was for Imperial to construct a pedestrian underpass beneath the West London Line, providing new connectivity between North Kensington and North Hammersmith. Nine years later, no start has been made on this piece of infrastructure despite continuing pressure from RBKC, LBHF and local residents. Regular project meetings, attended by the StQW Neighbourhood Forum, have not been resumed since early 2021. This connection would have made a significant improvement to the lives of many residents, in opening up additional public transport options. Imperial say they remain committed to the scheme, but when will it happen?



Imperial White City

The 'campus' in January 2022.

Twelve years after first promises of a new 'public square'.

Ground 5 - Fire Safety

This was one of the main concerns discussed by our members on February 1st. Our session was attended by Andrew Slaughter MP who had spoken on this subject in the Commons debate on the Building Safety Bill, held the previous week.

Having reviewed the Fire Strategy and Fire Safety Statement accompanying application 21/0181/OUTOPDC, it is clear that all three of the buildings of 50 storeys and above are designed with a central core and single staircase. We share the view of Hammersmith's Member of Parliament that evacuation strategies based on a combination of 'stay put', evacuation lifts, and a single 'fire-fighting' stair are unworkable in the real world.

The HSE Substantive Response of HSE to this application dated 02/02/2022, as published on the online planning register for this application puts the position as follows:

1.10 The response document highlights the qualitative design review in accordance with BS 7974. The headline findings of this review are identified in the fire strategy document. The level of compartmentation, evacuation policy (stay put), short travel distances and the provision of two evacuation lifts and a firefighting lift have been cited as justification for a single staircase in a building which is 182.7 metres high. HSE would like to put it on record that despite these justifications there is potential for the single escape stair to be simultaneously used by residents escaping from the building and firefighters proceeding to the scene of operations.

Our neighbourhood forum would like to 'put it on record' that it is obvious to all Londoners that a single escape stair will become blocked by desperate residents trying to flee the building, and firefighter trying to climb upwards. In a 56 storey building, whether the evacuation results from a fire or for other reasons, the consequences would be likely to exceed the death toll at Grenfell.

The relationship between Building Regulations and planning requirements remains a serious national fault line at present. But we consider Fire Safety to be a sufficient ground in its own right to require refusal or withdrawal of application 21/0181/OUTOPDC. Planning conditions imposed on a consent would not be sufficient, given that the design of the core of the three tower buildings.

Ground 6 – questions and comments on environmental material accompanying the application.

Application 21/0181/OUTOPDC is accompanied by a series of consultancy documents addressing environmental issues. Annex A to this second representation from OONF raises questions and queries on the validity of some of the assertions made in this material. This schedule of comments has been prepared by one of our members with expertise in this field.

Ground 7 - unfair consultation on the planning application, contrary to the OPDC Statement of Community Involvement

The OPDC's Statement of Community Involvement (December 2020 version) includes a set of 'principles' which OONF, GUA and other local groups worked hard to see included in this statutory document. These principles include that below, which has never been honoured by OPDC nor any of the applicants of major developments in the area.

Presenting Options

Applicants will be encouraged to set out reasonable options or choices and to have demonstrated that they have considered input from local communities on how plans and

proposals could be taken forward including those suggested by the community that are reasonable;

The application at One Portal Way is the largest that has been submitted since the Corporation was established in 2015. There was a reasonable expectation from the public of OPDC itself playing a significant role in 'early engagement'. This did not happen.

We ask OPDC planning Committee members to re-read (or to be reminded of by officers) of section 3 of the SCI. This deals with community involvement in individual applications.

3.12 of the Statement reads *For the most significant schemes, officers will consider the merits of hosting a presentation event during the statutory consultation period, which would be chaired by OPDC officers and attended by the applicant, who would present the scheme to stakeholders and interested parties. This would provide an opportunity for the community to find out more about the proposed development and ask questions of the applicant.*

Paragraph 3.20 states *OPDC may utilise stakeholder workshops at pre application stage for significant development proposals which 3.13. OPDC will strongly encourage applicants to take a positive and pro-active approach to engaging the community and applicants in the planning process. This should include engagement with established community network organisations, such as but not limited to local residents' associations, the Grand Union Alliance and Park Royal Business Group, and when appropriate will take place before an application has been submitted, as well as during the formal application process.*

No such event was organised by OPDC. Instead, the applicant team from Imperial (including their architects and consultants) were invited to give a presentation to Planning Committee members, on January 20th 2022 (the OPDC 'end date' for representations on the application having passed on January 8th).

The recording of this presentation was published on YouTube after the event (see at <https://www.youtube.com/watch?v=MzKOCzs1AwU>). If any advice was given by the Chair that Planning Committee members should avoid forming views on the proposals that would risk pre-determination of the committee's subsequent decision on the application, this does not feature at the start of the recording. As is often the case, it became clear from questions asked by the committee that there had been an informal pre-meeting and discussion in advance of the recorded part of the session.

No one from any of the community and resident groups which have been active over the past 5 years in responding to the OPDC Draft Local Plan, or on individual applications, was invited to take part in this presentation and the subsequent Q&A and discussion with Imperial's team.

Assertions from the applicant team went largely unchallenged. It was clear from the Q and A session that the role of Imperial College as applicant and future 'custodian' of the development was a significant factor in OPDC's overall thinking on the scheme.

Those OONF members who have viewed the recording had questions that we would have liked the opportunity to raise at the time:

- We are unconvinced by the reasoning given at this presentation that this development will have integral links with Imperial College/NHS imperial Health Trust activity at White City. The proposals for One Portal Way include no academic or university content as such and appears to be a wholly commercial venture.

- assurances were given to Planning Committee members that it is the College's 'ambition' to remain responsible as the 'custodian' of this new 'heart of North Acton', including the majority of the buildings. And that this will involve managing and maintaining the proposed open space as the equivalent of public open space (while it will in legal terms remain private land in the ownership of the College). As noted above, experience of local residents familiar with the Imperial White City campus suggests that the Committee should be cautious of such assurances.
- We are similarly doubtful of assurances given that all ground floors will be activated for any use (let alone 'curated' by Imperial with preferred uses). All the major developments in the OPDC area since 2015 have promised to bring with them popular and much needed uses such as GP surgeries, convenience shops and supermarkets, cafes and restaurants, pharmacies and so forth. This has not proved to happen in practice.
- Much emphasis was placed by Imperial's architects (Pilbrow & Partners) that the landscaped 'public space' will be created in the first phase of the development. This 'gift' to local people, it was claimed, would provide a new (and much needed) 'heart' to North Acton. We question this claim, given that the open space will lie within what will remain a construction site for the rest of a decade, even if Imperial's outline proposals for a further five buildings proceed according to plan.

Following on this presentation by Imperial's team to the Planning Committee, we asked OPDC Planning Director Emma Williamson why nothing had been done to organise a 'stakeholder workshop' in accordance with the OPDC SCI. Such tripartite sessions are held by several London Boroughs at pre-application stage (see e.g. City of Westminster's new guidance for developers and the public on '[Early Community Engagement](#)' and RB Kensington and Chelsea's [Development Forums](#)).

The response to our query, from OPDC Planning Director Emma Williamson, was as below: *As you are aware whilst the 1 Portal Way scheme was in pre-application, for which there was a joint PPA with Ealing and OPDC, it had been envisaged that the application would be determined by Ealing under the scheme of delegation in North Acton and as such the developer was following Ealing's processes.*

After we took the decision to retain the application we took the decision that the applicant's pre-app consultation was sufficient and given that this was now a live application a stakeholder workshop wouldn't be appropriate.

In terms of stakeholder workshops going forward I would envisage doing such a workshop for most schemes over 500 units.

We do not find this a satisfactory response from OPDC (as on many other aspects of this application). OONF members attended the online consultation sessions and pop-up exhibitions provided by the applicants. These are never an effective substitute for a three-way discussion between developers, planning officers, and the public. Only then can local knowledge of e.g. public transport and traffic issues, pedestrian desire lines, use of open space, community facilities needed, and the perceived impact of very tall buildings be included in the discussion.

For the above six reasons, in addition to those in Objection 1, we ask that this application be refused or withdrawn,

Old Oak Neighbourhood Forum
February 14th 2022