

**GOLD STANDARD 2010**

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**St Helen's Residents Association**  
**95 Highlever Road**  
**London W10 6PW**  
**sthelensasn@aol.com**

**All councillors on the LBHF  
Planning Applications Committee**

Councillor Alex Chalk (Chairman)  
Councillor Matt Thorley (Vice-Chairman)  
Councillor Colin Aherne  
Councillor Michael Cartwright  
Councillor Georgie Cooney  
Councillor Oliver Craig  
Councillor Rachel Ford  
Councillor Peter Graham  
Councillor Wesley Harcourt  
Councillor Alex Karmel

July 15th 2012

Dear Councillor,

**Imperial West Phase 2 planning application: PAC meeting July 25th 2012**

We are writing to you once again, having read the revised committee report for PAC on July 25<sup>th</sup>.

We have compared this new version with that withdrawn from the July 10<sup>th</sup> meeting, and would respectfully ask that you note the following points:

1. The report withdrawn from the July 10<sup>th</sup> meeting stated that the draft 2011 WCOAPF '*carries less weight than adopted policies in planning terms*'. The revised report states (at paragraph 3.110) '*Officers note that the draft WCOAPF is an emerging guidance and that very limited weight can be afforded to it.*' This is a change of advice from your officers, within the past fortnight. Can you place any reliance on what is now said?
2. We would recommend you give no weight whatsoever to a draft SPD, the content of which was contested when first published and which is not an appropriate or lawful vehicle for setting new planning policies in 'an area of significant change' such as the White City Opportunity Area.

3. A number of references to the 2011 draft WCOAP have been dropped from this new version of the committee report. But despite reminders to give '*very limited weight*' to this document, officers have again fallen back on sections of its text in their efforts to justify approval to very tall buildings as part of the Imperial development (see from 3.107 onwards of the report).

4. We suggest you take a common sense view (as we believe a court will do). As an elected councillor, would you have foreseen being asked to approve a 35 storey tower at this location, had there never been a 2011 draft WCOAPF, and the subsequent 18 months of public debate over 'gateways' and 'clusters' of 100m tall buildings in this part of the borough? This concept was introduced via the 2011 draft WCOAPF. The prospect of such a development was taken to an advanced level in pre-application discussions between council officers, the GLA and Imperial College. But this history is not your responsibility as councillors. If this 2011 document is now set aside, the background context and justification for approving such proposals falls away.

5. Reliance on Core Strategy statements alone (or even primarily) will not, in our view, survive legal challenge. These policy statements refer repeatedly to the WCOAPF as providing the detail of where tall buildings might prove 'appropriate' within the Opportunity Area. They are not statements which are self-sufficient on their own.

6. The revised report concedes (after many months of questioning and challenge on the issue) that the 2004 adopted version of the WCOAPF '*remains extant*' and '*has never been formally revoked or revised*' (paragraph 3.6). Officers may claim that it has '*effectively now been superseded*', but by what decision of the council and on whose authority? And how were local residents meant to know?

7. The argument at paragraph 3.6 that the 2004 version of the WCOAPF is now irrelevant, because the Woodlands site was at that time allocated to employment use, is a red herring. The 2004 WCOAPF set out a wide range of other planning policies, including those on building heights. Even in the revised committee report, your officers cannot bring themselves to admit that the 2004 adopted WCOAPF specifically states that '***North of the A40 building height and massing must respect the adjacent residential area.***' To omit this fact from the revised report places councillors at risk, once again, of making a decision without being given full information.

8. Officers argue (at paragraph 3.6) that the decision in R (Wakil) v LBHF [2012] EWHC 411, quashing the SPG for the Shepherds Bush Market development, applies to '*materially different circumstances*'. These differences are not explained, which seems a remarkable omission in a report on which councillors are being asked to make a major decision. The White City OAPF deals with an area of 'significant change' to an even greater extent than at Shepherds Bush Market. Although officers may be '*content that the Council's procedures are robust*' (paragraph 3.10), the High Court has clearly decided otherwise. PAC members are surely entitled to have an explanation in the committee report of the material differences between the Wakil case and the 2011 WCOAPF process, and the resultant implications for the Imperial West application?

9. The section of the report on the Financial Viability Assessment makes no attempt to address the points in our letter of July 3<sup>rd</sup>. PAC members are not being told what level of investment return or profit Imperial College intend to make on the development, and whether this level is reasonable as compared with that expected by a commercial developer.

10. Finally, the revised report includes no written legal advice from the council's Head of Legal Services or from external Counsel. We suggest that you ask for such advice to be provided to the committee meeting.

Our association has already given planning officers the benefit of legal advice, in the letter before action sent by our solicitors Webster Dixon. As a result, the previous version of the report was withdrawn and various sections redrafted.

We do not consider that these redrafted sections adequately address the issues we raised. If the committee is minded to make a decision on July 25<sup>th</sup> on the basis of the revised report, then so be it. We will reserve our position in terms of a subsequent legal challenge to any such decision.

Yours sincerely,

Henry Peterson  
Chair, St Helens Residents Association

cc Andrew Slaughter MP  
Sir Malcolm Rifkind MP  
Cllr Nicholas Botterill, Leader LBHF  
Cllr Victoria Brocklebank-Fowler  
Cllr Merrick Cockell, Leader RBKC  
Cllr Tim Ahern, RBKC  
Mayor for London  
Sir Edward Lister, GLA  
Colin Wilson, GLA  
Rosemary Pettit, Hammersmith Society  
Amanda Frame, Kensington Society  
Baroness Eliza Manningham Buller, chairman of Imperial College Council  
Jeremy Newsum, Imperial College Fund  
Derek Myers, joint Chief Executive RBKC/LBHF  
Nigel Pallace, LBHF  
Matt Butler, LBHF