

LOCALISM ACT 2011
MAYORAL DIRECTION

**OLD OAK AND PARK ROYAL DEVELOPMENT
CORPORATION GOVERNANCE DIRECTION 2019**

OPDC, Final

Coming into force: 1 August 2019

OLD OAK AND PARK ROYAL DEVELOPMENT CORPORATION GOVERNANCE DIRECTION 2019

BACKGROUND

- A. In order to provide an appropriate degree of scrutiny and accountability for the activities and programmes of the Old Oak and Park Royal Development Corporation (“OPDC”), following their successful Housing Infrastructure Funding (HIF) bid, the Greater London Authority (“GLA”) and the OPDC have agreed to put in place a mechanism by which the GLA will exercise a consultation and approval function for certain matters relating to OPDC’s governance, where consultation with, and the consent of, the Mayor is required under the Localism Act 2011, and otherwise where it has been agreed that such consent is necessary.
- B. It is now intended to formally record and implement that arrangement by way of a Mayoral direction to OPDC pursuant to section 220 of the Localism Act 2011 (“the 2011 Act”). OPDC have been consulted on the terms of this Direction.
- C. In August 2017, the Mayor approved (MD 2169) the OPDC giving financial assistance by way of grant under section 218 of the 2011 Act, which was extended and approved under MD 2435 (General Financial Assistance (Grant) Consent 2019) to be reviewed in December 2019.
- D. This document (“the Direction”) is called the Old Oak and Park Royal Development Corporation Governance Direction 2019 and incorporates the General Grant Consent.

MAYORAL DIRECTION

In accordance with section 220 of the Localism Act 2011 **I hereby direct** that from 1 August 2019, the Old Oak and Park Royal Development Corporation shall exercise its functions so as to comply with the requirements of this Direction, as set out below.

MAYORAL CONSENT TO GENERAL GRANT CONSENT

In accordance with section 218 of the Localism Act 2011 **I hereby confirm consent** to the General Financial Assistance (Grant) Consent 2019 set out in Annex 2, which is to be reviewed in December 2019.

PART 1: INTRODUCTORY MATTERS

Definitions

- 1.1 In this Direction the following words and phrases are defined as follows unless the context otherwise requires:
 - 1.1.1 “*Application*” means an application by OPDC in respect of a consultation under Part 2 below or an application for Consent under Parts 3 and 4;
 - 1.1.2 “*Board*” means the board of the OPDC;

- 1.1.3 “Consent” means the consent of the Mayor and/ or Executive Director on his/ her behalf under this Direction:
- as required by the provisions of the Localism Act 2011 or any other enactment, or in respect of the matters for which Consent is required listed in Parts 2, 3 and 4 below;
 - and includes “Prior Consent” in accordance with paragraph 1.5(a) below where stipulated.
- 1.1.4 “Executive Director” means the GLA’s Executive Director, Good Growth operating in consultation with the Executive Director, Resources (where the exercise of the delegations set out in this Direction involves a material financial matter), or such other senior member of GLA staff authorised to exercise Mayoral powers under either (a) Annex 3 of the Mayoral Decision-Making in the GLA (as amended from time to time) and/or (b) GLA Financial Regulations (as amended)¹ who are authorised by this Direction to exercise the Mayor’s powers under it on his/ her behalf, and the term includes the Mayor personally should s/he decide to do so.
- 1.1.5 “Functions” includes OPDC’s powers and duties, whether arising under statute or otherwise;
- 1.1.6 “General Grant Consent” means the General Financial Assistance (Grant) Consent 2019 a copy of which is at Annex 2;
- 1.1.7 “GLA” and “GLA Act 1999” means the Greater London Authority and the Greater London Authority Act 1999 (as amended);
- 1.2 A reference to the internal approval mechanisms of OPDC, includes the approval of its board or any committee, subcommittee, member or officer of the OPDC, acting under delegated powers.

Exercise of powers under Direction

- 1.3 The Executive Director operating in consultation with the Executive Director, Resources (where the exercise of these delegations involves a material financial matter) shall exercise the Mayor’s functions under this Direction, including:
- a) responding on behalf of the Mayor to consultations under Part 2 below;
 - b) processing Applications under Parts 2 to 4;
 - c) determining such Applications, including whether to refuse or to grant Consent and what conditions (if any) to impose; and
 - d) determining any matter under Part 5 below or otherwise provided for in this Direction.
- 1.4 The Executive Director may generally or specifically waive any requirement under this Direction including a requirement to obtain Consent where not required by statute.

¹ Both approved by MD2472

Effect of Direction

- 1.5 Where under this Direction:
- a) prior Consent is required then OPDC must obtain Consent before its board or other internal decision-making mechanism gives any binding approval to the matter on behalf of the OPDC;
 - b) prior Consent is not required (i.e. only Consent is required) then OPDC may (as they wish) take a decision to approve the matter with or without having first obtained Consent provided that:
 - i. the decision in question is expressed to be contingent upon Consent under this Direction being obtained; and
 - ii. OPDC shall not act upon or implement their decision nor enter into any legally binding commitment to do so until Consent is formally granted.
- 1.6 Nothing in this Direction fetters or restricts:
- a) the Mayor's ability to delegate functions to OPDC under sections 38 or 380 of the GLA Act 1999, before or after the date of this Direction;
 - b) the Mayor's ability to give guidance or to give general or specific directions or Consent to OPDC as to the exercise of any of its functions under sections 219 and 220 of the Localism Act 2011;
 - c) the Mayor's ability to require OPDC to furnish him/her with information to which he is entitled under the GLA Act 1999, including under sections 110 and 395; or
 - d) the London Assembly's powers under sections 61 to 63 or section 110 of the GLA Act 1999;
 - e) the OPDC's, Mayor's or GLA's obligations under the Freedom of Information Act 2000 or Environmental Information Regulations 2004 or the General Data Protection Regulation 2016 (as amended);
 - f) any other statutory or other legal requirement.
- 1.7 The arrangements under this Direction are subject to any conditions set out by Government as part of its grant (if any) to the GLA as regards the functions of the OPDC.

PART 2: MATTERS ABOUT WHICH THE MAYOR MUST BE CONSULTED

- 2.1 The Mayor must be consulted prior to:
- a) the OPDC determining any matter delegated by the Mayor to OPDC under sections 38 or 380 of the GLA Act 1999 where the delegation in question stipulates that the Mayor shall be consulted first.
 - b) the following (covered in the OPDC's Scheme of Delegation under the following decision headings):
 - Page 6, *Budget, business and annual report* – before the OPDC finalises its budget for the year, and before the board approves the draft budget and business plan for the purpose of their formal submission to the GLA as part of the GLA group's annual statutory budget approval process.

- Page 7, *Appointments and governance* – before adopting or making any significant changes to its standing orders or other rules of procedure, or its scheme of delegations.

PART 3: CONSENTS UNDER THE LOCALISM ACT 2011

3.1 Consent (subject to the relevant provision of the 2011 Act in question) must be obtained to the following matters (included in the OPDC's Scheme of Delegation under the following decision, where applicable):

Page 5 – *Spending, grants, asset disposals:*

- Submitting a CPO (section 207);
- land disposal for less than best consideration or land has been compulsorily acquired under the Act (section 209);
- Giving financial assistance to a person or organisation (e.g. grants, loans, guarantee, indemnity etc.) (section 213).

Page 6 – *Bodies corporate:*

- forming or acquiring interests in bodies corporate (section 212).

Page 7 – *Appointments and governance:*

- approving the terms and conditions on which staff are to be appointed (Schedule 21, paragraph 3);
- determining the rates and eligibility criteria for staff remuneration, travelling and other allowances and pensions and gratuities; (Schedule 21, paragraph 4);
- appointing persons who are not members of the OPDC's board to a committee or sub-committee of the OPDC (Schedule 21, paragraph 6);

Others

- permitting an OPDC subsidiary (if any) to borrow money or raise finance by the issue of stocks and shares otherwise from the OPDC (section 212(4));
- giving financial assistance to any person outside the scope or terms of the General Grant Consent.

PART 4. REQUIREMENTS FOR CONSENT IN OTHER CIRCUMSTANCES

Matters included in the OPDC's Scheme of Delegation:

4.1 Prior Consent must be obtained for the following matters (included in the OPDC's Scheme of Delegation under the following headings):

Page 6 – *Budget, business plan and annual report:*

- OPDC Business plan (consultation and prior Consent).

Page 7 - *Appointments and governance:*

- Appointing a Chief Executive Officer (Consent)

Other matters not included in Scheme

- 4.2 Prior Consent must be obtained to any item of borrowing by OPDC.
- 4.3 Prior Consent must be obtained for any item of capital or revenue expenditure which cannot be contained within OPDC's approved budget for the year.
- 4.4 Prior Consent must be obtained for any item of capital or revenue expenditure which would lead to the GLA's agreed level of cash flow support to the HIF programme being exceeded or that would lead to a liability greater than the GLA's agreed level of support to the HIF programme.


PART 5: ADMINISTRATIVE MATTERS

Applications for Consent

- 5.1 OPDC shall provide the GLA-OPDC Finance and Policy Liaison meetings (held every 6-8 weeks), with a Consents Tracker that provides details of projects, proposals and matters which it anticipates will require Consent under this Direction and, as and when required, shall keep the Finance and Policy Liaison Group and the Executive Director informed about any significant issues affecting them, including any applicable developments, deadlines and dependencies.
- 5.2 Applications shall:
 - a) be submitted by OPDC in a timely manner and to allow sufficient and appropriate time for GLA officials to consider the matter. It is expected that a Mayoral decision may take approximately 10 working days to be approved from the day it is submitted to the Regeneration team. However, the team will endeavour to process decisions as soon as practically possible;
 - b) clearly identify the subject matter of the consultation, or in respect of which Consent is sought under 3.1, 4.1, 4.2, 4.3 and 4.4 of the Direction by using one or more of the relevant identification codes listed in Annex 1;
 - c) clearly state any relevant deadlines or dependencies;
 - d) be supported by a business case that contains the same information and is in the same format as OPDC would normally use for its own internal approval processes (provided always that the Executive Director may require such further information or clarification as he/she considers necessary in the circumstances).
- 5.3 The Executive Director shall endeavour to determine the Application as soon as reasonably practicable following receipt, having regard to any relevant deadlines or dependencies stated in the Application and any information to be supplied by OPDC.
- 5.4 If the Executive Director is minded to refuse Consent then he/she shall consult OPDC before formally determining the Application.
- 5.5 Any Consent given under this Direction:
 - a) shall be confirmed in writing by or on behalf of the Executive Director;
 - b) may be given unconditionally or subject to conditions;

- c) may be given in relation to a particular case or in relation to such categories or descriptions of cases as may be specified in the Consent, including under a general consent under section 221 of the 2011 Act;
- d) shall, unless otherwise stated in the decision, grant Consent to all the matters for which it was sought in the Application;
- e) may be varied or revoked by a notice in writing given by the Executive Director to OPDC (but no variation or revocation may be made in relation to anything which OPDC has already done or where it has already entered into a legally binding commitment upon the authority of a Consent that has been given).

EXECUTION

Signature 

Sadiq Khan
Mayor of London

Dated 29/7/19 2019

ANNEX 1

Identification Codes

Code	Requirements under Direction	Relevant paragraph in Direction or applicable parts of the Localism Act 2011
C.1	Consultation prior to determining matters delegated by the Mayor to OPDC	Paragraph 2.1 (a), Direction
C.2	Consultation on significant changes to OPDC Standing Orders	Paragraph 2.1 (b), Direction
C.3	Consultation on significant changes to OPDC Scheme of Delegation	Paragraph 2.1 (b), Direction
C.4	Consultation prior to OPDC finalising its budget, and before submission of the OPDC's budget and business plan to its Board	Paragraph 2.1 (b), Direction

Requirements under the Localism Act 2011

L.1	Submitting a compulsory purchase order	Section 207
L.2	Disposing of land for less than the best consideration which can reasonably be obtained or which has been compulsorily acquired under the Act	Section 209
L.3	Forming or acquiring interests in bodies corporate	Section 212 (2)
L.4	Giving financial assistance to a person or organisation	Section 213
L.5	Terms and conditions on which staff are to be appointed	Schedule 21, paragraph 3
L.6	Determining the rates and eligibility criteria for staff remuneration, travelling and other allowances and pensions and gratuities	Schedule 21, paragraph 4

<i>L.7</i>	Appointing persons who are not members of the OPDC's board to a committee or sub-committee of the OPDC	Schedule 21, paragraph 6
<i>L.8</i>	Permitting an OPDC subsidiary (if any) to borrow money or raise finance by the issue of stocks and shares otherwise from the OPDC	section 212(4)
<i>L.9</i>	Giving financial assistance to any person outside the scope or terms of the General Grant Consent.	section 218
<i>D.1</i>	Prior Consent to the appointment of OPDC chief executive	Paragraph 4.1, Direction
<i>D.2</i>	Prior Consent to the submission to the Board of OPDC's business plan	Paragraph 4.1, Direction
<i>D.3</i>	Prior Consent to OPDC borrowings	Paragraph 4.2, Direction
<i>D.4</i>	Prior Consent for any item of capital or revenue expenditure which cannot be contained within OPDC's approved budget for the year.	Paragraph 4.3, Direction
<i>D.5</i>	Prior Consent for any item of capital or revenue expenditure which would lead to the GLA's agreed level of cash flow support to the HIF programme being exceeded or that would lead to a liability greater than the GLA's agreed level of support to the HIF programme.	Paragraph 4.4, Direction

ANNEX 2

OLD OAK AND PARK ROYAL DEVELOPMENT CORPORATION

OPDC GENERAL FINANCIAL ASSISTANCE (GRANT) CONSENT 2019

("General Grant Consent")

1. In accordance with sections 213 (1) and 221 (1) of the Localism Act 2011, I hereby give Mayoral consent to the Old Oak and Park Royal Development Corporation ("OPDC"), to give financial assistance from time to time to any person by means of the making of grants where the conditions in paragraphs 2 and 3 are fulfilled.

consented grants

2. Consent is given in the following circumstances:

The Mayor's consent must also be obtained to the giving of financial assistance to a person or organisation (e.g. grants), where grants are only to be awarded where:

- a) the total lifetime cost of the grant in question is of any value and:

- I. the grant is in respect of a project where the grant is funded by monies paid in accordance with an agreement entered into under section 106 of the Town and Country Planning Act 1990; or
- II. is paid from monies collected by the OPDC under the Community Infrastructure Levy Regulation 2010 (as amended) and where the project or type of infrastructure on which the grant is to be spent is contained in the list of projects or types of infrastructure which is published on the OPDC's website from time to time pursuant to reg. 123 of the Regulations; or

- b) the grant in question does not fall under I. and II. above and its total lifetime cost is between £1 and £150,000.

conditions

3. In respect of the grants that are covered under this document:

- a) Where the total lifetime cost of the grant is between £1 and £10,000, the OPDC's legal and financial advisors (internal or external) must confirm in an auditable form that the decision to provide the grant is made in a fair, open and transparent manner, and (if it is the case) there are sound reasons to waive any requirement of the OPDC's General Funding Guidance (as approved from time to time).
- b) Where the total lifetime cost of the grant in question is over £10,000, the OPDC's legal and financial advisors (internal or external) must confirm in an auditable form that the decision to provide the grant is in full accordance with the OPDC's Grant Funding Guidance (as approved from time to time).

- c) In all cases, the OPDC's legal or financial advisors (internal or external) must confirm in an auditable form that the provision of the grant in question is within the OPDC's legal powers, and in line with its corporate objectives and approved business plan (as approved from time to time).

Other matters

4. The OPDC shall make available to the GLA on request an up-to-date, consolidated list of grants giving appropriate details (including date or proposal date, recipient, amount, purpose, budgetary provision, and whether it falls within the paragraph 2 (a) (I.) or (II.) or (b) above) of all grants for financial assistance proposed, or made by the OPDC.
5. The Consent given by this document shall continue in force unless varied or revoked in accordance with section 221 (3) of the Localism Act 2011, noting the Consent is subject to review by not later than the end of December 2019.
6. This document confers Consent for the purposes of section 213 (1) of the Localism Act 2011 only, and only as regards the provision of financial assistance by means of a grant. It does not confer Consent for any other type of financial assistance the OPDC may provide. Additionally, it does not confer any other Consent required by, or under, either (a) the Localism Act 2011, or any other enactment, or (b) or any other direction given to the OPDC from time to time under section 220 of that Act.