



## Hearing Statement

### Matters 1-3

- 1 Legal Requirements, Scope of Local Plan, Policies Map and Duty to Co-operate
- 2 Sustainability Appraisal (SA) and Habitats Regulation Assessment (HRA)
- 3 The Vision and the Strategic Objectives and Opportunities for the regeneration of Trafford's Civic Quarter

On behalf of:

**Derwent Development Management Ltd**

In respect of:

**Trafford Civic Quarter:**

**Area Action Plan**

**Examination in Public**

Date:

**March 2022**

Reference:

MA/DDML/029-3/R001m

## 1.0 Introduction

- 1.1 This Hearing Statement is submitted in respect of document INS-01 as it pertains to Matters 1-3 inclusive. A key thrust of our response in this respect is the policy framework as it will pertain to the uses impacting White City Retail Park and other property assets in DDML's ownership.
- 1.2 We have previously submitted representations to earlier stages of consultation to the AAP on behalf of Derwent Group. These representations are submitted on behalf of DDML as Derwent has restructured its business and its trading company is now DDML.
- 1.3 This Statement provides responses to the following questions from Matters 1-3 from INS-01:
- 1.3 (ii) (Policy CQ10)
  - 2.4 (Policy CQ4)
  - 2.5 (Policy CQ4)
  - 3.1 (Policy CQ1)
  - 3.2 (Policy CQ1)
- 1.4 In the context of Policy CQ10, the Inspector may be aware that we issued representations to the consultation version of this Plan which discussed the car parking strategy for the AAP area that would strive to deliver more opportunities for new built form and a reduced reliance on surface car parking.
- 1.5 It is important to note that the identification of land for intensive car parking on a Proposals Map should be used as a positive tool rather than one which would be restrictive or impede the delivery of end uses that are otherwise appropriate in planning terms.
- 1.6 In the context of Policy CQ10, the Inspector may be aware that we issued representations to the consultation version of this Plan which discussed the more rigorous requirements to address overarching objectives to deliver sustainability and to tackle climate change for the AAP area, and the general lack of evidence that those would be reasonable and genuinely shown that these would not have the potential to impede the delivery of Plan-led growth.
- 1.7 The Council's "Summary of Reps and Council Responses" document makes brief reference to our representations to Policy CQ4 which essentially cross-refers to the Continuum viability document dated November 2021. Evidence relating to viability is considered under the Matter 11 MIQs and DDML is advised by CBRE and we point the Inspector to that Statement.
- 1.8 Notwithstanding the statement made above, it is self-evident that Continuum have not

sought to provide any new quantitative work which could serve to show that the application of the CQ4 requirements would have no adverse impact on viability and that the policy framework as a whole would allow Plan-led development to be viable and deliverable.

- 1.9 We are therefore compelled to prepare and submit this Statement to assist the Inspector to draw out this information from the Council at the Examination.
  
- 1.10 We set out that work has commenced re the preparation of a Statement of Common Ground with Trafford Council and there is potential that any areas of difference between the parties could be reduced prior to the Hearing sessions being commenced. We reserve the right to respond to the Council's comments regarding INS-01.

## 2.0 Responses to Key Questions

### Matter 1 Topic 1.3- Policies Map

*1.3 (ii) The Policies Map needs to include all the policies contained in the Plan which have a geographical application, whether or not they refer to land use changes. For example, policy CQ10.3 refers to new multi-storey car park (MSCP) solutions, with four sites included on the map at the foot of page 81. If these are proposed MSCP sites, or other expressions of consolidated parking, they need to be identified on the Policies Map.*

- 2.1 We submitted representations in the context of Policy CQ10 to the earlier consultation windows including Reg 19 consultation in March 2021 making a number of points, including the need for any multi storey car park (MSCP) and to ensure clarity and greater detail if this was intended to be delivered at an early stage.
- 2.2 We also made commentary in terms of the potential viability implications for our client in the context of an MSCP being positioned at White City Retail Park. These matters are expanded in consideration of Matter 11 which is authored by CBRE on behalf of the client. We therefore refer the Inspector to that Statement to the Examination of the Area Action Plan.
- 2.3 We note this MIQ which would appear to encourage the identification of these MSCPs upon the Proposals Map, including as it might pertain to White City Retail Park.
- 2.4 As we have set out in representations, White City Retail Park is likely to be an area of change over the Plan period and it is important that the Plan supports that approach to maximise and accelerate investment and positive change without impeding other investment decisions that could be otherwise appropriate in planning terms.
- 2.5 In the event that the Proposals Map was modified to identify these MSCPs, we think it is absolutely essential that the AAP provides clear text to highlight that these are strategic opportunities and there would be a positive approach to meanwhile uses of that land that would provide strong contribution to the local economy.
- 2.6 We can understand the rationale for placing these MSCPs on the Proposals Map but we would not support this in the context of White City Retail Park, unless there was express policy text to clarify that the policy framework would give positive weight to the consideration of other meanwhile uses of the same land.
- 2.7 Those meanwhile uses would provide strong contribution to the local economy whilst safeguarding the future opportunity for the identified MSCP to be delivered at an appropriate

point in time to reflect market signals.

- 2.8 Assuming that the Council confirm that this is the intention to this revision, then we withdraw any outstanding objection to the Policies Map.

## Matter 2 Sustainability Appraisal

*2.4 Does policy CQ4 – Sustainability and Climate Change - require a reasonable level of commitment to achieving high levels of energy and water efficiency, and is the overall aim for new development to be carbon neutral by 2028 realistic?*

- 2.9 We submitted representations in the context of Policy CQ4 to the earlier consultation windows including Reg 19 consultation in March 2021 making a number of points, including the need for the Plan to properly and effectively demonstrate that the associated obligations are reasonable and achievable.
- 2.10 We also made commentary in terms of the potential viability implications for our client in the context of considerable growth being anticipated on land owned by our client including that at White City Retail Park. These matters are expanded in consideration of Matter 11 which is authored by CBRE on behalf of the client. We therefore refer the Inspector to that Statement to the Examination of the Area Action Plan.
- 2.11 As we have set out in representations, our client recognises the need to address climate change and to deliver genuinely sustainable economic development in the early part of the Plan period. Our concern is instead that the impact of those obligations on deliverability has not been assessed, particularly in the prism of Plan-led requirements for affordable housing and a “roof tax” in the AAP area.
- 2.12 In this context, DDML would strongly argue that it will continue to have a reasonable commitment to achieving high levels of energy and water efficiency, but it must be incumbent upon the Council to be similarly committed to ensuring that the ramifications of that approach upon deliverability are integrated into any evidence it seeks to put forward to justify other obligations including affordable housing and a roof tax to fund infrastructure.
- 2.13 The published schedule of Main Modifications only appears to focus upon Policy CQ1, so there is no evidence that the Council has sought to modify its position in the context of Policy CQ4. The concerns highlighted in earlier representations re the lack of effective evidence to demonstrate that these obligations are achievable and that they would not impede Plan-led growth should be afforded considerable weight, and these have ostensibly not been

addressed at all. This must tend towards a conclusion that the policy is unsound and must be revisited. Given the centrality to the soundness of the Plan as a whole, then this has adverse ramifications for the determination of soundness of the AAP unless these matters are properly addressed.

- 2.14 We understand that the aspiration for carbon neutrality for new development by 2028 exceeds those set by Government for the wider economy (2050). Ongoing changes to Building Regulations will mean that new development will inevitably have lower carbon emissions through construction and into operation and contribute positively on the path towards net zero.
- 2.15 The Council's viability evidence relies on comparator schemes to act as benchmarks, but we understand that these do not achieve carbon neutrality. We have not seen any meaningful justification material which would show that the viability evidence for the AAP has made proper allowance for the cost implications of carbon neutrality.
- 2.16 The first part of Policy CQ4 does appear to provide some flexibility insofar that it seeks that new development should provide for high-efficiency design in terms of water and energy demand subject to what is practical and viable to do so. However, the criteria in the second part of the policy must all be met and these (especially the seventh bullet) appear to oblige the requirement for net zero and offsetting as necessary. Whilst the policy itself does not refer to the 2028 date, it is cited in the preamble and must be assumed to be the policy's intent.
- 2.17 As worded, this represents a negatively worded policy that would run the risk of impeding development unless developers were to adopt technologies which have no basis in evidence of being viable and realistic. This would render the policy unsound.
- 2.18 We suggest that a preferred way forward would be to afford very strong positive weight to proposals that adopt a low carbon approach and could demonstrate a long-term strategy towards achieving net zero.
- 2.19 We would accept that it would be reasonable for the Plan to include accompanying text that ensured that the extent of positive weight afforded to low carbon development would be subject to any future evidence in terms of relative viability when using those technologies and any impediment to delivering new homes in the latter part of the Plan period. It would be appropriate at that point to consider changing the construction of the policy from positive support to requirement, but to do so now would render that policy unsound.

**2.5** *Are the criteria for developers set out in part 2 of policy CQ4 realistic as well as sustainable?*

- 2.20 We understand that the aspiration for carbon neutrality by 2028 exceeds those set by Government (2050). Ongoing changes to Building Regulations will mean that new development will inevitably have lower carbon emissions through construction and into operation and contribute positively on the path towards net zero.
- 2.21 We are aware that Nottingham does have an adopted objective for carbon neutrality by 2028. However, it is the only major centre in England that has such an adopted objective and for carbon neutrality to be achieved by 2028. We are aware through Press reporting that Nottingham is securing improvements to its carbon emissions but the 2028 target is ambitious and hugely challenging.
- 2.22 However, the AAP's ambition to achieve this by 2028 alongside other obligations is an enormous challenge especially in the context that the premise of the AAP is to deliver step-change regeneration of the area and to will the housing market to accept 4000 new apartment homes that meet these environmental standards. The realism of securing this in the AAP area by the same date from a standing start must therefore be even more challenging and that has ramifications for realism.
- 2.23 The criteria in the second part of Policy CQ4 must all be met and these (especially the seventh bullet) appear to oblige the requirement for net zero and offsetting as necessary.
- 2.24 As worded, this is a negatively worded policy that would impede development unless developers adopt technologies which have no basis in evidence of being viable and realistic.

**Matter 3 Vision and Strategic Objectives**

**3.1** *Overall, are the vision and the strategic objectives and opportunities for the regeneration of Trafford's Civic Quarter appropriate and does policy CQ1- Civic Quarter Regeneration - establish a sustainable and realistic framework to achieve them? Is the Plan in general conformity with the Local Plan Core Strategy and any emerging planning policy for relevant areas? Does the Plan effectively address the area's lack of identity?*

- 2.25 We submitted representations in the context of Policy CQ1 to the earlier consultation windows including Reg 19 consultation in March 2021 making a number of points, including the need for the Plan to recognise that there are deliverability challenges to the early realisation of some major regenerative development in the AAP area.
- 2.26 We set out and maintain that it would be prudent to give positive weight to the opportunity

for meanwhile uses to catalyse the economic performance of the AAP area in the shorter term without necessarily impeding longer-term objectives.

- 2.27 The Vision is in broad terms a high-level set of ambitions which are laudable. The deliverability of these ambitions will be largely reliant upon the private sector taking this forward and they will need to be convinced that there is a market for 4000 new homes and other associated development, all of which will be geared to sustainable design and provide funding for infrastructure requirements arising.
- 2.28 As we set out in more detail within our response to Matter 11, there are considerable concerns that the obligations which are imposed by the AAP policy framework are not based in clear evidence. This therefore raises the clear prospect that the aspirations set out by the Vision and Strategic Objectives may not be reasonable and achievable.
- 2.29 We particularly refer to the four following Strategic Objectives which are important, and it does not appear clear that the AAP will ensure that these are realised:
- Supporting Economic Growth;
  - Supporting Sustainability;
  - Consolidation and Rationalisation of Car Parking; and
  - Improved Permeability and Connectivity.
- 2.30 We have submitted representations to the effect that the balance of economic uses being proposed by the Reg 19 AAP would fail to meet the genuine shopping requirements of the residents of this significant new neighbourhood of new homes and those working in the new offices and attending the higher education facilities.
- 2.31 We understand that the Council does intend to show that more retail facilities could be provided to serve the AAP area, primarily by retaining more of the White City Retail Park site for those uses. We welcome that in principle but we must also note that this will have an inevitable effect upon residential yield and the indicative plans for the consolidation of car parking and pedestrian routing through the wider AAP area.
- 2.32 It will be incredibly important for the Council to undertake the exercise to clarify how the proposed revision of policies relative to retail provision will impact upon other aspects of the AAP including overall yield and housing trajectory.
- 2.33 We have set out through our responses under Matter 2 that the requirements for sustainable design through Policy CQ4 are negatively worded and introduce obligations that have

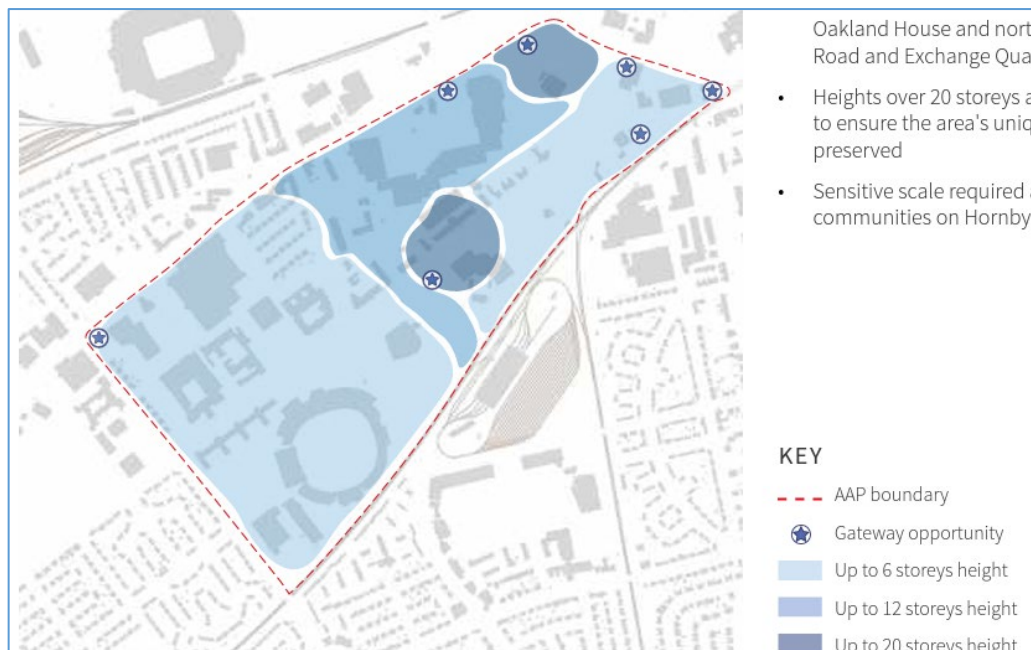


palpably inadequate evidence that they can be realised given the viability challenges that also arise from AAP aspirations re the delivery of affordable housing and contributions to the infrastructure which is sought. Those arguments are taken forward in the Matter 11 statement prepared by CBRE and we would assume should be discussed in that session of the Examination hearings.

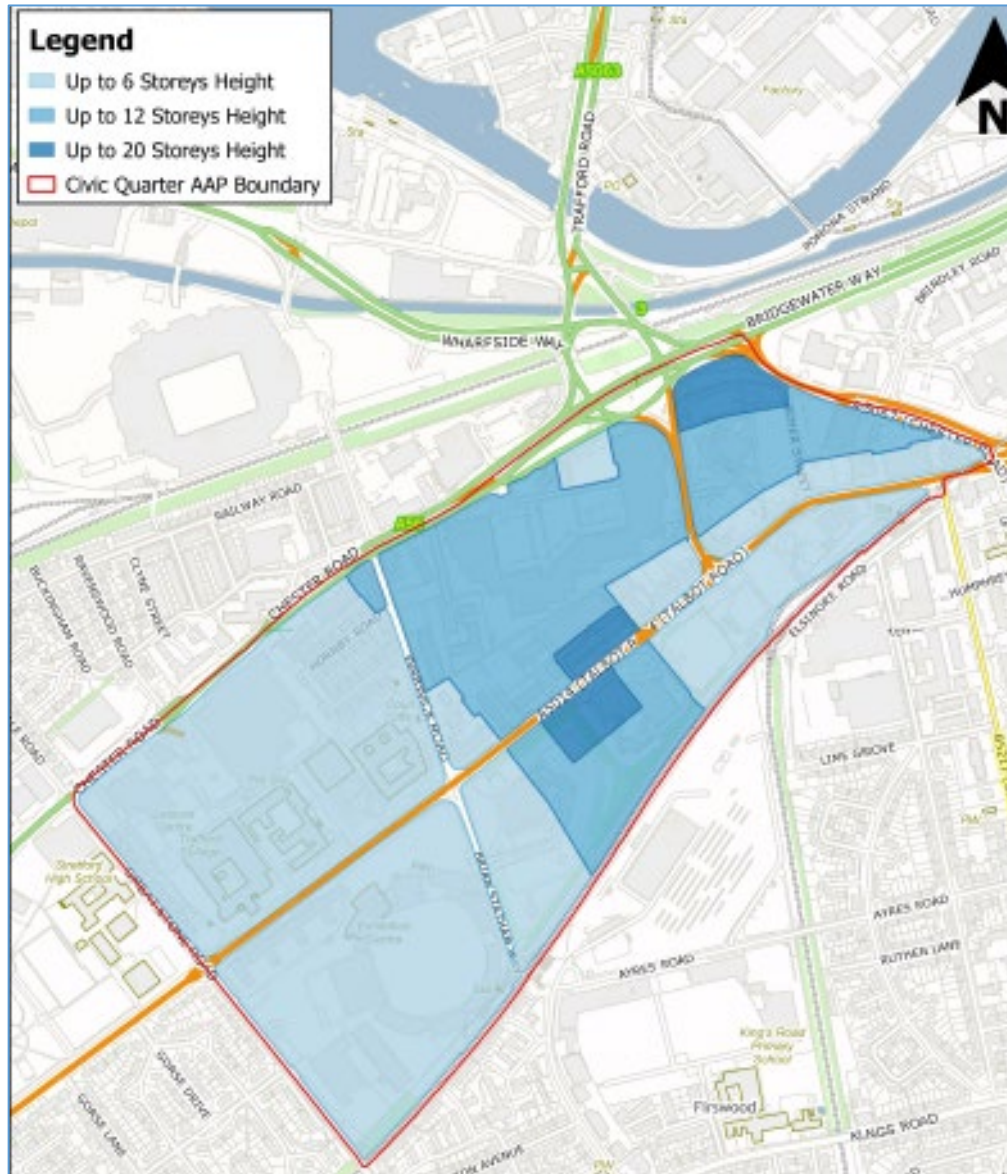
- 2.34 Unless the Council can demonstrate that these obligations will not impede delivery then those obligations must be reconsidered, and the onus falls firmly upon the planning authority rather than on representors.
- 2.35 Many of the AAP obligations are inconsistent with the Development Plan, and the Inspector will need to determine soundness and how the competing frameworks will be applied for DM decision processes. At a high level, it will be challenging for local members to see applications located on either side of the AAP boundary with different obligations and standards being applied. We would suggest that (as a minimum) the AAP should include text to provide advice and guidance about how these highly foreseeable scenarios would be determined in practice.
- 2.36 We also set out significant concern that the principal aim of the AAP is to drive forward major step-change regeneration of the area, which would inevitably require considerable private sector investment needing to be convinced that the redevelopment anticipated by the AAP is genuinely deliverable. Prior to that point, the AAP should positively embrace meanwhile uses that will positively contribute to the local economy during the earlier part of the Plan period.
- 2.37 Without including such a mechanism, the AAP would serve to prejudice the implementation of developments that would otherwise be acceptable and (in reality) more deliverable than the strategic ambitions of the AAP at that point in time.
- 2.38 We have previously set out that in the context of White City Retail Park (as an example) that there is broad support for AAP ambitions but that any redevelopment decision requires effective market testing. There must be strong likelihood in the context of White City where there are commercial leases that the realisation of any such redevelopment would be phased.
- 2.39 Given that the AAP does not expressly consider phasing or interim uses, that is a lacuna that needs to be rectified. The policy should expressly recognise the need for pragmatism in terms of phasing and therefore support for "meanwhile uses". This requires a substantial revision to the second limb of the policy which currently obliges the applicant to demonstrate why their proposal would not impact on AAP objectives. Without such revisions, this tends towards a conclusion that the policy will not provide a sound framework to achieve stated Objectives.

**3.2** *Do the Parameter Plans, building height parameters and framework for improved permeability and greenspace support the vision and strategic objectives of the Plan and provide a sustainable basis for the implementation of policy CQ1?*

- 2.40 We submitted representations re Policy CQ4 including Reg 19 consultation in March 2021, including the need for the Plan to recognise that unless these supplementary plans can be effective that they should instead be deleted.
- 2.41 We can see that the Council does propose to revise these supplementary plans albeit it does not appear to show in spatial form how this would impact on built form or apply consequential adjustments to housing yield and trajectory. The same is applicable across the AAP area where it anticipates that yield would reduce on several plots by constraint to building heights.
- 2.42 Any reduction in yield applied on a plot-by-plot basis would suppress its potential to deliver new affordable homes and otherwise secure enough commercial return to respond to obligations sought by the Council through the AAP in terms of levies and higher building standards. This then places greater pressure on viability analysis and increases the likelihood of the viability appraisal route or to otherwise suppress deliverability of the AAP ambitions. This contrasts starkly with comments within the Council’s response to Regulation 19 consultation which states plainly that they expect limited need for viability appraisal work being needed to be employed at development management stage.
- 2.43 The Reg 19 consultation included a Building Heights Parameters Plan (extracted below) which identifies heights but also locations for “gateway opportunity” where potential was greater.



2.44 The Council now seeks to introduce a revised Building Heights Parameters Plan (extracted below) which removes these gateway locations and creates other adjustments to anticipated heights which (in broad net terms) would appear to reduce the building heights and therefore suppress the potential yield that can be achieved on individual sites and across the AAP area.

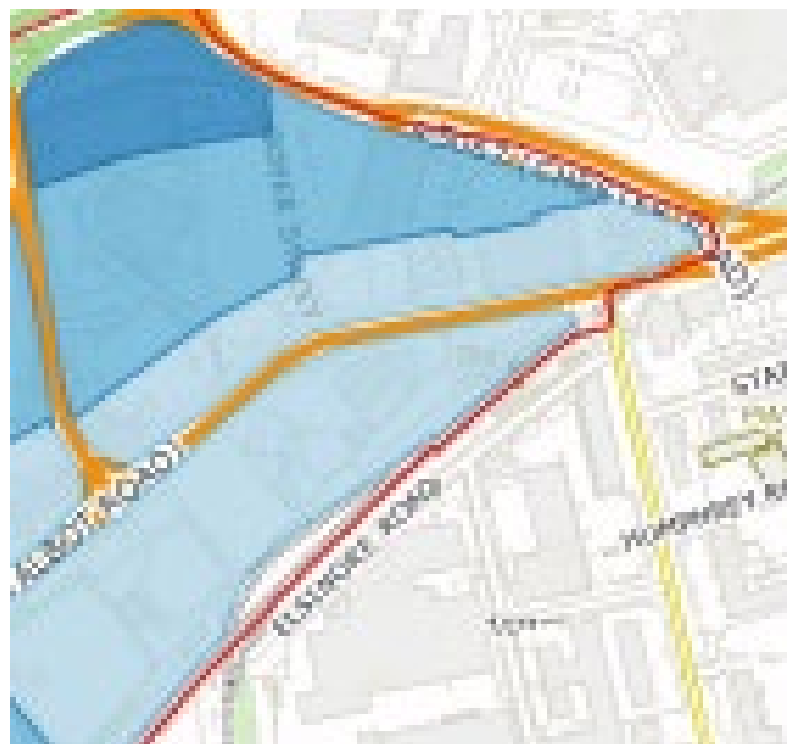


2.45 On a site basis, we note considerable reductions in anticipated heights for parts of White City Retail Park and Bingo 3000 sites as well as other locations to the south side of Talbot Road.

2.46 For White City, the change seeks to ensure that the setting of the listed arch is not impacted. This is surprising, given that the heritage significance of the arch has been entirely understood and highlighted by the early consultation on the AAP where areas to the north-eastern corner of the plot were being mooted by the Council for landmark development of up to 20 storeys.



- 2.47 The Council should acknowledge that a residential development of this scale requires a suitable shopping offer to meet the needs of new and existing residents that rely on these key facilities. In terms of wider layout, this must anticipate parking and servicing requirements.
- 2.48 In the context of the Bingo 3000 plot, the Reg 19 consultation included a gateway location marker that has now been removed. This and the specific delineation of the "6 storey" and "12 storey" zones would appear to reduce the potential of that site.



- 2.49 The policy advises that the parameter plans do form part of the policy but that nevertheless they are illustrative only. Given that the Council has felt it necessary to revise the Heights Parameter Plan it must be indicative of its intent. In the context of the changes to the Parameter Plan as it might be interpreted in the context of DDML assets at White City Retail Park and at the eastern end of Talbot Road, DDML strongly objects to this change.
- 2.50 The cornerstone of the AAP is to put forward an exciting new vision for a given area and bring in a modern and cohesive character of new development and associated regenerative stimulus. However, the AAP area is not a blank canvas and contains land holdings with inherent land value- especially those sites which are in active commercial use and are now generating rental income following considerable prior capital investment.
- 2.51 Any investment decision to design and then construct new residential apartments must be subject to evidence that the exercise will deliver a reasonable developer return. This decision-making process is more finely balanced in relation to sites which are already in intensive commercial use and generating income.
- 2.52 Simply put, the suggested changes to the Parameter Plan would tend towards solutions that will have reduced residential yield and therefore much suppressed potential for the return on investment to be advantageous as compared to simply staying as is.
- 2.53 It is with regret that we must conclude that the changes to the Building Heights Parameters Plan will have a material adverse impact on the deliverability of new residential uses on these plots in the early part of the Plan period. This also has ramifications for any strategy in terms of MSCPs, shared open space and Connecting Routes through the AAP area.
- 2.54 We have set out above that the suppression to building heights in the immediate vicinity to the listed archway at White City is noted, but reference to the Reg 18 schematics did not deter the Council from putting forward buildings of height in the north-eastern corner of the plot.
- 2.55 The greater concern is the omission of the gateway location designations which fail to take that opportunity to secure a sense of arrival to the AAP area and to encourage the critical mass of investment that is necessary to deliver the scale of new homes and support the infrastructure which is being sought.
- 2.56 Given that the effect of these proposed changes is to worsen the deliverability challenges, we would suggest that if these parameter plans are simply illustrative then the best resolution is that they should be omitted. If they were retained and were given weight in decision making, this could prejudice the implementation of schemes that would otherwise be acceptable.