

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 9 July 2014	<b>Decision Taker:</b> Cabinet member for Public Health, Parks and Leisure
<b>Report title:</b>		Public Access to Cathedral Square	
<b>Ward(s) or groups affected:</b>		Cathedrals	
<b>From:</b>		Strategic Director Environment & Leisure	

## RECOMMENDATIONS

1. That the Cabinet Member notes the results of consultation on a proposal to restrict public access to cathedral square during night time hours, and,
2. That the Cabinet Member agrees to retain the current public access to Cathedral Square at night time for the reasons set out in paragraph 40 of this report.

## BACKGROUND INFORMATION

3. Cathedral Square is a riverside square that is located in SE1 (Cathedrals Ward), just north of Southwark Cathedral. It is a public open space established in 1980 following the redevelopment of historic river wharfs. The site is managed by the Public Realm Division. The square is an open access site that is not enclosed with a boundary fence. On the west side it is neighboured by Minerva House which contains twelve residential flats and offices, some of which over look the square. On the east side of the square is Glaziers' Hall which is an events venue. (See Appendix 1 for location plan).

## Summary of the issues

4. The residents of adjacent flats in Minerva House have been complaining of night time nuisance from Cathedral Square over a period of years. The residents state that this takes the form of rough sleepers, people drinking, making noise, climbing on the river wall and undertaking anti social, inappropriate behaviour and dangerous behaviour.
5. Despite a series of multi agency interventions which include extra night time patrols by both the police and wardens, a re-design of the square, additional signage and enforcement, the residents maintain that night time disturbances continue. The majority of residents maintain that the only effective solutions to the disturbance is the restriction of public access at night by the erection of a fence with gates and close the square from dusk (variable times depending on the time of year) to 7.30am to reflect park opening hours.
6. Whilst officers appreciate that the residents are distressed by the alleged disturbances, the response of the council should be proportionate to the issues raised and balanced against any loss of amenity to this public open space.
7. Officers have regularly briefed the Cabinet Member on the issues and that:

- There is no evidence of severe anti social behaviour on the site (see paragraphs 15 to 17)
  - To fence and restrict access to the square would be contrary to current planning policy
  - Fencing and gating the square would restrict access to one of only three riverside sites (the others being Potters Fields and Bankside)
  - The issues raised by the residents can be more effectively dealt with by human interventions such as more night time patrols and with effectively deployed CCTV
  - No resources are currently allocated for constructing and maintaining the fence and gates
8. None of the interventions to date have satisfied the residents of Minerva House and the continued resistance by the council to gate Cathedral Square lead to a series of formal complaints through the council's complaints process. This culminated in a complaint to the Local Government Ombudsman (LGO).
  9. The LGO produced her report on 5 December 2013. The full report which includes a detailed background and chronology of events can be found at Appendix 2. The report noted that there is evidence that the council has considered the issue of gating the square near to residential properties at night (to prevent antisocial behaviour) but there is little record to show what it considered and whose views it obtained in the process.
  10. In its response to the LGO the council agreed to carry out a review of its decision not to gate the square, including further consultation and a formal report for the Cabinet Member to consider. This is that report.

## **KEY ISSUES FOR CONSIDERATION**

### **Planning policy and legal agreements**

11. Southwark Plan policy 3.30 seeks to protect and enhance access points to and alongside the River Thames and policy 3.29 which seeks to ensure that development supports an inclusive and accessible waterside.
12. The Open Space Strategy states that the River Thames is an important open space and recommends that Cathedral Square be protected, which reiterates its amenity value in an area which has significantly less park/open space provision per capita than other areas of the borough and in which significant growth in homes and office space is expected over the next 10-15 years. Other objectives included in the Open Space Strategy that relate to this area are: T7 Promote social inclusion, tackle deprivation and discrimination by ensuring that the River Thames and Thames Path are accessible to everyone and E6 Encourage the recreational use of the River Thames and ensure effective use of the waterfront.
13. It is important to note that any proposal to erect a fence and gates in order to close off the square at night time would require planning permission. Gating the square would be contrary to the policies of the development plan as above. Any decision whether or not to grant planning permission could also take into account other material considerations such as concerns about amenity arising from the 24 hour access and the weight of these compared to the development plan policies.

14. Subsequent to the LGO complaint it has come to light that the council has legal and planning agreements relating to the transfer of land including Cathedral Square and the property formally known as New Hibernia Wharf. These require the council to covenant to maintain the land as public open space. Any proposal to fence or enclose the space could put the council at risk of breaching this covenant (Appendix 6).

### **Crime and Anti Social Behaviour**

15. The council's noise team have no recorded incidents of noise nuisance in this area since 2010. The Noise service operates Monday to Thursday 7.00am to 2.30am, Saturday 7.00am to 4.00am and Sunday 8.00am to 2.30am. Calls outside these hours are logged. The council has made residents aware of the noise team service but have been clear that severe anti social behaviour and crime is a police matter.
16. A Partnership Tasking Group (PTG) has convened since January 2011 and the council is informed that the analysts have never highlighted any issues relating to Cathedral Square. During the course of this meeting partners take into consideration both repeat callers and repeat venues over a two and four week period to identify trends in order to aid decision making regarding designing out crime and disorder. Analysis of call data from June 13 to June 14 shows that there have been 36 to either the 999 or 101 relating to Cathedral Square or Montague Close. Of these calls 20 originate from Minerva House and of these 15 are from one flat within the block. (see more information about the PTG at paragraphs 48 and 49)
17. One of the arguments cited for the gating of the square was the severe anti social behaviour issues and the waste of police time and resources. The police have informed the council that there is no evidence of severe anti social behaviour nor do they accept that issues around this site are a drain on police resources.

### **Community Impact Statement**

18. Access to Cathedral Square not only impacts directly on neighbouring residents living in Minerva House flats but also has a wider impact as the River Thames is a valuable open space resource for residents of Southwark and the whole of London and it is an appealing asset for visitors and workers. Whilst there is no intention to close the space during daylight hours clearly closure during the hours of darkness is a restriction on access and during the winter this could be up fifteen hours a day.
19. It is relevant to note that the Greater London Authority, Southwark and Lambeth councils completed a £4 million scheme to improve accessibility along London's Southbank in 2011. The project was designed to provide a lasting legacy of the 2012 Olympics and Paralympics. Historically and by the nature of the way this swathe of riverside has developed over the centuries it has not been the easiest area to navigate for visitors, especially those with accessibility needs. This programme made a series of interventions along the river side to improve accessibility and is further evidence of, both the council's commitment to and, the need to increase accessibility to the river rather than restrict it.
20. As set out in the Equality Act 2010 and the specific Public Sector Equality duty (PSED) an equalities impact assessment has been carried out in relation to the decision about Cathedral Square. Extensive consultation has been carried out in

relation to this decision and the views of all parties and partners who are involved in the use and management of the space have been sought. This decision has no detrimental impact to any group or protected characteristic as outlined in the Equalities Act or the PSED, and the broad aims and actions proposed are likely to increase access to the river and align with aims of the council's Open Space Strategy to "promote social inclusion, tackle deprivation and discrimination by ensuring that the River Thames and the Thames Path are accessible to everyone".

## **Consultation**

### **Open Spaces Strategy 2012**

21. The council carried out a consultation exercise on its draft Open Space Strategy for a period of 16 weeks from the 17th January to the 8th May 2012. It also consulted on supporting documents including the sustainability appraisal; equalities impact analysis, consultation plan and appropriate assessment. The Open Space Strategy sets out the council's proposed approach to protecting and improving open spaces in the borough (this includes the River Thames as an important open space asset). The council also consulted on an accompanying evidence-based report that set out further details on the information collected that was used to inform the approach set out in the strategy. In addition, the council had previously carried out consultation on an Open Space study in 2010, which set out some initial findings relating to open space provision in the borough. The findings of this work were also used to inform the eventual final Open Space Strategy.
22. The draft strategy was amended in light of the comments received and the final strategy was adopted at the council's Cabinet meeting on 29th January 2013. The report and detailed responses to the comments received can be found at: [http://www.southwark.gov.uk/downloads/download/2948/open\\_space\\_strategy\\_2012](http://www.southwark.gov.uk/downloads/download/2948/open_space_strategy_2012).

### **Ward Councillor Meeting**

23. Local ward councillor David Noakes held an open meeting about Cathedral Square and the issue of public access to the square and gating on 27th November 2014. In total 19 people attended and the make up of those attending was as follows:
  - 9 Minerva House residents
  - Chair of Bankside Neighbourhood Plan
  - Better Bankside
  - 7 local residents from across the ward living in Sumner Buildings (Sumner Steet), River Court, Park Street, Dolben Street, Styles House (Hatfields) and Maidstone Buildings (Borough High Street)
24. Councillor Noakes has expressed concerns about the level of consultation that has been undertaken on the issue. He reported that at the meeting there was wider support for consideration of the option of gating on the grounds of responding to the anti-social behaviour that Minerva House residents are experiencing, particularly from other residents who experience night time economy anti social behaviour. However he noted that some speakers at the meeting felt that there were policy reasons beyond the council, including wider

London strategic policies for the River Thames, which would make the option of gating very unlikely to succeed.

25. Councillor Noakes expressed an opinion that there is also a further conversation to be had about how the council is responding to the growing night time economy and playing a role in ensuring we are committing sufficient enforcement resources as well other key partners and stakeholders.

### **The views of residents**

26. The views of local residents were clearly articulated during a meeting in September 2010 which was held with ward councillors and officers to talk through the issues and possible interventions. Subsequently residents have made their views known through emails and the recent series of formal complaints and related correspondence. The council agreed to the Local Government Ombudsman's recommendation of December 2013 that a formal report be written for consideration by the Cabinet Member that includes the views of stakeholders and residents. Residents had been in contact with the council to proactively give their views following the recommendation of the Ombudsman and the meeting with Councillor Noakes in February 2014. In addition the council wrote to residents on 7 March to inform them of the opportunity to give their views so that these could form part of this report for formal decision. Residents (and stakeholders) were given a deadline of 10 April 2014. A total of twelve local residents wrote to us between February and April about these issues. Some were residents of Minerva House and some of these twelve wrote to us more than once. A copy of the correspondence sent to them can be seen at Appendix 3. Full details of the residents' responses can be seen at Appendix 5.
27. The underlying concern of Minerva House residents is the continuing level of anti-social behaviour that takes place in Cathedral Square during the night hours. This is a nuisance which often awakes residents, some of whom have small children. Residents have explained that this is also increasingly a cause of major anxiety arising from risk of attack, theft and/or damage to property, and the possibility of serious injury or death to persons mounting the river wall. Residents do not believe that there are any other sustainable solutions to this issue and are concerned that as the area gets busier, with a more lively night time economy the situation will only get worse.

### **Further consultation following the LGO report**

28. Following receipt of the LGO report the council sought the views of a number of local and interested stakeholder groups including the Police, Southwark Cathedral, Bankside Open Spaces Trust, Better Bankside, Tate Modern, Glaziers Hall, Borough Market, Southwark Planning, the River Thames Society and Thames21. These organisations were written to formally and asked to set out their views in writing. A copy of the correspondence sent to them can be seen at Appendix 3. Their views are summarised below and full correspondence can be found at Appendix 4.
29. The views of the Police have been represented in this report (see paragraphs 15 - 17) and those of Southwark Planning can be found in paragraphs 57 and 58 below.
30. **Southwark Cathedral** stated that the 'Chapter agreed that the level of nuisance to the residents of Minerva House was a serious issue that needs addressing.

However it did not share the view that gating and fencing off the square was the best solution. It would reduce access to what is a public space and could set a precedent for other sites in the borough to similarly treated at a time when it is acknowledged that there is a deficiency in public space in this area.'

31. **Bankside Open Spaces Trust** have stated that 'the solution to a problem that is prevalent in the many hotspots in the area is surely sensitive policing, better security measures, signage and 24hr toilets. It would seem to be impractical, to say the least, to consider fencing off all the areas affected. Other areas of London that have very active night time economies in residential areas are managing to deal with this issue with a partnership approach, perhaps we should be researching best practice in this regard' they state that partners should 'scope the issues around a partnership approach to policing the Night Time Economy' that that Better Bankside may play an important role in this.
32. **Better Bankside** have written to us and stated that the level of disturbance being suffered by residents is clearly unacceptable. The letter poses a number of questions and states 'all measures should be considered to help address and proactively manage these ongoing problems. We would be happy to assist in developing and piloting responses that would necessitate gating the square.'
33. **Glaziers Hall** expressed concerns with gating the square because it 'is a means of fire escape from both Glaziers Hall and 2 London Bridge and therefore any gating would have to employ emergency egress onto Montague Close' Whilst they sympathise with the residents they 'do not agree that it is practical to gate off the square'
34. The council received communications from the Managing Director of **Borough Market** which states that they are 'not in favour of fencing off the public access as proposed. We feel it may not be the best solution for the area, as we are not convinced that all avenues have been explored, such as policing the area with wardens and local securing. Fencing may create its own anti-social issues. We also believe that it is important that the public can enjoy views of the Thames at night.'
35. Tate Modern – no response was received
36. The River Thames Society – no response was received
37. Thames21 – no response was received

### **Resource implications**

38. There are resource implications to be considered regarding the gating proposal. There is the cost of building gate posts and erecting gates which have been estimated at a cost of £20,000. In order to establish an accurate figure the council would need to commission a design and request quotes from approved contractors.
39. In addition to one off capital costs there would be indefinite revenue costs both to open and close the site and for repairs and maintenance. The locking and unlocking would be undertaken by the council's contractor who has provided a quote for £10k per year to provide this service. Repairs and maintenance costs can be estimated at £1k per year in perpetuity.

### **Decision to retain current access arrangements**

40. After due consideration of the above matter it therefore proposed that the closure and gating of Cathedral Square during night-time hours would be disproportionate to the level of anti-social behaviour in the square and would result in an unacceptable loss of amenity to the public. Specifically the fencing and gating of the square is :-
- contrary to current planning policy
  - contrary to existing legal agreements
  - not justified by the level evidence of significant crime or anti social behaviour in this area
  - Not supported by a wide range of local stakeholders.

### **Further options for addressing residents concerns**

41. A number of alternative solutions have been considered aimed at addressing the residents concerns, namely redesign of the river wall, CCTV, lighting tree maintenance and working in partnership with the police.

#### **Amendments to the River wall**

42. Residents raised concerns that the capital improvement works that were undertaken in August 2011 did not deal with the river wall coping as was promised and that the wall encourages lingering in this area. The council responded with a proposal to install low level metal 'ripples' that would be spaced so that sitting and walking along the wall would be uncomfortable and difficult. This proposal is affordable and has planning permission. However further responses from residents indicated that gating was their preferred option and hence these works have not been progressed.

#### **CCTV**

43. CCTV can be a useful tool in the battle against crime and anti social behaviour. On one hand it can help to discourage ASB and can help local residents feel safer. On the other hand if ASB persists it records type and regularity of incidents helping to provide evidence of the issues.
44. A survey of Cathedral Square CCTV was carried out on 11 April 2014, the purpose of which was to carry out the first stage technical survey which includes:
- View the most appropriate location for the relevant number of cameras
  - Identify power feeds, containment etc.
  - Establish line of sight for transmission back to the Central Monitoring Suite
  - Gauge proportionality and establish any privacy issues
45. The current low frequency of crime in the area does not warrant a new CCTV system for Montague Close. There is already a significant number of cameras already in place at Montague Close (including cameras on Minerva House) however there are no local transmission nodes within line of sight of the square. Officers have approached the management responsible for Minerva House to give them advice on how to make best use of their existing cameras including the transmission of relevant data about incidences to the police.

### **Improved lighting and tree maintenance**

46. Low levels of lighting caused in part by the trees is an issue that residents feel contribute to the night time activities in the square. A survey is currently being undertaken and any works that may be required to bring lighting levels up to nationally recognised standards for light of such areas, will be undertaken. The council is committed to ensuring regular inspections are undertaken of both lighting and trees to ensure that the square appears to be safe and well maintained.

### **Further partnership working**

47. Better Bankside and BOST have also suggested that further partnership working could help to solve many of the issues in the square. BOST have stated that there are several stakeholders (including the owners of Minerva House) who employ wardens or private security and that these stakeholders working in partnership with the Local Authority, Licensing, the wardens and the Police should be able to provide the surveillance and facilities necessary to significantly reduce the anti-social behaviour that the residents are experiencing.
48. The PTG is the appropriate forum for issues of ASB in Cathedral Square to be considered. The agenda of the meetings includes a local intelligence briefing and considers repeat callers and hotspots. Should there be evidence of the situation worsening at Cathedral Square through contact with the Police it will be discussed at the PTG.
49. Attendees at the PTG include representatives from the Police, Night Time Economy Team, Southwark Council's Community Safety team including those responsible for noise, licensing, CCTV, rough sleeping issues, and wardens.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Legal Services**

50. The Local Government Ombudsman recommended in December 2013 that further consultation be carried out. This report provides specific details of the various consultation exercises. In addition, the Ombudsman anticipated a formal submission to the Cabinet Member which is the purpose of this report.
51. The Director of Planning has commented at paragraph 54 that the proposal would be contrary to development plan policies. The policies within the London Plan form part of the development plan for Southwark and paragraph 9 of the report makes reference to these.
52. The consultation has led to a response from Glazier's Hall. This has referred to a fire escape. This is shown on the plan attached to this report to the right of Cathedral Square adjacent to the Thames. A site check has confirmed that its position is correctly reflected at Cathedral Square.
53. The locking of any gates would restrict the access of the buildings both at Glazier's Hall and Minerva House (which also has a fire escape leading out to the Square). The owners and occupiers of both properties will enjoy rights of access to the Square either by way of specific grant or alternatively (in the case of Glazier's Hall) by prescription or long user. Subject to the precise terms of any



easement, it may well be the case that the erection and locking of gates would be an unlawful interruption of the rights enjoyed by these properties and could be subject to proceedings either by way of injunction or alternatively for damages.

**Director of Planning**

- 54. Southwark Plan policy 3.30 seeks to protect and enhance access points to and alongside the River Thames and policy 3.29 promotes development which enhances the character of riverside spaces and which provides access to the waterside. Although Cathedral Square is not currently protected as an open space, the borough’s Open Space Strategy recommends that the council should use the opportunity provided by the preparation of the new local plan to review this lack of protection. This recommendation reflects the amenity value of Cathedral Square and the fact that Bankside has significantly less park/open space provision per capita than other areas of the borough and the area will experience significant growth in homes and offices over the next 10-15 years.
- 55. Gating the square would be contrary to the principles set out in development plan policy. However, in considering any application for planning permission the council would need to take into account other material considerations. It would be a matter for the decision maker to decide whether concerns about any harm to amenity arising from the 24 hour access to the space would outweigh the adopted policy aims to keep the area open and accessible. The council’s Open Space Strategy would also be a material consideration. The amenity impacts would have to be carefully considered including whether there were other ways of mitigating any harm. Unless it could be demonstrated that amenity impacts outweigh the policies in the plan, which point strongly towards keeping open access to the site, officers would be likely to recommend refusal of planning permission.

**Strategic Director of Finance and Corporate Services**

- 56. The report seeks cabinet member approval to maintain the status quo and not restrict access to Cathedral Square at night time by constructing gate posts and erecting gates, for reason set out in this report.
- 57. It is noted that there will be no costs implications if status quo is maintained. Any changes to the current access to Cathedral Square will incur minimum costs of £30k and will have to be contained within existing budgets.
- 58. Staff and any other costs connected with this proposal to be contained within existing departmental budgets.

**BACKGROUND DOCUMENTS**

Background Papers	Held At	Contact
None		

## APPENDICES

No.	Title
Appendix 1	Location Plan showing Cathedral Square
Appendix 2	Local Government Ombudsman report
Appendix 3	Public Access to Cathedral Square letter to stakeholders
Appendix 4	Responses to the consultation - Stakeholders
Appendix 5	Responses to the consultation - Residents
Appendix 6	Legal Agreement Minerva House 1980

## AUDIT TRAIL

<b>Lead Officer</b>	Strategic Director Environment & Leisure	
<b>Report Author</b>	Des Waters, Head of Public Realm, E&L	
<b>Version</b>	Final	
<b>Key Decision</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Legal Services	Yes	Yes
Director of Planning	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
<b>Cabinet member</b>	Yes	Yes
<b>Date final report sent to Constitutional Officer</b>	9 July 2014	

Location Plan

