

Item No. 6.	Classification: Open	Date: 6 October 2015	Meeting Name: Planning Committee
Report title:		Edward III's Rotherhithe Conservation Area and Extension	
Ward(s) or groups affected:		Rotherhithe and Riverside	
From:		Director of Planning	

RECOMMENDATIONS

1. That members consider that the area shown on the plan at Appendix 1 is of special architectural or historic interest and supports the designation of the extension to the Edward III Rotherhithe Conservation Area.
2. That members note the response from the Bermondsey and Rotherhithe Community Council and the results of the public consultation on the proposed extension of the Edward III Rotherhithe Conservation Area.
3. That members agree to formally adopt the amended Edward III Rotherhithe conservation area appraisal.

BACKGROUND INFORMATION

4. The Edward III's Rotherhithe Conservation Area is an area of open land located between the River Thames and the registered park and garden of Southwark Park. The area is characterised by open land containing the Scheduled Ancient Monument of King Edward III's manor house and King's Stairs Gardens connecting Southwark Park to the Thames. The area is characterised by these open landscapes with relict features of the former built-up waterfront and a range of housing dating from the 18th century through to modern buildings and religious uses. The primary character of the area and its significance are the character and appearance of the open spaces and their relationship to the designated heritage assets within the proposed conservation area and immediately on its boundary.
5. On the 12 July 2012 Bermondsey and Rotherhithe Community Council considered a report to carry out public consultation with local businesses on the proposed extension to the Edward III's Rotherhithe conservation area. The proposed western extension includes: Cherry Gardens and Fountain Green Square on the riverfront, Nos. 1-10 Bermondsey Wall East, and two listed buildings the former Thames Water Authority Office Farncombe Street and Corbett Wharf, Bermondsey Wall East.
6. Letters were sent to all of the owners and occupiers of properties in the proposed conservation area extension and a wider boundary around the area, giving a 12 week consultation period. The letter included a copy of the conservation area map with the proposed extension and information as to where the conservation area appraisal could be viewed on the Council's website. Two

responses were received during the consultation period and are analysed in more detail below.

7. A report (see background documents) to the Bermondsey and Rotherhithe Community Council on 12 March 2013 set out the results of the public consultation. The Councillors considered and resolved to endorse the recommendations outlined in the report to designate the extension to the Edward III Rotherhithe Conservation Area.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

8. The main issues are:
 - a. the ability of the LPA to extend an existing conservation area and designate as an area of special architectural and historic interest.
 - b. to adopt the amended Edward III Rotherhithe Conservation Area Appraisal.

Planning policy

9. The National Planning Policy Framework (March 2012)
Section 12 Conserving and Enhancing the Historic Environment.

London Plan 2011 (July)

Policy 7.9 Heritage-led regeneration

Policy 7.8 Heritage assets and archaeology

The Local Plan

Core Strategy 2011 (April)

Strategic Policy 12 Design and Conservation.

Southwark Plan 2007 (July)

Saved Policy 3.15 Conservation of the Historic Environment

Saved Policy 3.16 Conservation Areas

Saved Policy 3.18 Setting of Listed Buildings, Conservation Areas and World Heritage Sites

Saved Policy 3.19 Archaeology

Consultation responses

10. Two consultation responses were received, one in favour from the Heritage Advisor to the GLA, who considered that the buildings and townscape were of merit and worthy of designation. The other respondent considered that the bulk of proposed extension area undeserving of conservation status. No consultation responses were received from those living within the existing conservation area boundary or the proposed extension.

Conclusion on planning issues

11. Section 69 of the Town and Country Planning Act 1990 imposes a duty on the local Planning Authority to designate as conservation areas any "areas of special architectural or historic interest the character or appearance of which is desirable

to preserve or enhance”. There is a duty on the local planning authority under Section 69 to review areas from time to time to consider whether designation of conservation areas is called for. Officers consider that the western extension to the conservation area; complies with paragraph 127 of the NPPF (March 2012), which states: 127: *‘when considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.’* The extended conservation area will include two Grade II listed buildings: the former Thames Water Authority Office No. 96 Bermondsey Wall East and former Corbett’s Wharf on Bermondsey Wall West. The extension would also include interesting local buildings such as Angel Wharf, The Old Justice Public House and the Victorian fountain, as well as preserving this section of river frontage. During the consultation period construction recommenced on the site adjacent to No. 96 Bermondsey Wall East. In view of this, it is proposed to exclude this site from the conservation area extension and realign the boundary so that it includes the listed building; the former Thames Water Authority Office, but not the depot site.

12. In March 2012 the government introduced the National Planning Policy Framework replacing the guidance formerly contained within PPS5. Paragraph 169 of the NPPF is particularly relevant with regard to conservation area appraisals *‘local planning authorities should have up-to-date evidence about the historic environment in their area and use it to assess the significance of heritage assets and the contribution they make to their environment..’* The conservation area appraisal complies with the requirements of NPPF paragraph 169.
13. In 2011 English Heritage published guidance on conservation area appraisals, *‘Understanding Place: Conservation Area Designation, Appraisal and Management’*. This sets out the importance of definition and assessment of a conservation area’s character and the need to record the area in some detail. The purpose is to provide a sound basis for rational and consistent judgements when considering planning applications within conservation areas. Conservation area appraisals, once they have been adopted by the council, can help to defend decisions on individual planning applications at appeal. They may also guide the formulation of proposals for the preservation and enhancement of the area. The Edward III’s Rotherhithe conservation area appraisal has been prepared in accordance with the English Heritage guidance.
14. Designation of a conservation area imposes certain duties on planning authorities. These duties are twofold, firstly, to formulate and publish from time to time, proposals for the preservation and enhancement of the conservation areas in their district and submit them for public consultation. Then secondly, in exercising their planning powers to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas. In exercising conservation area controls, local planning authorities are required to pay special attention to the desirability of preserving or enhancing the character or appearance of the area in question and therefore there is a presumption against the demolition of buildings within the area. In the case of conservation area controls, however, account should clearly be taken of the part played in the architectural or historic interest of the area by the building for which demolition is proposed, and in particular of the wider effects of demolition on the building’s surroundings and on the conservation area as a whole.

Community impact statement

15. The designation has been consulted on in accordance with the statement of community involvement. The statement of community involvement sets out how and when the council will involve the community in the alteration and development of town planning documents and applications for planning permission, and was adopted in January 2008. The statement of community involvement does not require the council to consult on the designation of a conservation area or an extension to an existing one, but in this instance the council proposes to follow a similar procedure here as a matter of good practice.
16. The consultation sought the views of local residents, businesses and other local interest groups over the definition of the boundaries and conservation area appraisal. Notification of the consultation on the proposed extension and supporting documents was placed on the council's website.
17. Officers are satisfied that the proposed extension complies with all the requirements of the NPPF, it captures this significant piece of public open space and its purpose is to preserve and improve this important river frontage.

Human rights implications

18. This conservation area engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
19. This proposal has the legitimate aim of providing for the conservation of the historic environment within the conservation area. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

Resource implications

20. Notifying the public of the Edward III's Rotherhithe Conservation area appraisal has not resulted in resource implications for the staffing of the Chief Executive's Department.
21. Other resource implications will be the cost of publishing the conservation area appraisal, which can be met within the Chief Executive Department's revenue budget. The cover price of the document will be fixed to cover production costs.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Corporate Services

22. A conservation area is an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance (*section 69(1), Listed Building Act (LBA) 1990*). A Local Planning Authority (LPA) is under a duty to designate conservation areas within its locality and to review them from time to time (*section 69(2)*). Section 69(2) of the Act imposes a further duty on local planning authorities to review the extent of their functions and if need be to

designate any further parts of their area as conservation areas. It is this section of the Act which is being triggered here.

23. There is no statutory requirement for LPA's to consult with anyone before a conservation area is designated and nor does the Council's Statement of community involvement require consultation in respect of designating conservation areas. However, English Heritage advises LPA's to consult as widely as possible, not only with local residents and amenity societies, but also with Chambers of Commerce, Public Utilities and Highway Authorities.
24. There is no formal designation procedure. The statutory procedure simply involves a council resolution to designate being made. The date of the resolution is the date the conservation area takes effect. The designation of conservation areas is reserved to Planning Committee under Part 3F, paragraph 3 of the constitution under the heading 'Role and Functions'.
25. There is no statutory requirement on the level of detail that must be considered by an LPA before designation. However, guidance from English Heritage states that it is vital an area's special architectural or historic interest is defined and recorded in some detail. A published character appraisal for both conservation areas can be found at Appendices 3 and 4 of this report. The overall impetus for designating a conservation area must be the desire to preserve and enhance the area.
26. Notice of the designation must be published in at least one local newspaper circulating in the LPA's area and in the London Gazette (*section 70(8), LBA 1990*). The Secretary of State and English Heritage must also be notified (*section 70(5)*). There is no requirement to notify the owners and occupiers of premises in the area. The conservation area must be registered as a local land charge (*section 69(4)*).
27. The designation of a conservation area gives the LPA additional powers over the development and the use of land within it and has the following consequences;
 - control of demolition of buildings - all demolition will require conservation area consent
 - any new development will need to enhance or preserve the conservation area –
 - protection of trees – certain criminal offences arise if trees in the conservation area are cut down or wilfully damaged without the consent of the LPA
 - duty of LPA to formulate and publish from time to time proposals for the conservation and enhancement of conservation areas (e.g, by updating conservation area appraisals)
 - certain permitted development rights are more restricted
 - specific statutory duties on telecommunications operators
 - exclusion of certain illuminated advertisements [although not very relevant in this context]
 - publicity for planning applications affecting the conservation area must be given under Section 73(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
28. There is no statutory right of appeal against a building being included in a conservation area. However, it is possible to seek a judicial review of an LPA's decision to designate a conservation area.

Equalities and human rights

29. Positive equalities obligations are placed on local authorities, sometimes described as equalities duties with regard to race, disability and gender.
30. Gender equality duties were introduced by the Equality Act 2006, which amended the Sex Discrimination Act 1975. The general duties in summary require local authorities to have due regard to the need to:

- (a) “eliminate unlawful discrimination and harassment and;
- (b) promote the equality of opportunity between men and women.”

Race equality duties were introduced by the Race Relations Amendment Act 2000 which amended the Race Relations Act 1976. The general duties in summary require local authorities to give due regard to the need to:

- (a) “eliminate unlawful discrimination and harassment;
- (b) promote the equality of opportunity; and
- (c) promote good race relations between people of different racial groups”

Disability equality duties were introduced by the Disability Discrimination Act 2005 which amended the Disability Act 1995. The general duties in summary require local authorities to carry out their functions with due regard to the need to:

- (a) “promote equal opportunities between disabled persons and other persons;
- (b) eliminate discrimination that is unlawful under the Act;
- (c) eliminate harassment of disabled persons that is related to their disabilities;
- (d) promote a positive attitude towards disabled persons;
- (e) encourage participation by disabled persons in public life; and
- (f) take steps to take account of disabled person’s disabilities even where that involves treating disabled persons more favourably than other persons.”

Section 71 of the Race Relations Act 1976, section 49A(i) of the Disability Discrimination Act 1995 and section 76A of the Sex Discrimination Act 1975, require local authorities to act in accordance with the equalities duties and have due regard to these duties when we are carrying out our functions.

31. Equalities and Human Rights have been considered as part of the development conservation area appraisal and an Equalities Impact Assessment (EqIA) is in the process of being completed. EqIAs are an essential tool to assist councils to comply with equalities duties and ensure they make decisions fairly.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Report to Bermondsey and Rotherhithe Community Council (12/7/12)	Chief Executive's Dept. 160 Tooley Street London, SE1 2QH	Tracy Chapman Tel: 0207 525 2289
Amended appraisal for Edward III's Rotherhithe Conservation Area.	Chief Executive's Dept. 160 Tooley Street London, SE1 2QH	Tracy Chapman Tel: 0207 525 2289
https://www.southwark.gov.uk/downloads/download/385/conservation_area_appraisals		
Report to Bermondsey and Rotherhithe Community Council (12/03/2013)	Chief Executive's Dept. 160 Tooley Street London, SE1 2QH	Tracy Chapman Tel: 0207 525 2289
http://moderngov.southwark.gov.uk/ielListDocuments.aspx?CId=349&MId=4479&Ver=4		
Equalities Analysis	Chief Executive's Dept. 160 Tooley Street London, SE1 2QH	Tracy Chapman Tel: 0207 525 2289

APPENDICES

No.	Title
Appendix 1	Map of the proposed boundary changes

AUDIT TRAIL

Lead Officer	Simon Bevan, Director of Planning	
Report Author	Tracy Chapman, Senior Design and Conservation Officer	
Version	Final	
Dated	23 September 2015	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic director, finance & corporate services	Yes	Yes
Strategic director, environment and leisure	No	No
Strategic director, housing and community services	No	No
Director of regeneration	No	No
Date final report sent to Constitutional Team	24 September 2015	