

Item No.	Classification	Decision Level	Date
1	OPEN	PLANNING COMMITTEE	21/4/04
From INTERIM DEVELOPMENT AND BUILDING CONTROL MANAGER		Title of Report DEVELOPMENT CONTROL	
Proposals (03-AP-2435 and 03-AP-2440) Continued use of the existing moorings at Downings Road for mixed use purpose including residential, business, barge repair, live/work and for berthing of vessels in the course of navigation and retention of associated type beds. (Applications A and B)		Address Downings Roads Moorings, 31 Mill Street SE1 Ward Riverside	

1. PURPOSE

- 1.1 To consider the above applications which are for decision by the Planning Committee due to the high profile and contentious nature of the proposals and the significant number of wide-ranging representations received.

2. RECOMMENDATION

- 2.1 Refuse planning permission.

3. BACKGROUND

- 3.1 In July 2003 the council issued 2 sets of enforcement notices relating to this site. They required the cessation of the use of the site for, inter alia, residential use of the moorings together with the removal of the associated tyre beds. It was considered that the new use constituted an unauthorised material change of use from lawful commercial lighter moorings. The tyre beds were also considered to be unauthorised.
- 3.2 The council contends that enforcement action was and remains expedient and proportionate as the development alleged in the enforcement notices is, in brief, detrimental to visual, residential and public amenity.
- 3.3 In response to the service of the enforcement notices, the applicant (and the Downings Roads Residents Association) lodged appeals to the Planning Inspectorate. These were scheduled to be heard at a public inquiry starting 2 March. The public inquiry was opened on this date but postponed by the Inspector primarily as insufficient time had been allocated to hear the inquiry in full and, given

the inevitable adjournment, there would then be the opportunity for the Planning Committee to consider these two applications in light of all the representations received.

- 3.4 These 2 planning applications were submitted on 24 December without prejudice to the appeals against the 2 sets of enforcement notices. The 2 applications are essentially the same in that they both propose the continued use of the moorings in a form and layout broadly similar to that, which presently exists on site. The only difference between them is the detail shown on the submitted plans. Application A shows an asymmetrical layout of the area within which it is proposed that vessels will be moored whilst Application B shows a more formalized layout. Whilst these layouts are indicative of what could be moored, the applicant is prepared to accept a condition requiring the moorings to be laid out as per a submitted plan should Members be minded to approve permission. A more detailed description of the applications and the accompanying proposed legal agreement governing the operation and management of the moorings is set out in Section 5 of this report

Both applications are now before members for consideration.

3.5

4. FACTORS FOR CONSIDERATION

4.1 Main Issues

The main issues for consideration are firstly the acceptability of the principle of the uses applied for and the impact that these uses have on the character and appearance of the locality, the amenity of the adjacent residents and public amenity.

4.2 Planning Policy

Southwark Unitary Development Plan 1995 [UDP]:

Policy R.2 (Regeneration Areas)

Policy E3.1 (Protection of Amenity)

Policy E4.1 (Conservation Areas)

Policy E 4.3 (Proposals Affecting Conservation Areas)

Policy E4.6 (Proposals affecting Listed Buildings)

Policy E7.1(Riverside Townscape, Thames Path and Public Access to Thames Frontage and Shoreline)

Policy E7.2 (Water Environment)

Policy E7.3 (Stationary Vessels and structures In or Over the Thames)

The Second Draft Deposit UDP April 2004

Policy 3.2 (Protection of Amenity)
Policy 3.7 (Waste Reduction)
Policy 3.16 (Conservation Areas)
Policy 318 (Setting of listed buildings)
Policy 3.25 (Metropolitan Open Land)
Policy 3.29 (Development within the Thames Special Policy Area)
Policy 3.31 (Protection of Riverside Facilities)

Heritage Conservation Supplementary Planning Guidance
The Thames Supplementary Planning Guidance

4.3 Consultations

Site Notice: 7 posted on 2.3.04

Press Notice: 12.2.04

Consultees:

Noise and Pollution: Object to continued noise disturbance and lack of adequate refuse and sewage disposal.

Traffic Group: No representations received to date, although no objection is raised on parking or traffic generation grounds.

Conservation: Object on grounds set out below.

London Borough of Tower Hamlets: acknowledge receipt of the applications but no further representations received.

Port of London Authority: Object to the applications. The PLA confirm that the moorings are unlicensed and state that a license application would unlikely be granted primarily due to the proximity of the vessels at the downstream end of the site to riparian residential properties, particularly Providence Tower, Springall's Wharf and River View Heights. Concern is also raised on the grounds that the existing development does not appear to comply with the linkspan regulations and Port Safety Organisation guidance . The PLA would also require, if permission is granted, that discharge of waste water is via appropriate facilities ashore.

Greater London Authority: Confirm that the proposals are not referable to the Mayor. It is stated that the principle of retaining the moorings is supported by the London plan and that the mix of uses is broadly acceptable as long as there are appropriate amenity and environmental safeguards in place. It is stated that the provisions of the proposed s106 agreement appear to address such safeguards.

Valerie Shawcross AM, Labour Group London Assembly: Confirms that she chaired a meeting at city Hall on 30 March 2004 attended by both flat dwellers and berth holders. She considers that a temporary 5 year permission should be granted subject to stringent conditions to allow monitoring of the site. Also the applicant should employ a full time moorings manger to ensure maintenance and management of the moorings. She also considers that the proposed layout does not adequately safeguard the land based residents' amenity and that there should be an increase in the distance between the vessels and the flats. Similarly, there should be no increase in the number of boats to facilitate this increased distance. She supports the proposed s106 agreement.

Residents and Local Organisations

Application A

Consulted 398. Representations received: 327*

Application B

Consulted 398 Representations received 366*

A schedule of these comments, both for and against the applications, is appended to this report. It is a breakdown of the themes for support and objection from all parties who have commented on the proposals.

* These are the representations received up to 7 April. Any additional representations will be reported separately to Committee.

5 PLANNING CONSIDERATIONS

5.1 Description of the planning applications the subjects of this report

Application A (03-AP-2435)

The submitted drawings illustrate an asymmetrical layout of a total of 34 vessels. This layout incorporates 8 collar barges and a cycle barge linking the brow to the first companionway. The application seeks the continued use of the moorings for the mixed use purposes including residential, business, barge repair, live/work and for the berthing of vessels in the course of navigation together with the retention of the associated tyre beds. The applicant has offered a Code of Practice to which the applicant, berth holders, visitors and guests would comply in an attempt to overcome the objections of the land-based residents. This would form part of the proposed legal agreement referred to below.

Application B (03.AP.2440)

5.2 This application is essentially the same proposal but involves a symmetrical layout of a total of 38 vessels. This includes 11 collar barges and a cycle barge. The same restriction and exclusion zones are proposed as are the terms of the legal agreement.

Proposed legal agreement

It is proposed to enter into an undertaking, which seeks to primarily safeguard the amenity of the land-based residents. The main terms of the agreement covers the mooring of vessels only in a defined area, a 16m exclusion/restriction zone separating the vessels from the river wall, obscure gazing of residential barges immediately adjoining the restriction zone and restrictions on the height of above water line development (size of vessel etc). The agreement would also incorporate a Code of Practice on the berth holders which addresses matters of general housekeeping including works of repair, health and safety, disposal of rubbish and blackwater, minimization of noise and general disturbance and the maintenance of the tyre beds. There is also the commitment to comply with the "Boat Safety Certificate" issued by British Waterways.

Principle of the Uses

There has been much made by supporters of the moorings community, particularly in support of the planning appeals, that the Council is seeking the removal of the moorings. This is definitely not the case. The moorings have been in existence in excess of 150 years and have a long history of mooring of lighters for commercial freight purposes and as such contribute positively to the character of the river Thames. The council has no intention of clearing or sanitizing the river as has been alleged.

The London Plan, which is the strategic plan for London, states at Policy 4C.24 "Importance of the Thames" that boroughs should recognize that "the Thames plays an essential role in maintaining London as an exemplary, sustainable world city and should promote greater use of the river for transport and water based leisure uses". The second draft deposit of The Southwark Plan designates the river Thames as Metropolitan Open Land. Development on the river should only be allowed therefore where it preserves and enhances the open character of the river and provide facilities which promote public access and recreational and other ancillary uses,

These proposals primarily seek to establish a permanent residential use on this part of the river. This is unprecedented in this renowned historic stretch of the Thames and is considered to be totally inappropriate in land use terms. The proposals are therefore considered to be contrary in principle to London-wide strategic guidance and council policy.

Visual amenity

The environment around the application site is of a very high visual amenity, comprising heritage and townscape assets of national and international

significance. These include London's premier open space, the River Thames and many outstanding buildings and conservation areas.

The main issues for consideration are the impact of the continued use of the site on the character of these assets.

Setting of the appeal site

The application site has a quite exceptional setting which can be enjoyed from the open space adjacent to Providence tower were there is the opportunity to enjoy a dramatic panorama. This panorama includes Tower Bridge, The White Tower, Fosters Swiss Re, Nat West Tower/Tower 41 and Richard Rogers Lloyds Building. The magnificent setting for these iconic buildings and the Cityscape of which they form a part is the River Thames.

Character or appearance of the St Saviours Dock Conservation Area

The application site sits within the St Saviours Dock conservation area.

In broad terms the narrow streets enclosed by tall warehouses and the contrast of this with the open character of the River Thames and St Saviours Dock define the character of the conservation area.

Another key element of the conservation areas character is the virtually continuous wall of warehouses on the edge of St Saviours dock built directly on the dock wall. At high tide the river laps up against the foot of these buildings and the warehouses could be read as a hard edge running along St Saviours Dock and into the river a clear line delineating and separating land from water.

The relationship of the conservation area to its wider city setting is also an essential one. St Saviours Dock, Shad Thames and Tower Bridge form an exceptionally well-preserved 19th century townscape. New opportunities to enjoy the conservation area and its relationship with its wider setting have been created in the construction of a small bridge over St Saviours Dock, the open space at Providence Square and the walkway in front of Butlers Wharf.

Thames Path

Bermondsey Wall West forms part of the strategically important Thames Path highlighted in RPG3 as a unique amenity- the only long distance route that follows a major river through its length. Providence Square is a key open space on this part of the Thames Path providing an important panorama over the River Thames

Listed buildings

The application site is also immediately adjacent to the Grade II listed Reeds Wharf

which is part of a larger group of listed warehouse buildings contributing to the distinctive character of this part of the conservation area. An important part of Reeds Wharf setting is its relationship with these other buildings, the river wall and the Thames.

Tower Bridge and the Tower of London are both Grade I listed buildings. The setting of these national and internationally important buildings, in my view, encompasses a large area of the City including the river, several conservation areas and the appeal site. A clear and direct view of Tower Bridge and part of the Tower of London beyond can be obtained from Providence Square adjacent to the appeal site.

Scale and Permanency

The Impact of the application site is both permanent and large-scale.

The primarily residential use and the location and design of the moorings combine with this scale and permanency to cause significant harm.

Certain service and access arrangements are required for the use to function properly. A brow provides access from the river wall and the collar barges an inhabited ad-hoc pier to which a large number of vessels are moored.

In itself this arrangement of brow and loosely connected collar barges causes a significant visual impact because of its poor design, ad-hoc character, bunches of draped cables and floating gardens. In addition this provision facilitates a permanent predominantly residential use of significant scale and an inevitably domestic character

The permanency of the use and the permanent floating gardens of the collar barges contribute to a perception of stability for the primarily residential occupiers. As a result of the use and its permanency there is now a great deal of domestic paraphernalia including plant pots, strings of washing, tables and chairs in summer, bicycle parking, recycling bins and 'fairy' lighting used to light a path across collar barges.

Unfortunately the scale of the use magnifies the problems associated with this character.

Currently the moorings are located close to the river wall and are designed to create a tight grouping of vessels in a single mass. This tends to obscure views of the river wall and creates an indeterminate large-scale mass of boats in longer views, which tend to dominate the perception of the conservation areas character.

Prospects and panoramas

Providence Square allows the pedestrian to enjoy the 'essential relationship' of the conservation area with its wider Thames side setting.

From the open space adjacent to Providence tower there is the opportunity to enjoy a dramatic panorama. This panorama includes Tower Bridge, The White Tower, Fosters Swiss Re, Nat West Tower/Tower 41 and Richard Rogers Lloyds Building. The magnificent setting for these iconic buildings and the Cityscape of which they form a part is the River Thames.

Unfortunately, the appeal site almost completely fills the foreground of this panorama and the experience is to a large extent dominated by the moorings. The proximity of vessels to the river wall dominates the field of vision- even more so at high tide when the vessels rise well above the river wall and so tend to block views across the river.

The visual clutter and at times obscuration of the view has a significantly harmful effect on the setting of Tower Bridge and the Tower of London.

In my view it is important that the continuity of the relationship between the buildings, river wall and water continues outside the St Saviours Dock's mouth and along Bermondsey Wall. Unfortunately the proximity of this large-scale mass of vessels to the river wall undermines this continuity and relationship.

The domestic clutter and the poor quality brow along with the proximity of the cycle barge to the river wall significantly diminishes the setting of Reeds Wharf.

This impact is experienced from Providence Square, the passage under China Wharf, the little bridge over St Saviours Dock and the open space on its western side.

From the river looking towards the site the scale of the moorings obscures views of the river wall, disrupting the connection between the river wall and St Saviours Dock and undermining Reeds Wharfs contribution to the group of buildings within St Saviours Dock.

This impact is experienced in all journeys as a passenger along the river.

There are also more recent buildings immediately adjacent to the site of quite exceptional quality, 'C'reeds Wharf and China Wharf are some of the best works of Piers Gough of CZWG architects and Providence Tower was designed by Lifshutz Davidson. In my view the application site harms the setting of this recent architecture and also undoes some of the work done on enhancing the character of the conservation area by these buildings.

Tyres

At low tide the edges of the tyre beds are exposed and visible in views from Providence Square. When taken together with the use of the moorings the tyres appear visually intrusive and untidy adding to the general clutter of the appeal site. This causes significant harm to the character or appearance of the conservation area and to the overall enjoyment of the city panorama from Providence Square. In addition the tyre beds facilitate the permanency of the use and so contribute to the overall harm caused to the setting of listed buildings within this panorama.

Residential amenity

Both applications propose 2 11m wide “exclusion zones” out from the river wall, one immediately outside Creeds Wharf and the other larger zone running from Providence Tower downstream to River View Heights. It is proposed that there would be no vessels moored at any time within these areas. Beyond these zones there would be 2 further 5m “restriction zones” within which only “small pleasure craft” may moor. Under these proposed terms therefore no residential barges or collar barges may come within 16m of the river wall. Furthermore it is also proposed that the windows of any residential barge immediately next to the restriction zone shall be obscure glazed in order to avoid overlooking of the facing flats. This clear channel would also provide emergency access.

The proposed development is now a stable residential community of approximately 60-70 residents including children with direct access to the river bank via the brow at Mill Stairs. As well as the residential barges, there are the link garden barges, which provide ancillary amenity space for these residents, the cycle barge and recycling storage bins.

The redevelopments along the river wall provide approximately 160 flats of which approximately 100 have habitable rooms immediately overlooking the moorings. These dwellings have been designed to maximize the amenity that the historic and river panorama offers to these residents. They enjoy full height glazing and balconies, which further enhances their amenity.

What is proposed is essentially what is there now. Whilst it is acknowledged that the vessels have been relocated or reconfigured to provide this 16m gap, objections from these bank side residents continue to be received, particularly on grounds of noise, disturbance and a sense of overlooking and loss of privacy. The analysis of the objections received in response to these applications appended to this report clearly demonstrates how these residents object to a significant loss of their residential amenity. Set in the context of the ongoing enforcement action, planning appeals and these applications the overall volume and specific nature of complaints received by both the planning and environmental health departments further reinforces how materially affected these residents are.

Whilst the exclusion and restriction zones together with proposed obscure glazing has helped improve the situation that prevailed prior to the appeal against the enforcement notices, it is considered that these proposed measures do not overcome the Council's earlier objections to the development on the grounds of loss of residential amenity. It is important to recognize also that the residential blocks cantilever out over the river wall: Creeds Wharf by 3.5m, Providence Tower by a maximum of 5m and Springall's Wharf by 3m. In terms of the impact on residential amenity, the barges are therefore in fact only 10-13m away from habitable rooms.

Given the juxtaposition of the development to the flats, it is considered that the loss of amenity is exacerbated in the evenings and at night. Unlike commercial craft, these vessels are permanently occupied. The potential for noise and disturbance is at its greatest when the residents of both the boats and the flats are at home and particularly so during the summer months when the desire to sit out and open windows is at its greatest. Clearly, it would be unreasonable and unenforceable to prohibit or control sitting out on the boats or when the bargeholders may come and go for instance. Also, objections continue to be received regarding the banging together and creaking of the boats and companionways, again most intrusively at night.

Also, Environmental Health confirms that noise problems generated by boat repair and maintenance have not gone away. Work with power tools has been witnessed this year, which although not constituting a statutory nuisance, are considered to be intrusive disturbance detrimental to residential amenity.

It is considered that the existing use is incompatible and un-neighbourly and that it has consistently created conditions materially detrimental to the amenity of the adjoining land based residents. The existing use is essentially the same as what is proposed. The Council contends therefore that it is reasonable and proper to take into consideration the impact of the existing use of the site when considering these applications. It is considered that the un-neighbourliness and incompatibility prevailing at present will continue to the detriment of the land based residents.

Refuse

At present it is understood that domestic rubbish is stored in the refuse room beneath China Wharf. It is alleged by the applicant that this is by agreement and is included in Reeds Wharf's service charge and that it is adequate and satisfactory. However according to the management company for China Wharf this is not the case; rather the arrangement is personal to the occupier of Reeds Wharf only and not at all for the barges. Not only is the refuse stored outside the application site it is done so without the agreement of the residents of China Wharf. It would seem therefore that this arrangement is no more than an informal expediency borne from the occupier of Reeds Wharf personal arrangement. If the goodwill of the residents of China Wharf was withdrawn, there would be no facilities on the moorings or in

the immediate vicinity to adequately store the barges domestic waste.

The applicant has stressed however that if this existing arrangement becomes untenable then a refuse storage space would be provided on one of the collar barges for collection by either the council's waste contractor or by Tidy Thames. Other than stressing that this facility would be "covered and out of view within sealed plastic containers" no further details are provided.

It is considered that the existing arrangements are not satisfactory. Not only are they outside the site they are not authorized or agreed by the management company for China Wharf. Under these circumstances it is considered that the continuation of these arrangements, even if acceptable, would have to be controlled by a legal agreement. This would of course require the consent of China Wharf which it appears would not necessarily be forthcoming. This therefore is not an acceptable long-term option.

The alternative suggested option fails to provide sufficient information to accurately assess its acceptability both in terms of its adequacy of provision and servicing, and in terms of its impact on the amenity of the residents of both the vessels and flats through noise disturbance at times of deposit or collection.

It is proposed that non-domestic waste will be disposed of in dedicated storage space in one of the collar barges prior to collection by Tidy Thames. Again, no further details have been provided to confirm where it would be or how it would be achieved. Regardless of the impracticalities of transferring non-domestic rubbish from boat to boat to reach the storage area, there are obvious residential amenity considerations to take into account about the impact of deposit and collection in such close proximity to the flats in terms of noise disturbance and intrusion.

For these reasons it is considered that the existing refuse storage arrangements are inadequate and without an acceptable alternative, it is considered to be unacceptable

Waste Disposal

The applicant advises that each boat is or will be fitted with black water holding tanks and that there is a commitment through a Section 106 Agreement to install such tanks with pump out facilities within 6 months of the granting of planning permission. The applicant advises that approximately 60% of the berth holders already have these facilities.

However, there are no connections from the houseboats to the piped sewerage system and there are no shore side facilities where sewage waste can be properly disposed of. The Port of London advises that any planning permission of residential moorings should include, by condition, a requirement for the proper discharge of waste water to appropriate facilities ashore. Notwithstanding the recent introduction of some on board storage facilities waste continues to be emitted directly into the

river. This may cause or contribute to the watercourse being unfit for recreation and provoke unpleasant odours, which cause harm to the amenity of residents and visitors to the area. Although it is acknowledged that improvements have been made it remains the case that sewage is being disposed of directly into the river, which is considered detrimental to residential and public amenity.

Other considerations.

The proposals raise a number of other issues relating to the public use of the river and its foreshore.

The PLA has confirmed that the moorings and the permanently moored vessels are unlicensed and as such interfere with the public right of navigation along this stretch of the river. When the enforcement notices were served in July 2003 it was considered expedient to take formal action on the basis that the uses on the moorings interfered with navigation of the river and as such were contrary to policy 7.3 of the adopted UDP. The Port of London Authority has confirmed that in September 2003 the Harbour Master served Special Directions on 2 vessels moored on the outside of Downings Roads moorings, requiring them to move as they had encroached into the available channel. However these directions were complied with and no further action has been necessary.

It is considered that under the present circumstances a reason for refusal of planning permission on this ground is not justifiable as the original planning objections provoking enforcement action have now been overcome. Moreover interference or any future hazard to navigation would be enforced the PLA under the terms of their legislation.

With regard to public access to the river and its foreshore, the proposals, unlike the situation that prevailed at the time the enforcement notices were served involve 2 16m exclusion/restriction zones. Although the boats and their tyre beds physically restrict access to all the foreshore, these clear strip do ensure that public access is available along some if not all the foreshore at low tide. On this basis, it is considered that the proposed layouts are materially different from the situation that previously prevailed and as such, on balance, overcome these objections. Again, if the appeals are dismissed and the terms of the enforcement notices upheld, full public access would be reinstated

The proposals involve the provision of tyre beds to provide soft foundations for the vessels at low tide. It is understood that the proposal involves the retention of the beds that are on site in their present position. At the time the enforcement notices were served, the beds were newly laid and were visually prominent and unsightly. It is acknowledged that over time they have become partly submerged and covered in silt and that their visual intrusion has significantly reduced. In view of these considerations and that their visibility will further reduce over time, a reason for refusal based on their unsightliness is considered not justified. Again, if the

Council's enforcement action is successful and the vessels are moved on from the application site, the requirements of the enforcement notices are such that the beds be removed if expedient to do so.

The proposed legal agreement

Whilst the terms of the proposed agreement would alleviate some of the problems that the land based residents have experienced it is considered that it neither addresses the question of the use being unacceptable in principle nor the harm that it causes in visual terms.

It is considered that the proposed legal agreement cannot overcome the in principle objection in land use terms. Even if this were not the case, it fails to address the fundamental objections on townscape, conservation and listed building grounds.

Moreover, the proposed 16m distance between the vessels and the vessels is not considered to adequately protect the amenity of the land-based residents.

On this basis, therefore, it is considered that the proposed legal agreement does not overcome the above objections and cannot therefore be supported.

Conclusions

The proposed use of the site is considered unacceptable in principle in this location. This site is set within townscape of historic and renowned quality. The overall scale and permanence of the proposals is considered to be detrimental the visual amenity of this locality generally and the character and appearance of the St Saviours conservation and a number of listed building in particular. This scale and permanence together with the proximity of the vessels to the flats has and would continue to cause significant harm to the amenity of these land-based residents. It is also considered that inadequate refuse and sewage disposal facilities to safeguard the amenities of these land based residents. It is considered that the terms of the proposed legal agreement does not overcome the in principle objection nor does it adequate address the objections on visual and residential amenity grounds. For these reasons therefore both applications are recommended for refusal.

6. EQUAL OPPORTUNITY IMPLICATIONS

6.1 None

7. LOCAL AGENDA 21 [Sustainable Development] IMPLICATIONS

7.1 Concern is raised regarding the direct discharge of sewage into the river and the effect this may have on future water quality should permanent planning permission be granted.

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