



The Downtown Defence Campaign (DDC)

A non-political neighbourhood self-help group to safeguard the best interests of the Rotherhithe Community

5 Somerford Way, Downtown, Rotherhithe, London SE16 6QN

http://www.russiadockwood.ukfriends.com/html/downtown_defence.html

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To Mr Gary Rice, Head of Development Management, Southwark Council,

PO Box 64529, 160 Tooley Street, London SE1 5LX

29th October 2009

STATEMENT OF OBJECTIONS

- *without prejudice and reserving all rights* -

Re; Land at Downtown Road & Salter Road, London SE16 6NP; Planning Application Reference No: AP-08-1563

& Environmental Impact Assessment, revised Environmental Statement

Dear Mr Rice,

We hereby object in the strongest possible terms to the above Planning Application, as the only and legitimate, properly constituted and affiliated community campaigning group for Downtown residents and associates specifically on this Planning matter, in accordance with the mandate received by vote at the DDC's Public Meeting of 25th June 2009, which was chaired by the Greater London Assembly Member for Southwark & Lambeth, Valerie Shawcross, CBE, for the following reasons:

1. OUTSTANDING GROUNDS FOR APPLICATION FOR JUDICIAL REVIEW - 2008

On 1st April 2009 our Barrister, Emma Dixon, Q.C., submitted a Detailed Statement of Grounds for Judicial Review in the High Court (Claim No: CO/2703/2009) to which we now refer by the following enumerated Paragraphs, in support of our objections, as amended:

- (i) Page 4, Paragraph 11: "local residents whom the DDC represent continue to be opposed to the proposed development scheme, not just as to its details (including, importantly, the size of the community centre, and the likely impact on traffic) but as to the *principle* of the development and its appropriateness for the

site (for example, as to its density, massing and scale) given the low-rise, low-density residential character of the neighbourhood.”

The DDC submits that this remains a fundamental underlying principle to our Objection to this latest, fourth Planning Application for the site. As each previous Planning Application has been submitted since 2004, mostly in an effort to overcome previous objections by residents and/or the Local Planning Authority, more, newer grounds for objection emerge, so whilst apparently mitigating one adverse impact in one specific area, say proximity to the Russia Dock Woodland, a newer Planning Application creates new grounds for Objection by a new adverse impact somewhere else on the Site, for instance the removal of the stand-alone Community Centre, and/or the shrinkage of its size.

The DDC firmly believes, as mandated by its members at our Public Meeting of 25th June 2009, that the overall scale of this Planning Proposal exceeds the capacity and sustainability of the site, and runs completely counter to the nature and character of the site, whilst adversely impacting, for the same reasons, on the natural treasures which exist right by the boundaries of this site, namely the SNCI, Green Flag-designated Russia Dock Woodland.

(ii) Page 12, Paragraphs 31-33, *“Ground 3 [for Judicial Review]: failure to disclose transport data”*.

We simply refer you to the text of the Detailed Statement which was sent to your lawyers at the time.

(iii) Page 16, Paragraphs 36-38, *“Ground 5: nature conservation (including bats)”*

We refer you as above.

You should know and are so advised that our Action was settled by way of Consent Order and sealed by the High Court on 29 May 2009, with the following Schedule ordered by Deputy Master L. Knapman, of the Administrative Court:

“Schedule 4: the above Ground [Ground 4 (Environmental Impact Assessment) of the Detailed Statement of Grounds for Judicial Review] for quashing the permission [granted by the Defendant, London Borough of Southwark on 23 December 2008] is without prejudice to the respective contentions of the parties in respect to other Grounds raised in the claim.”

We therefore formally notify you of our activation of our rights under the above Schedule No.4 as set out above, and we wish to object accordingly, as per (i), (ii) and (iii) above. Your lawyers signed the Judicial Review Consent Order and therefore should have a copy to which you can refer.

2. PROPOSED CLAIM FOR FURTHER JUDICIAL REVIEW

PRE-APPLICATION PROTOCOL ACTION LETTERS SENT re: – JUDICIAL REVIEW OF DECISION OF OVERVIEW & SCRUTINY COMMITTEE NOT TO PROCEED WITH SCRUTINY OF DOWNTOWN PLANNING PROCEDURES AND HISTORY

We wish to formally remind you that our lawyers have formally written to your Legal Head twice now, in accordance with pre-application Judicial Review protocols, concerning the above, and we believe that an OSC Review is necessary before this Planning Application (the 4th by this Applicant for this Site) proceeds, and we duly serve notice on you through this channel, that we continue to instruct our Solicitors in our Action in this regard and that therefore you should suspend consideration of this Planning Application accordingly forthwith until the outcome of our Action and/or the outcome of an OSC Review of the entire matter is completed, as it would not

be appropriate for your Planning Committee to be considering this matter at this time, as it would be prejudicial in the light of the above.

3. UNFAIR, FLAWED AND MISLEADING PRE-APPLICATION CONSULTATION

Downtown residents were promised and assured by way of a letter dated 29th April 2009 from Councillor Nicholas Stanton, Leader of Southwark Council, as follows;

“The planning permission (of 23 December 2008) will be quashed and councillors will make a new decision on the planning application from Barratt Homes, making sure that all the right procedures are followed.

“It is important we do this correctly, and carry out our duties as the local planning authority with openness and transparency. In this case we did not live up to our high standards in the way we do things, and I have made it clear to everyone at the council that we now need to get it right.

“It does mean, however, that you will have another chance to have your say on this plan and that your comments will have to be taken into consideration by the planning committee when it looks again at the planning application...

“The planning team will be contacting you shortly to tell you how you can take part in the consultation. Even if you gave us your views last time, can I encourage you to take part again.

“I have also told Barratt Homes that they need to spend a lot more time in the area explaining what they are planning to do with the site and ...I am pleased to say the company has agreed to do this and is very keen to meet local people and keep in touch with progress.”

We would wish to hold Councillor Stanton to his words, as follows:

It is our contention that the only effort made by the Applicant to conduct any further consultation with us, the local community who live and work and go to school in Downtown, was a two-day Exhibition on 8th and 10th September 2009, and when we attended we were told by the Applicant’s Agent, Andrew Howard of Hardhat Communications PR Consultants, that the majority of the guests who were invited and attended, were prospective purchaser clients of Barratt Homes Ltd, for the purpose of a sales pitch. Mr Howard told us, and said publicly at the subsequent Canada Water Consultative Forum meeting (Minuted), that 50 people attended the Barratt Downtown Exhibition of which 31 were prospective buyers from others parts of London.

This does not constitute public planning consultation within any meaningful definition of the phrase, nor does it in any way fulfil Councillor Stanton’s emollient promises about open, transparent and abundant consultation by his local planning authority or the Applicant.

Furthermore we avowedly assert that the ensuing and simultaneous launching of the Statutory Planning Public Consultation process was seriously abused and flawed in the following ways:

1. Environmental Statement (ES) – we, the residents, were notified of the public existence of this important document by way of letter from the Applicant’s Agent, Savills, enclosing a Notice from its Client, Barratt Homes, the Applicant, on 7th September 2009, giving us, the public, until 28th September 2009 to make representations.

The Notice advised that the ES could be inspected at the Council's offices, or online or purchased. We searched online but were unable to find it. We would not find the document at the Council's offices. We rang the Council on 24 September 2009, to inquire as to its whereabouts and were told that due to an administrative error, the ES had not been put online for public inspection, nor were the documents available for public inspection, because they had not been removed from their boxes sent by the Applicant. Accordingly we were advised that this serious error would be corrected, and once everything was accessible for inspection, as per Statute, a new statutory period of public consultation would be notified, advertised and got underway.

2. Your claim therefore, in your letter dated 8th October 2009, that "the Council posted consultation letters on Thursday 24th September seeking responses within 21 days" is simply an untrue statement. No resident in Downtown has received any such letter, and anyway, given the timing as per Paragraph 1 above, we don't see how the Council would have or could have taken such action on 24th September, given that until we contacted you on that exact same date, you were completely unaware that you had blundered re: the accessibility of the Applicant's ES, so you would have been most unlikely in the extreme to have taken any steps to unilaterally extend the Public Statutory Consultation period, on 24 September, in your state of ignorance of your administrative blunder. We are therefore extremely disappointed and concerned at this apparently false claim by yourself, in your letter of 8th October 2009.
3. Notwithstanding this, the Applicant's Agent, Savills, did duly become aware of your blunder re: its client's ES, and therefore stepped in and sent residents a 2nd letter, dated 30th September 2009, and an accompanying Notice of the ES, but this time they also added the critical information that a new version of the original Planning Application AP-08-1563, had also been submitted by their client, and that we therefore had from the 1st October 2009 until 22nd October 2009 to make representations accordingly. This time the documents were properly placed online and made available for inspection.
4. Your local planning authority got around to statutorily advertising the new Planning Application and ES publicly on 1st October 2009, and you notified us accordingly by way of an advertisement which duly appeared in the *Southwark News* newspaper, and in Public Notices attached to lamp-posts at Downtown which still stand on display to this day, that we had until the 22nd October 2009 to make representations about the ES and the new Planning Application, and we have photographic evidence that those Public Notices referring to 22nd October 2009 deadline, remain attached to the lamp-posts in our neighbourhood.
5. Nevertheless, you wrote to us residents once again by way of another letter, dated 8th October 2009, as referred to in Paragraph 2 above, stating that you had extended yet again, the time for making representations from 22nd October 2009 to 29th October 2009. This was sent just at the time the national postal strikes started to kick in and so not many residents have received it, so far as we can ascertain.

Anyway, by this stage the all-pervasive air of confusion over accessibility to documents, actual relevant closing dates, who was acting on whose behalf, who was invited to what, and what was going on in general, was so chaotic as to make this Statutory Public Consultation Process wholly inadequate, seriously sub-standard and flawed, and blemished by an apparent dishonesty by yourself.

Can we therefore at this juncture now take stock of what exactly your local planning authority and the applicant have perpetrated, in this farrago of a statutory public consultation process?

NOTICE 1 – just the ES – consultation period 7th September 2009 – 28th September 2009. **CANCELLED.**

NOTICE 2 – ES and Planning Application – consultation period 1st October to 22nd October 2009. **OVERRIDDEN & AMENDED**

NOTICE 3 – ES and Planning Application – consultation period 1st October to 29th October 2009.
UNILATERALLY IMPOSED WHILST CONFLICTING WITH SITE NOTICES.

FALSE CLAIM: local planning authority sent letter re: Notice 2 on 24th September 2009, asserted within and by you, Mr Gary Rice, in your letter to residents dated 8th October 2009.

REDUNDANT & MISINFORMING PUBLIC NOTICES REMAIN IN SITU AT DOWNTOWN – advertising consultation period closing date as 22nd October 2009 to this day, contrary to Notice 3, as per extension to 29 October 2009.

We do not accept that this is a lawful, fit and proper way to conduct a statutory public consultation on a planning matter, and therefore hold that this gross failure serves to disqualify the Planning Application from any further consideration by your local planning authority.

6. All of the above Objections and observations are exacerbated by the ongoing national Postal Strike. Now, at the precise time of writing and delivering this Objection Letter, and for the last two weeks, we are all in the midst of a national and more or less complete postal strike, then we hold that it is perverse, irrational and cynical for you as a local planning authority to attempt to claim that a fair, open and transparent public consultation process can be conducted, by which the public must, as notified, respond with its representations in writing to your offices in London Bridge, and furthermore it completely fails to live up to any of the “high standards” that we, the Downtown residents, were promised by Leader of the Council, Nicholas Stanton, back in April 2009, in his letter referred to and quoted above.

We therefore object very strongly indeed that this Planning Application has not gone through the legal consultation processes sanctioned by Law, a *prima facie* reason for which the Overview & Scrutiny Committee called in the Downtown Planning Process abuse, and we duly object that it is unlawful, and we reserve our rights, without prejudice to future action, in this regard as well.

4. Downtown Community Centre – 124 m², inside health centre (Block E)

SIZE: Our original Community Centre was 945 m², so this proposal is EIGHT TIMES SMALLER – a totally unacceptable loss of pre-existing community benefit and wholly inadequate re-provision. All previous Applications (Ref Nos: 07-AP-1898, & 04-AP-1721) have proposed a reinstatement of an equal matching community facility. The Southwark UDP also requires this.

LOCATION: Our previous Community Hall stood ‘alone’, entirely separate from the Health Centre. It is not appropriate to embed a community facility within the Health Centre. There are obvious security, management and health implications, which make the proposal untenable.

5. Code for Sustainable Homes (CSH) – Level 3 certified by the Applicant’s Assessor

The Southwark UDP/SPD policies: to seek compliance with the Government's CSH Level 4, and accordingly planning permission to the same Applicant for another development nearby (08-AP-2388) was granted only upon fulfilment by the same Applicant of CSH L4. All other current developments surrounding Downtown in the CWAAP area also have CSH L4 attached. This CSH minimum L3 application therefore fails the UDP/SPD and current CO₂ emissions practice in the area, and government policy.

The Applicant's own Corporate Social Responsibility Environment Charter (Barratt Developments, 5th Edition, June 2008, Page 14): is to comply with CSH L4 for all their properties from 1st January 2010, as applies here. This Application therefore fails the Applicant's own publicly stated commitment to reduce CO₂ emissions in line with government sustainability targets as well as their own current practice of building to CSH L4 at their own development sites around Downtown.

6. Removal of Redriff school drop-off zone and introduction of peak-time electronic control bollards

The Applicant's previous schemes advocated a drop-off gyratory 'loop' with 14 school drop-off places, so this proposal contradicts the Applicant's own previous design rationale and solution for sustaining school peak traffic demand. No evidence is presented to demonstrate this blocking scheme would work. Traffic volumes on Downtown Road will also increase by the 166 new cars for the proposed scheme, and extra cars to the completed Redriff Early Learning Centre. There are already unacceptable levels of gridlock at the site on Downtown Road during the school peak hours. Introducing bollards will severely worsen matters, and barricade in/block out, all residents, existing and new, both north and south, needing access/egress to/from Downtown Road. This proposal is an ill-conceived recipe for traffic and child safety disaster.

7. Cumulative Effect – Transport Impact Assessment

The Applicant wrongly states the site has a PTAL 2-3 – it is PTAL1-2. It fails to take into consideration current traffic figures, very significantly increased by recent development around Downtown, as well as ignoring future increases from more development at Canada Water, and the neighbouring North Deptford Development in Lewisham. Massively more traffic than the applicant is willing to account for, will be cumulatively generated. The Applicant's TIA fails to assess the negative impacts of its scheme in this context.

CONCLUSION

In conclusion, as stated above, and *inter alia*, reserving our rights to add to the above objections, we do hereby so formally object to this Planning Application.

We also reserve our right to submit further objections in light of the national Postal Strike, between now and any date set down by your local planning authority to consider this Planning Application by its statutory Planning Committee, in the event that it does so consider the relevant Planning Application.

We would like to stress that in principle we are firmly against allowing late representations to a Planning Application, but in the circumstances as laid out above, and in the timing of this process in the middle of a national postal strike, and due to the lack of openness, transparency and apparent untruthfulness by the LPA, we do so formally reserve our right to make further representations accordingly.

We formally request that you inform us in writing and guarantee delivery of such, of any and all further developments with regard to this Planning Application.

Yours sincerely,

SIGNED

Steve Cornish,
Chair,
The Downtown Defence Campaign