

THE REGENTS NETWORK

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CANALSIDE DEVELOPMENT AT ORSMAN ROAD LB Hackney Planning Application 2015/0994

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THE LATEST THREAT TO THE REGENTS CANAL IN HACKNEY

1.1 Following the disastrous development of the Rosemary Works (2011) further along the Regents Canal, and the exploitative over-development that Hackney has allowed along the canal corridor, it is about time that the negative impact on the Regents Canal was given serious consideration by the local planning authority, and that the above abominable development proposal is turned down flat.

2.1 Value of open space

The first question that must be asked is “would a tall, highly visible and dominating development such as is proposed be acceptable alongside a park?” The obvious response would be that no developer would attempt to despoil the open space value of a public park by their building thrusting itself into the open area. Of course there are well known and long established policies and firm guidelines that prevent a developer even suggesting it.

3.1 Respect for the historic Regents Canal

The same consideration, through policy, has to be given to the Regents Canal. The Thames and London's canals are designated as ‘open space’ in the London Plan (Table 7.2 ‘Public open space categorisation’). These waterways are therefore accorded the same protection in the London Plan and in Hackney planning policies as any public park.

[Note: The River Thames and canals in London are about 4 times greater in area than Richmond Park].

3.2 It is also noted by the applicants themselves of the above development that “the Regents Canal is identified as an area of open space and forms part of a network of green links/corridors where the Council's policies seek to ensure appropriate management and enhancement” (Planning Statement, Para 4.18) (underlining added). It is bizarre that the developer then discounts the environmental and open space importance of the canal by adding that the Regents Canal is “not within the application site” (Ibid.). What a daft comment as the development is right alongside the waters edge.

4.1 Blue Ribbon Network

As well as the Regents Canal being an open space, it is also designated as part of London's Blue Ribbon Network in the London Plan, and the Mayor states that it is of “strategic importance for London” (LP Para 7.70). For the developer not to take this into consideration in this application is a serious omission.

4.2 The London Plan also directly states that development proposals should enhance the waterways by “protecting the open character of the Blue Ribbon Network” (LP Policy 7.28, Para Af). Not only

does the applicant not refer to this requirement, but the application documents completely ignore the BRN Policies in the London Plan altogether, and they do not appear to even give them a mention.

5.1 Rival landmarks?

It was very surprising (and worrying) that the applicant in the Planning Statement suggests that their new building is intended to “become a landmark on the Regents Canal” (Para 4.2). How sad and improper that the development is intended to dominate and subvert something as well established and significant a landmark as the historic Regents Canal. To add to the insult the applicant then states that their self important building “will act as a lantern, a lighthouse” (Para 4.2) on the canal.

5.2 I am certain that Londoners having such a magnificent and extensive landmark as the Regents Canal in their capital will not welcome a rival claim from a property development to displace their canal from its prime position. Fortunately they will be strongly supported by policy, in the London Plan for instance which states that “the starting point for consideration of development and use of the Blue Ribbon Network and land alongside it must be the water” (Para 7.71). It goes on to say that “the water is the unique aspect” which leaves no doubts about the impropriety of a developer coming along and trying to devalue the Regents Canal in a selfish manner for their own advantage.



Left: The first page of the Blue Ribbon Network Policies on Page 241 of the London Plan, reproduced for the benefit of officials, authorities, planners and waterway developers who may not regularly open these BRN pages.

6.1 London Plan

The Blue Ribbon Network policies in the London Plan have been sadly neglected by pushy developers who make huge profits from developments being beside water, and in this application by a developer who completely ignores them. Sadly, the Blue Ribbon Network policies are also sidelined by our disarranged planning system, and it is also of great concern that LB Hackney has had a very inconsistent record for protection and enhancement of the Regents Canal in their area, and under their care. In this application with its complete disregard of the BRN Policies in the London Plan it is expected that the planning authority should turn it down.

6.2 For the avoidance of any doubts about the probity of the proposed development in relation to the Regents Canal, the proposed obtrusive building is not of ‘strategic importance’ to London as the Mayor assigns to the waterways, nor has their building any historic value, nor any significant environmental and community attributes, and it is not part of an integrated national historic network.

6.3 It should be perfectly clear (from LB Hackney Core Strategy and the London Plan etc) that a canalside building must integrate with the waterway and its environment, and have no negative effect especially on the open space, and no priority. It would be welcome if it had some water related purpose, but above all if it was a functional and integrated building rather than an immodest icon.

7.1 Empty words

How much notice should be taken of the applicant’s supporting documentation? The applicant obviously wants to promote the development, but should their disguised planning issues be so infused with bias and insincerity. For instance the Planning Statement relates that “the proposals have been developed following careful analysis of the local area and site constraints to ensure they respond positively to the site’s location, its setting and neighbouring uses” (Para 5.14), which seems to be fictitious (see above), and it goes on to say that it “will improve the appearance of the area” which is rather stretching the point.

7.2 The very bulky proposed block is situated on the south side of the Regents Canal which will result in overshadowing and loss of sunlight with a negative effect on the environment of the waterway and the conservation area, yet the very selective text does not get around to mentioning that. So, it seems more than a little ingenious for the applicant to state that the proposals “have been sensitively designed in response to a detailed analysis of the site and local context taking into account the

character of the area” (Planning Statement, Para 6.5), to repeat their empty words from a few pages earlier (Para 5.14).

7.3 Can the applicant’s statement be believed that “the design process for the application proposals was supported by a detailed assessment of sunlight and daylight to ensure the development does not give rise to any unacceptable impact on the amenity of neighbouring properties” (Para 5.15). How could it be ‘detailed’ and give assurance that there is not ‘any’ unacceptable impact, when the Regents Canal is overshadowed and the environmental and amenity issues are ignored?

7.4 Turning a few more pages in the Planning Statement reveals further doubtful text where the applicant says the property development is supported by a Planning Obligation “which is intended to mitigate against any adverse impacts arising from the proposals” (Para 5.25). It is of considerable concern that the applicant does not seem to even acknowledge the serious negative effect of their building on the Regents Canal and the character of the locality, let alone taking any steps to mitigate this adverse impact. How unfair and insensitive.

7.4 All in all, much of the application documentation seems to be very weak and of no real value, as it is not possible to differentiate the genuine comments from the propaganda. Perhaps that should be no surprise coming from a property developer and from reports paid for by the developer.

8.1 What precedence?

You can hardly find any property developer these days who does not attempt to justify an immoderate development by claiming to follow the ‘precedence’ of another building somewhere around in the neighbourhood. This Orsman Road development is no exception, and the applicant cites a new building further along the canal rather than neighbouring ones to justify the height of his bulky block (Design and Access Statement, Para 4.2).

8.2 There is nothing in planning law about precedence, no matter how many planning policies one studies, the word ‘precedence’ does not appear. It is important to consider the surrounding buildings and the character and grain of the locality, but it is not acceptable to rely on a single individual building as a reference, because this would not be a legitimate planning consideration. Anyway, precedence works both ways, and could just as easily indicate that there are enough tall buildings! Why do they expect experienced and qualified planning authorities to fall for that deception?

9.1 Flashback

Turning over the pages of the Planning Record of LB Hackney for this stretch of Regents Canal in their borough there are some pages that reveal pleasant places to stroll and linger, and stretches that to cruise through on a boat is a relief from the linear housing estate scenery that has been allowed to take over parts of our canal.

9.2 However, look what happens when the relevant public body is asleep on the job, and a development such as the strongly disputed and objectionable building on the Rosemary Works site (*right*) on a prominent bend in the Regents Canal was given consent in 2011.



9.3 The same fate must not be allowed to disrupt and ruin the already over developed Kingsland Road stretch of the Regents Canal where the bulky and prominent Orsman Road building is proposed. It would be a tragedy if permitted, and another ‘black mark’ on the LB Hackney shaky record.

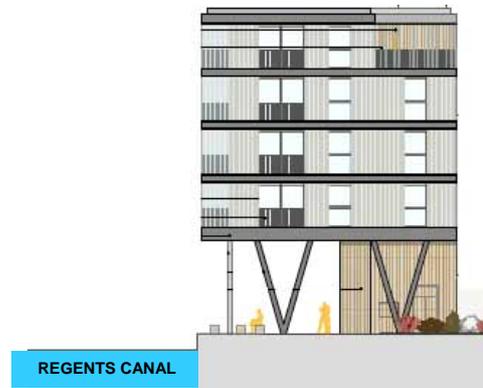
9.4 Questions should be asked as to how this overbearing development has managed to proceed so far. In the Planning Statement it is pointed out that “the proposals have been the subject of pre-application discussions with the Council” (Para 1.5), and that these were “used to inform the submitted proposals” (Para 3.15). This point is repeated twice more in the Planning Statement, presumably to give the impression that the proposed development had been approved by the Hackney planners.

9.5 It may not be the case that the Council gave the applicants such encouragement, but it is a bit of a mystery that basic details (missing waterway policies for instance) were not dealt with by Hackney.

10.1 The wrong building in the wrong place?

It seems to happen far too often these days that a proposed building just does not fit in with a locality, and seems to be an alien intrusion into a community and neighbourhood. This is the case with this proposed building at Orsman Road.

10.2 In some respects, the quality of the architecture may be sound and professional, and the construction and materials well chosen as could be said in this case. Internal layouts may be well crafted, and design details cleverly devised, and the latest technology and building specifications incorporated.



10.3 However, if the building does not fit in with its surroundings and has a negative impact on the location and community that it is settling into, then the architecture has failed.

11.1 The root of the problem

Why are there so many new buildings that do not fit in? Perhaps there is a majority of developments that are very suitable and location friendly, but there are enough unwelcome ones to cause all the trouble as their conflicting influence is often very widespread.

11.2 The architects may get the blame, and they are closely involved, but it is the brief that is the problem. The conception of the development is of course the starting point, or the aspirations of a developer or site owner, and it is at that point where the policies, guidelines and environmental and community issues etc should be considered.

11.3 The problems arise when the brief contains grand ideas and demands, and the battle then begins to force this through against the planning regime, and location considerations. Generally it is not the function of the building that is in contention, but the form it takes - the scale, appearance, bulk, impact on the surroundings - and in simple terms it is a matter of the extent and proportions of the development and not that a change is occurring.

12.1 The Answer?

The solution to the problem is very detailed and wide ranging. But at least part of the answer is for consultation to be carried out at an earlier stage. (See below, Para 14).

12.2 The only wide ranging consultation that is carried out these days is when the development proposal has been taken through to the final presentation, and which is too often considered as a done deal, as is the case with the Orsman Road application. It should be practical for the developer to engage at the formative stage of their proposal with a wide range of interested parties, communities and residents, for instance, rather than their plans only seeing the light of day in a finished state, and the local community and residents having to defend their corner and attempt to unravel a well developed and entrenched plan.

13.1 Lack of engagement

In their Planning Statement the Orsman Road applicants say that their proposals were subject to pre-application discussions with local stakeholders “who have helped inform the application proposals” (Paras 1.5 and 6.5) which makes it sound like their involvement was at an early stage.

13.2 However, this is not true. The community and interested parties knew nothing of the details of the application until the finalised proposals were available through the LB Hackney planning consultation (First advertised 11th May 2015, followed later with consultation on the web site).

13.3 The residents on the development site who are more directly, and personally, affected by the proposals did not fare any better. It appears that they did not know the details of the proposed development in advance, although rumours and comments seemed to have been circulated.

13.4 The applicants are at fault, but it is LB Hackney that works on behalf of residents, communities, the environment etc who must carry out their responsibilities to the borough and its inhabitants.

A FLAWED CONSULTATION?

14.1 Flawed - a Supreme Court Judgement

This planning application consultation for Orsman Road could be considered to be unfair and unlawful, according to an important judgement made recently in the Supreme Court (7 months ago, 29 October 2014).

14.2 The Supreme Court ruled that Haringey's consultation on its Council Tax scheme was unlawful as it failed to outline alternative methods of dealing with cuts to funding. This led the Supreme Court to pose the question: When a local authority consults interested persons before making a decision which would potentially affect its inhabitants, what are the ingredients of the requisite consultation?

14.3 The judgement revealed the surprising fact that the core principles of consultation had never been 'approved' by the Supreme Court (or the House of Lords in the past). Their recent judgement confirmed that consultations must embody fairness, but went on to consider the duty to consult on alternatives, and that consultation must be at a time when proposals are still at a formative stage.

14.4 The text of the Press Summary from the Supreme Court of the judgement can be seen at: https://www.supremecourt.uk/decided-cases/docs/UKSC_2013_0116_PressSummary.pdf

14.5 It is made clear in the judgement that this applies to all public authorities, and that the same common law requirements of procedural fairness will inform the manner in which the consultation should be conducted.

14.6 In the case of this planning application, the consultation cannot be said to be taking place at a 'formative stage' as it was dealt with behind closed door to a high degree of detail before the recent publication of the application. Although there are suggestions that there is an opportunity provided for questions and comments about the application, this does not satisfy the 'formative stage' requirement.

14.7 Also the requirement for an alternative scheme to be presented has not been fulfilled, even at an earlier stage. The current, and only, consultation fails to provide any alternative proposals, or to provide the option of giving good reasons why any alternatives have been rejected.

15.1 A revised consultation?

Rejection of the consultation and a re-run of the application process will be necessary, and it is considered that a challenge by Judicial Review on the validity of the current published consultation would have strong backing through the Supreme Court judgement.

15.2 This measure will be required to mitigate the disadvantage and unfairness that the consultees have suffered, and which should not provide unreasonable difficulties for the authority to address.

15.3 The first thing that the Orsman Road applicants should do is to provide an alternative scheme for development which could respond to potential concerns of the wide assortment of consultees.

15.4 Fairness may require that interested persons be consulted not only on the preferred option but also on discarded options. A reasoned assessment needs to be made of the two (or more) schemes, and the authority in favouring one scheme must give full reasons for rejection of any alternatives.

15.5 Finally, the authority must ensure that there is meaningful participation of the consultees, and in these circumstances this means that realistic alternatives should be provided.