

Planning Enforcement Investigation ENF/23/05645

Land at: 106 Cheyne Walk, Chelsea Reach, London, SW10

1.0 Introduction

- 1.1 This report relates to the residential moorings of houseboats at Chelsea Reach. Between June and September 2023 three large houseboats named The Iris, The Pacifica and The Zephyr were introduced to the moorings. They were reported to the Council's planning enforcement team to investigate whether the introduction of these three houseboats, which are the largest houseboats moored at the site and are each configured as two self-contained homes, constituted a breach of planning control.
- 1.2 Officers carried out an investigation and, on 19 December 2023, the Planning Applications Committee were asked to decide whether the mooring of the three houseboats is a breach of planning control. The Planning Applications Committee decided, against officer's recommendation, that there had been a material change of use by reason of intensification, by the mooring of the three large houseboats, and therefore a breach of planning control had occurred, and that this was the case regardless of whether each berth is treated as a separate planning unit or the moorings as a whole is treated as one single planning unit. The material change of use by intensification was found to have occurred, due to the large size of the houseboats, their form and configuration as two self-contained units. The Committee delegated to officers to:
 1. Consider whether the breach of planning control is harmful, assessing this against the Development Plan and any other material planning considerations and whether it would be expedient to take enforcement action; and
 2. To bring a report outlining their conclusions to the Planning Applications Committee for consideration.
- 1.3 This further report was taken to the Planning Applications Committee on 27 February 2024. Against officer's recommendation, the Committee decided that the breach of planning control is harmful and that it would be expedient to take enforcement action to remedy the harmful breach of planning control. The Committee decided that the material change of use by intensification, by the introduction of the three large houseboats (namely The Iris, The Pacifica and the Zephyr) is harmful to the character and appearance of the Thames Conservation Area and views of the River Thames from nearby residential properties at high level, and causes an increased sense of enclosure that is harmful to the living conditions of occupiers of adjacent houseboats. The Committee also concluded that the planning unit is the whole of the moorings site and that enforcement action should require the permanent removal of the three houseboats from the moorings site.
- 1.4 The three large houseboats are The Iris, The Pacifica and The Zephyr. The Pacifica and The Zephyr are moored in berths 11 and 12, respectively. The houseboat The Iris was removed from berth 5 of the moorings and taken to dry dock in December 2023 and at the time this report was published, has not returned to the moorings.
- 1.5 Because of this, at the time of writing this report, the Council has not yet served an enforcement notice requiring the removal of the three large houseboats from the moorings site. The Committee decided on 19 December 2023 that there had been a

material change of use by intensification as a result of the mooring of three large houseboats and thus a breach of planning control had occurred. On 27 February 2024, the Committee decided that the breach of planning control is harmful and that it would be expedient to take enforcement action to remedy the breach, and the taking of such enforcement action was delegated to officers. It follows from the above that no delegated authority currently exists for officers to take enforcement action in relation to only two of the larger houseboats (i.e. the Pacifica and the Zephyr).

- 1.6 On 21 February 2024, a Certificate of Lawfulness of Existing Use (CLEUD) for the use of the land at 106 Cheyne Walk for residential moorings was submitted to the Local Planning Authority for determination (ref. CL/24/01139). On the date the certificate was submitted, there were only two houseboats (The Pacifica and The Zephyr) moored at the site. The third boat, The Iris had been removed from the moorings and taken to dry dock in December 2023. As above, the decision of the Planning Applications Committee on 19 December 2023 was that a material change of use by intensification had occurred due to the mooring of three large houseboats on the site, and thus a breach of planning control had occurred. Thus, to enable officers to determine the CLEUD under delegated powers, the Committee is requested to consider and to determine whether the mooring of two larger houseboats (The Pacifica and The Zephyr) similarly constitutes a breach of planning control.
- 1.7 Accordingly, for the purpose of determining the CLEUD under delegated powers and also for the taking of enforcement action , the Planning Applications Committee is asked to decide whether a material change of use through intensification has occurred by the mooring of the two houseboats, (The Pacifica and the Zephyr), due to their large size, form and configuration as two self-contained units, and is a breach of planning control. If the Committee decides that a breach of planning control has occurred, then for the purpose of taking enforcement action only, the Committee is also then asked to consider whether it would be expedient to take enforcement action to remedy the breach of planning control (bearing in mind that the impacts of two significantly different boats will be less than the impacts of three significantly different boats).
- 1.8 This report should be read in conjunction with the two reports presented to Planning Applications Committee on 19 December 2023 and 27 February 2024 (attached as Appendices A and B)
- 1.9 Members of the Planning Applications Committee are requested to consider and determine:
 - (1) whether a material change of use of the land has occurred through intensification by the mooring of two significantly different houseboats (namely The Pacifica and the Zephyr) by reason of their size, form and configuration as two self-contained units, and constitute a breach of planning control;
 - (2) and if so, whether the breach of planning control is so harmful that it would be expedient to take enforcement action to remedy the breach.

2.0 Reason for committee consideration

- 2.1 The Director considers it appropriate to bring the matter to the Planning Applications Committee.

3.0 The site and its surroundings

- 3.1 The site, known as Chelsea Reach (and also Battersea Reach) is located on the northern bank of the River Thames adjacent to the Embankment, bounded by Battersea Bridge to the north-east and 106 Cheyne Walk to the south-west (the building which houses the offices of the Cheyne Yacht and Boat Company). It extends over 200 metres along the length of the Embankment. The site has historically been used for the residential mooring of houseboats; there are currently 55 houseboats moored at the site, arranged in two groupings of pontoons that are separated by a central gap.
- 3.2 The site is located within the Thames Conservation Area and is designated as a site of Nature Conservation Importance within the River Thames and tidal tributaries. It is also within the Thames Special Policy Area and the Chelsea Riverside Archaeological Priority Area.

4.0 Relevant planning history

- 4.1 The planning history is set out in detail in the two accompanying reports. It is established that planning permission has not been given for the use of the site for the mooring of residential houseboats. Rather, that use, which began after the Second World War and has continued until now, under the leasehold of the CBYC and the freehold of the Port of London Authority, is immune from enforcement action through the passage of time.
- 4.2 Planning permission has been granted for the reorganisation of the moorings, subject to a condition limiting the number of houseboats to 60 and a condition to ensure that the central gap between the two groups of moorings is protected.

5.0 Matters for the Committee's consideration and determination

- 5.1 Has a material change of use of the land occurred through intensification by the mooring of two significantly different houseboats (namely The Pacifica and the Zephyr) by reason of their size, form and configuration as two self-contained units, and is a breach of planning control;
- 5.2 and if so, is the breach of planning control so harmful that it would be expedient to take enforcement action to remedy the breach.

6.0 Equalities Implications

- 6.1 Consideration should be given to section 149 of the Equalities Act 2010 and the provisions of the European Convention on Human Rights, such as Article 1 of the First Protocol, Article 8 and Article 14, which are relevant when considering enforcement action. Where relevant, regard should be paid to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

6.2 Enforcement action has been authorised for the material change of use through intensification, which requires the removal of three large houseboats from Chelsea Reach, which would result in the loss of 6 homes. If enforcement action is authorised for the removal of two large houseboats, this would result in the loss of 4 homes. In either case, consideration will be given to the occupants of the houseboats which are to be removed, when setting the time period in which to comply with the enforcement notice. It is noted that, as houseboats are not buildings the occupants of the houseboats are not afforded protection under the Housing Act and have no security of tenure, although this is a civil matter outside of the jurisdiction of the Council.