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## Appeal Decisions

Hearings held on 16 September 2015 & 6 April 2016

Site visit made on 6 April 2016

**by Jonathan Manning BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 11 May 2016**

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### **Appeal A: APP/E5900/A/14/2221183**

#### **Calders Wharf, Saunders Ness Road, London, E14 3EA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Steve Inkpen of EastEndHomes against the Council of the London Borough of Tower Hamlets.
  - The application Ref PA/12/02784, is dated 15 October 2012.
  - The development proposed is the redevelopment of Calders Wharf Community Centre comprising the demolition of the existing building (387 sq.m GIA) (Use Class D1) and adjacent wall, railings and planters. The construction of a four storey building to provide a new Community Centre and children's play group facility (484 sq.m GIA) (Use Class D1) and 25 new residential units (9 x 1 bedroom; 11 x 2 bedroom; 5 x 3 bedroom) with associated disabled parking and cycle parking, landscaped public open space, private amenity space and other associated works.
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### **Appeal B: APP/E5900/E/14/2221185**

#### **Calders Wharf, Saunders Ness Road, London, E14 3EA**

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for conservation area consent.
  - The appeal is made by Mr Steve Inkpen of EastEndHomes against the Council of the London Borough of Tower Hamlets.
  - The application Ref PA/12/02785 is dated 15 October 2012.
  - The demolition proposed is demolition of the existing modern constructed single storey community building (387 sq.m GIA, use class D1) (the Calders Wharf Community Centre), a 2.4 metre high brick boundary wall, railings and planters and removal of a tree.
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## **Decision**

1. Appeal A is allowed and planning permission is granted for the redevelopment of Calders Wharf Community Centre comprising the demolition of the existing building (387 sq.m GIA) (Use Class D1) and adjacent wall, railings and planters. The construction of a four storey building to provide a new Community Centre and children's play group facility (484 sq.m GIA) (Use Class D1) and 25 new residential units (9 x 1 bedroom; 11 x 2 bedroom; 5 x 3 bedroom) with associated disabled parking and cycle parking, landscaped public open space, private amenity space and other associated works, at Calders Wharf, Saunders Ness Road, London, E14 3EA, in accordance with the terms of application Ref: PA/12/02784, dated 15 October 2012, subject to the conditions in the attached schedule.
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2. Appeal B is allowed and conservation area consent is granted for the demolition of the existing modern constructed single storey community building (387 sq.m GIA, use class D1) (the Calders Wharf Community Centre), a 2.4 metre high brick boundary wall, railings and planters and removal of a tree, at Calders Wharf, Saunders Ness Road, London, E14 3EA, in accordance with the terms of application Ref: PA/12/02785, dated 15 October 2012, subject to the conditions in the attached schedule.

### **Preliminary Matters**

3. The proposals subject to Appeal A and Appeal B are both against a failure to give notice within the prescribed period of a decision on the applications. However, both proposals were considered by London Borough of Tower Hamlets and were granted approval by the Development Control Committee, subject to the completion of a Section 106 Agreement. I understand that it was not at the time possible to finalise the Section 106 Agreement and the appellant subsequently appealed for non-determination. The Council has not raised any objections to the proposals, subject to suitable planning conditions and securing a Section 106 Agreement.
4. The separate system of Conservation Area Consent was abolished in October 2013. However, Appeal B is a non-determination case and the planning application was submitted to the Council before this date. I have therefore considered the appeal under the previous statutory instruments.
5. At the Hearing on 16 September 2015, it was apparent that the proposed foundation design of the proposed building was not sufficiently advanced for the Dockland Light Railway (the DLR) to be content that a suitable solution was available that would not cause harm to the tunnels that lie beneath the appeal site. It was agreed that an adjournment was necessary to allow further work to be undertaken. The Hearing was resumed on 6 April 2016, following this additional work.
6. Concerns with regard to the land ownership of the appeal site have been raised. At the Hearing on 6 April 2016, the appellant provided a land registry document that illustrates the site ownership. Several interested parties also raised concerns with regard to the historic ownership of the site and the previous transfer of the land. However, I consider that such historic matters are of limited relevance to these appeals. Further, having regard to the provided land registry document and all the other related evidence, I consider that there are no land ownership matters before me that affect my determination of the appeals.
7. An agreed, signed and dated Section 106 Agreement was provided at the Hearing. This secures the provision of: affordable housing, including a viability review; financial contributions towards services to support local people who have been out of employment or do not have the skills required for jobs created by the development during both the construction and post-construction phase; a car free development; employment initiatives; compliance with the Council's Code of Construction Practice; and access to public open space. From the evidence before me, I consider that the requirement for these provisions meets the three tests set out in Paragraph 204 of the National Planning Policy Framework (the Framework) for planning obligations, which reflect those set out in Regulation 122 and 123 (where applicable) of the Community Infrastructure Levy (CIL) (2010). The appellant has also not disputed the need

for the sought provision. As a result, I have not considered such matters further in my decision.

8. At the Hearing on 6 April 2016, Mr Eric Pemberton requested to provide a letter in relation (principally) to the Friends of Island Gardens assuming management responsibility for the built facilities in the Island Gardens Park. I agreed that this could be provided after the Hearing. The appellant was given the opportunity to provide written representations in this regard and comments were received within the agreed timescales. I have taken all of this into account in reaching my decision and such matters are discussed further below.

### **Main Issues**

9. From the evidence that is before me, including the concerns of interested parties, I consider that the main issues of Appeal A are:
- Whether the proposal would preserve the character or appearance of the Island Gardens Conservation Area;
  - Whether the proposal would preserve the setting of the Grade II listed Greenwich Foot Tunnel Entrance;
  - The effect of the proposal on the existing Asset of Community Value;
  - Whether a suitable engineering solution for the proposed foundations can be achieved to ensure that there would be no harm to the underlying Dockland Light Railway tunnels; and
  - The effect of the proposal on the tidal river wall.
10. I consider that the main issues for Appeal B is whether the proposal would preserve the character or appearance of the Island Gardens Conservation Area and the effect of the proposal on the existing Asset of Community Value.

### **Reasons**

#### *Character and appearance*

11. The appeal site is located within Calder's Wharf and currently accommodates a modest sized single storey community centre building and associated parking area and play space. I observed that the surrounding area is predominantly residential, although other uses do exist within proximity to the site, namely community uses such as the adjacent rowing club building, and the listed Island Gardens Park is to the east. A school is also located to the north of the park. The buildings in the area vary in height considerably, many of which are between 4 and 7 storeys. The appeal site falls within the Island Gardens Conservation Area.
12. The proposal subject to Appeal A would deliver a 4 storey building that would provide a new Community Centre and children's play group facility along with 25 new residential dwellings. Appeal B relates to Conservation Area Consent to demolish the existing single storey community building, the majority of the 2.4 metre high brick boundary wall, railings and planters.
13. Turning firstly to Appeal B, I observed that the existing community centre is of limited architectural interest and I would agree with the Heritage Statement that supports the application that it could be argued that the building detracts

from the character and appearance of the area. Further, I consider that the substantial boundary brick wall is an overly harsh and unattractive feature. On this basis, I agree with the Council that both the existing community centre building and boundary brick wall make little contribution to the character and appearance of the area and are of little significance. Given this, I consider that their removal would not be detrimental to the character and appearance of the area, subject to the suitable re-development of the site.

14. Further to this, I also agree with the Council that the removal of the boundary wall would allow for a more pleasant relationship between the appeal site and the adjoining Island Gardens Park. This would increase connectivity and the visual relationship would be improved. I consider that this would be a benefit.
15. In relation to Appeal A, the four storey building, taking into account its footprint would be a significant structure, however, there are existing buildings in close proximity that are comparable or larger. I consider that the scale of the building and the density of the proposal in relation to the existing character of the Conservation Area is therefore acceptable. The Island Gardens Conservation Area Appraisal and Management Guidelines (2007) emphasises the importance of the open spaces to the character and appearance of the Conservation Area. The proposed buildings relationship with the listed Island Gardens Park is therefore a key consideration.
16. The eastern elevation of the building has been designed to angle away from the park and also notably to the Grade II listed Greenwich Foot Tunnel Entrance (the Foot Tunnel Entrance). This aspect of the development would help to maintain a sense of openness within the transition between the appeal site and the park and also to the wider area. In addition, the closest part of the eastern elevation to the park would also be screened by existing mature trees. The scheme would also have active frontages facing onto the park and there would be a new area of public open space, which would also help to integrate the development with the open space of the park.
17. Given all of the above and despite the substantial nature of the building, I consider that the proposed building would have an acceptable relationship with the park and in terms of its siting, form, scale and height, would preserve the character and appearance of the wider Conservation Area.
18. I consider that the brick framing of the proposed building's facades would positively reflect the nature and materials of the surrounding buildings. A sample of this, along with samples of the other proposed external materials could be secured by a planning condition, to ensure their suitability. Given the proposed design of the building, I agree with the Council that ensuring the details and finishes are of high quality will be essential to the successful integration of the proposed building into the area. This would include balconies, windows, reveals, glazing and doors. From the drawings and details provided with the application, there is relatively limited information in this regard. However, I am of the view that such details can be secured by a planning condition to overcome this matter. Therefore, with the imposition of suitable planning conditions, I consider that the proposed architectural design of the building and materials would preserve the character and appearance of the Conservation Area.

19. In conclusion, I consider that Appeal A and Appeal B would preserve the character or appearance of the Conservation Area<sup>1</sup>. Further, I consider that the proposed building represents good design. As a result, the proposals comply with Policy SP10 of the Tower Hamlets Core Strategy (2010) (the CS) and Policies DM23, DM24 and MD27 of the Tower Hamlets Managing Development Document (2013) (the MDD). These in summary seek to ensure: good design; the protection of heritage assets, such as Conservation Areas; and that new developments are well connected with the surrounding area.

*The Grade II listed Greenwich Foot Tunnel Entrance*

20. The appeal site would be located adjacent to the Foot Tunnel Entrance, which is listed for its architectural features. I observed on my site visit that the setting of the Foot Tunnel Entrance is primarily formed by the listed Island Gardens Park in which it is located. However, I do accept that given the very close proximity of the appeal site that the proposals do fall within its setting. I understand that the scale of the building was reduced as a result of discussions with Historic England and the Council.
21. Despite this reduction and the slanting of the eastern elevation away from the Foot Tunnel Entrance, the proposed building would be significantly greater in scale than the existing building, which is modest and unassuming. I consider that this would draw some attention away from the Foot Tunnel Entrance to the detriment of its setting. The existing brick boundary wall runs close to the Foot Tunnel Entrance and is in my view, an unattractive feature that is an existing negative aspect of the setting of the Foot Tunnel Entrance. I consider that its removal would provide some benefit to the setting of the Foot Tunnel Entrance.
22. Although, on balance, I consider that the proposals would not preserve<sup>2</sup> the setting of the Foot Tunnel Entrance. However, I consider that harm in this regard would be relatively limited. I consider that the proposal would result in less than substantial harm to the significance of the Greenwich Foot Tunnel Entrance. Paragraph 134 of the Framework sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The Government is seeking to significantly boost the supply of housing, as set out in Paragraph 47 of the Framework. The proposal would result in the delivery of 25 new dwellings, including the provision of affordable units. The proposal would also replace the existing community centre with a larger and more modern community facility. I consider that these public benefits combined outweigh the relatively limited harm to the heritage asset.
23. Turning to several related matters, concern has been raised that the proposals would affect the setting and significance of the listed Island Gardens Park. However, as set out above, I consider that the proposal would have an acceptable relationship with the park and as a result, would preserve the setting of the park and its significance. In addition, as set out above, I consider that the removal of the brick boundary wall of the appeal site, which is an unattractive feature, would also improve the character and appearance of

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<sup>1</sup> Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

<sup>2</sup> Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

the area. I therefore consider that its removal would enhance the setting of the listed Island Gardens Park.

24. Further, concern has also been raised that the proposals would cause harm to the World Heritage Buffer Zone and would risk the World Heritage Site listing of Maritime Greenwich. However, I agree with Historic England and the Council that the proposals would not result in any harm in this regard. I also agree that the proposed building would be barely perceivable from views from the Greenwich Park General Wolfe Statue.
25. Given all of the above, I consider that the proposals comply with Policy SP10 of the CS and Policies DM27 and DM28 of the MDD. These policies seek to protect heritage assets and protect the status of the Maritime Greenwich UNESCO World Heritage Site. I also consider that the proposals comply with Paragraphs 131, 132 and 134 of the Framework.

*Asset of community value*

26. The existing Calders Wharf Community Centre building was designated as an Asset of Community Value on 12 February 2016, following an application from the Friends of Island Gardens under the Localism Act (2011) in October 2015. The Council has referred me to Paragraph 2.20 of the Department for Communities and Local Government's non-statutory guidance on Assets of Community Value. This sets out that it is open to the decision maker to decide whether the listing as an Asset of Community Value is a material consideration if an application for change of use is submitted considering all the circumstances of the case.
27. The proposal subject to Appeal B would result in its removal. The facility is evidently valued by the local community and therefore the designation is clearly a material planning consideration to this appeal. I fully accept that the permanent loss of the existing community centre in isolation would weigh heavily against Appeal B. However, Appeal A would provide for its replacement and would provide for a larger, more modern and flexible community facility, which in my view, is a clear benefit of Appeal A. A planning condition can also be imposed to secure the redevelopment of the site (Appeal A) before any demolition works can take place (Appeal B).
28. Given the particular circumstances of the proposals and the fact that Appeal A makes provision for a new and enhanced community facility, I consider that the designation of the existing Calders Wharf Community Centre building as an Asset of Community Value should not weigh against the proposals. I consider that the proposals also comply with Policy DM8 of the MDD, which requires the re-provision of existing community facilities to be delivered where they would be lost as a result of a development.
29. I acknowledge the letter provided by the Friends of Island Gardens in relation to assuming management responsibility for the built facilities in the Island Gardens Park. However, it appears that at the current time any discussions are at an early stage and therefore, I consider that this matter does not affect my determination of the appeal or my above findings.

### *DLR tunnels*

30. The appeal site lies directly above two DLR tunnels. Interested parties raised concerns with regard to the potential impact of the proposed building's foundations on the tunnels. The DLR set out in their consultation response to the planning application for Appeal A that such matters could be addressed by planning conditions. Given the potential significance of this matter, I considered that it was necessary to explore the foundation design at the Hearing. Representatives of DLR were present and it became apparent that limited work had been undertaken on the foundation design. The DLR confirmed at the Hearing that, at the time, it was not able to give any comfort to me that an acceptable foundation design could be achieved for the proposed building and therefore it would be appropriate to deal with such matters via planning conditions.
31. It was agreed that it was necessary to adjourn the Hearing to allow more work to be undertaken on the foundation design. Following this, the Hearing was resumed some 6 months later. At the Hearing the DLR representative was able to confirm that the foundation design was now at a suitable stage that a good level of certainty could be given that a 'transfer slab' foundation design could be achieved to ensure that there would be no unacceptable harm to the underlying tunnels and that it was appropriate to secure the finer details of the design and associated matters by planning conditions. From the evidence that is now before me, I agree with this view. Consequently, with the imposition of suitable planning conditions, I conclude that the proposal would not cause any unacceptable harm to the underlying DLR tunnels.

### *Tidal river wall*

32. The appeal site borders the tidal river wall and concern was raised with regard to the potential impact on the river wall from the proposal. The Environment Agency (the EA) were present at the Hearing and confirmed that they were content for a structural survey of the existing tidal river wall, to establish if the tidal defences at this site are structurally sound and to offer a level of protection up to the life expectancy of the development itself (60 years for commercial and 100 years for residential), including any necessary works, to be secured by a planning condition, which it has proposed. Having listened to the views of all parties at the Hearing on the practicalities of securing such works by a planning condition, I am now content that this is appropriate and that the proposal will not result in any harm to the long term structural stability and maintenance of the tidal river wall.

### *Other matters*

33. A number of interested parties are of the view that the removal of the boundary wall and opening the frontage of the appeal site would result in a loss of amenity value to the park and would result in less people utilising it, as the park would become the 'backyard' of the future residents of the proposal. However, I consider that there is no reason to suggest that this would be the case. Particularly, as I consider that the removal of the boundary wall and the more integrated relationship between the appeal site and the park would be beneficial. I am in little doubt that future occupants of the proposal would utilise the park, but there is no reason before me to indicate that this would deter other users from using the park.

34. Interested parties have also raised a large number of other concerns, namely: inadequate infrastructure to support more housing; highway and pedestrian safety concerns, including cyclists outside of the site; insufficient parking locally; loss of privacy to neighbouring properties from balconies and windows; loss of outlook from neighbouring properties; overshadowing; likelihood of anti-social behaviour; noise and disturbance from the community centre use; lack of provision of disabled parking spaces; no need for more dwellings in the area; and the loss of trees, including the effect on protected species. I have considered each of these matters carefully and I consider that with the implementation of necessary planning conditions, which are discussed below, the proposals are acceptable with regard to such matters.
35. Concern has been raised that the Appeal A does not make adequate provision for affordable housing. The proposal would deliver 19.2 percent affordable housing, which falls short of the CS minimum target of 35 percent. However, the application was supported by a viability assessment, which was independently reviewed and the Council accept that 19.2 percent was the maximum reasonable level of affordable housing that the scheme could provide. I see no reason to take a different view. Although, I am mindful that the viability review is now dated. However, the Section 106 agreement secures a viability review, which suitably addresses this matter.

### *Conditions*

36. I have considered the Council's suggested conditions for both appeals against the tests set out within the Framework and the advice provided by the Government's Planning Practice Guidance and have amended them where required. Dealing firstly with Appeal A, in addition to a time commencement condition, a condition is necessary that requires the development to be undertaken in accordance with the approved plans to ensure certainty.
37. In the interests of highway safety, conditions are necessary that require: the development to be carried out in accordance with the track diagram drawings within the Transport Statement, for all servicing to be carried out on-site and vehicles to exit the site in a forward gear; and a scheme of highway improvements to be agreed with the Council.
38. To protect the living conditions of neighbouring local residents during both the construction and operation of the proposal, conditions are imposed that: restrict the opening times of the proposed community facility; restrict the times at which construction activities can be undertaken; require details of privacy screens on western balconies and mitigation measures for the western facing windows for Unit 10 to be agreed with the Council; and post completion noise testing to be undertaken and the results be made available to the Council.
39. To also protect the living conditions of neighbouring residents and in the interests of highway safety a condition is necessary that requires a Demolition and Construction Environmental Management Plan and Construction Logistics Plan to be agreed with the Council.
40. To ensure the suitable appearance of the proposal, conditions are imposed that require: full details of the design of the proposed building, such as doors, windows, balconies and materials to be agreed with the Council; and a full landscape plan, material samples and management scheme for the treatment



of any landscaped areas within the site, including both hard and soft landscaping to be provided and agreed with the Council.

41. To ensure that the proposal will not have any unacceptable impact upon the DLR tunnels that lie underneath the site, conditions are required that secure: a detailed impact assessment and full details of the design and construction methodology for the building's foundations to be approved by the Council in consultation with Dockland Light Railway Limited (DLRL) and in the case of the detailed impact assessment, the London Fire and Emergency Planning Authority; a monitoring regime in accordance with DLR Standards and the Guidance for Third Parties; and an Asset Protection Agreement to be entered into with the DLRL.
42. To avoid risk to the public, buildings and the environment, a condition is necessary that secures a scheme to identify the extent of any contamination on the site and any mitigation measures needed, and for this to be agreed with the Council. In the interests of the water environment, conditions are imposed that require: a strategy for the provision of sustainable water management to be agreed with the Council; the development to be carried out in accordance with the submitted flood risk assessment; a structural survey of the existing tidal river wall to establish if the tidal defences at this site are structurally sound; and a piling method statement (detailing the type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) to be agreed with the Council, in consultation with Thames Water.
43. In the interests of ecology and the protection of bats, conditions are required that secure: a scheme for the provision of external lighting within the 16 metre wide buffer zone alongside the River Thames to be agreed with the Council, in consultation with the EA; and a precautionary bat survey to be undertaken immediately prior to any demolition or tree works, should any take place between April and September. For the protection of existing trees on the site, a condition is imposed that requires tree protection methods to be implemented in accordance with the submitted Tree Protection Plan.
44. In order to secure sustainable development, conditions are necessary that require: the provision of a minimum of 30 cycle storage spaces for residents, along with an additional 8 cycle parking spaces (Sheffield stands) to be provided; the energy efficiency, decentralised energy technologies to be implemented in accordance with the document 'Energy Statement Addendum Note 1-Clarification on Energy Statements'; full details of the proposed CHP system to be provided; the provision of a minimum of 70 m<sup>2</sup> of photovoltaic panels (peak output - 10kWp) to be installed within the development; a minimum of 2 disabled vehicle parking spaces to be provided; confirmation to be provided to the Council that demonstrates 90% of the units have met Part M4 (2) and 10% of the units have met Part M4(3) of the building regulations; a Sustainability Statement to be agreed with the Council for the proposal; and a Secured by Design Statement to be agreed with the Council.
45. Turning to Appeal B, in addition to a time commencement condition, a condition is necessary that requires the development to be undertaken in accordance with the approved plan to ensure certainty. To protect the visual

amenity of the area a condition is imposed that requires the redevelopment of the site to be suitably secured before any demolition work is undertaken.

46. A number of the above imposed conditions relate to pre-commencement activities. In each case, I am satisfied that the requirement of the conditions are necessary to make the development acceptable in planning terms and it would have been otherwise necessary to refuse planning permission.

*Conclusion*

47. For the reasons set above and having regard to all other matters raised, including the strong concerns of the Friends of Island Gardens and local residents, I consider that Appeal A and Appeal B both represent sustainable development and are therefore allowed.

*Jonathan Manning*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Steven Inkpen	Appellant (EastEndHomes)
David Black	Leaside Planning Limited (Agent)
Amit Malhotra	Telford Homes
Fintan Mooney	Telford Homes
Richard Dobson	Conisbee
Jim Rhind	EDA
Chris Miele	Montagu Evans
Ned Westaway (Counsel)	Francis Taylor Building

### **FOR THE LOCAL PLANNING AUTHORITY:**

Gareth Gwynne	London Borough of Tower Hamlets
Kamlesh Harris	London Borough of Tower Hamlets
Jane Jin	London Borough of Tower Hamlets
Vicki Lambert	London Borough of Tower Hamlets

### **INTERESTED PARTIES**

Stuart Cooper	DLRL
Raghuraj Pandya	Atkins
Jim Caton	CGL Rail Ltd
Mike Dunn	Historic England
Joe Barton	Environment Agency
Andy Goymer	Environment Agency
Peter Golds	Councillor, Island Gardens Ward
Andrew Wood	Councillor, Canary Wharf Ward
Eric Pemberton	Chair, Friends of Island Gardens
Gloria Thienel	Friends of Island Gardens
Martyn Daniels	Friends of Island Gardens
Sarah Page Murray	Trustee - Rainbow Playgroup

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Signed and dated Section 106 Agreement, submitted by the appellant.
2. Land registry document for the appeal site, provided by the appellant.
3. Extract of the Localism Act 2011 in relation to Assets of Community Value, submitted by the appellant.
4. The Assets of Community Value (England) Regulations 2012, submitted by the appellant.
5. Drawing SSK011 (P1) (Short Section Through DLR Tunnels for Build Over), submitted by the appellant.

6. Hearing notification letter, dated 10 March 2016. Submitted by the Council.
7. Updated Planning Conditions, submitted by the Council.
8. Decision letter in relation to applications for nomination as Assets of Community Value, dated 12 February 2016. Provided by the Council.
9. Revised planning condition 14, provided by Stuart Cooper of DLRL.

**DOCUMENTS SUBMITTED AFTER THE HEARING**

10. Letter to Eric Pemberton from Stephen Halsey, in relation to Calder's Wharf and Island Gardens, provided by Eric Pemberton.
11. The appellant's comments on the above letter.

## **Appeal A - Schedule of Conditions**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - 2915/PL(000) Rev A - Site Location Plan;
  - 2915/PL(001) Rev A - Site Survey Plan Site as Existing;
  - 2915/PL(002) Rev A - Site Survey Elevation Site as Existing;
  - 2915/PL(003) Rev A - Site Demolition Plan;
  - 2915/PL(100) Rev B - Proposed Site Layout;
  - 2915/PL(101) Rev B - Proposed First & Second Floor Plans;
  - 2915/PL(102) Rev A1 - Proposed Third Floor & Roof Plan;
  - 2915/PL(103) Rev B - Proposed Ground and First Floor Plan;
  - 2915/PL(104) Rev A - Proposed Second and Third Floor;
  - 2915/PL(105) Rev A - Proposed Fourth Roof Plan;
  - 2915/PL(200) Rev A - Proposed Site Sections;
  - 2915/PL(201) Rev A - Proposed Section S1;
  - 2915/PL(202) Rev A - Proposed Section S2;
  - 2915/PL(203) Rev A - Proposed Section S3;
  - 2915/PL(204) Rev A - Proposed Section S4;
  - 2915/PL(300) Rev A - Proposed East Elevation;
  - 2915/PL(301) Rev B - Proposed West Elevation;
  - 2915/PL(302) Rev A - Proposed North Elevation;
  - 2915/PL(303) Rev A - Proposed South Elevation;
  - 2915/PL(304) Rev A - Proposed East Elevation (Bike Store);
  - 2915/PL(500) Rev B - Servicing and Access Strategy;
  - 2915/PL(600) Rev B - Wheelchair adaptable units - pre adaption;
  - 2915/PL(601) Rev B - Wheelchair adaptable units - post adaption;
  - 2915/PL(701) Rev A - East Elevation Materials and Finishes;
  - 2915/PL(702) Rev A - Detailed East Elevation and Section;
  - 2915/PL(703) Rev A - West Elevation Materials and Finishes;
  - 2915/PL(704) Rev A - Detailed West Elevation and Section;
  - 2915/PL(705) Rev A - Schedule of Materials & Finishes pg1;
  - 2915/PL(706) Rev A - Schedule of Materials & Finishes pg2; and
  - JBA 12/252-01 - Landscape Masterplan

- 3) The development shall be carried out in accordance with the track diagram drawings within the Transport Statement, dated August 2013. These being 2012-1306-AT-103 Rev A and 2012-1306-AT-104 Rev A. All servicing shall be carried out on-site and vehicles must exit the site in a forward gear.
- 4) The development hereby permitted shall not commence until the London Borough of Tower Hamlets (as highways authority) has approved in writing the scheme of highway improvements necessary to serve the development. The works must include a Traffic Management Order to change the adjacent kerbside along the sites frontage to the public highway to a no loading area.
- 5) The community centre use (use class D1) hereby permitted shall not take place other than between the hours of: 08.00 to 22.00 Monday to Saturday and 08.00 to 21.00 on Sundays or Bank Holidays.
- 6) The building works required to carry out the development hereby permitted shall take place within the following times: 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays. No building works shall take place on Sundays or Bank Holidays. No works shall take place outside of these hours, unless the Council has agreed in writing that there are exceptional circumstances.
- 7) Prior to the commencement of any superstructure works on-site, details and full particulars of privacy screens in the following parts of the development shall be submitted to and approved in writing by the local planning authority: (a) Privacy screens on western elevation balconies (b) Details of privacy mitigation measures of western facing windows for Unit 10 (first floor northwest unit). All screening shall be provided prior to the occupation of the development and thereafter permanently retained.
- 8) Prior to occupation of the development hereby approved, Post Completion Noise Testing shall be submitted to and approved in writing by the local planning authority. The testing must assess the use of the ground floor of the community centre and associated plant facilities, and their potential to cause noise nuisance to the amenity of the nearest noise sensitive neighbouring property as well as future residents of the approved development. The survey shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the criteria specified and the acoustic details to be agreed with the local planning authority.
- 9) No development including demolition shall commence until a Demolition and Construction Environmental Management Plan and Construction Logistics Plan has been submitted to and approved in writing by the local planning authority in consultation with Transport for London and DLRL. The development shall be carried out in accordance with the approved details.
- 10) Notwithstanding the approved drawings, prior to the commencement of any superstructure works on-site, samples, details and full particulars of the following parts of the development shall be submitted to and approved in writing by the local planning authority:

- a) Drawings at scale 1:20 of window and door details, including plans, sections and elevations. The drawings should include head and sill details, along with details of the proposed materials for the windows. The windows shall be of a consistent thickness in terms of framing.
- b) Drawings at scale 1:20 of full balcony details, including materials, underside treatments and cross sections for the various typical balcony treatments. Balcony details must be submitted showing the balconies and balustrade lines on the east elevation of the building, which require further review, particularly the relationship between the corner windows and balustrade to the residential dwellings at levels 1 to 3.
- c) Sample board of all proposed materials for external faces of the building including details of colour and texture.
- d) Sample panel of brickwork showing bonding, mortar colour and joining details.
- e) Full details of the junctions between the various different cladding materials, including junctions between the materials within the windows.
- f) Typical elevation at an appropriate scale of a bay, and section drawings through the building on each elevation.
- g) Samples and detailed drawings for all fencing within the development.

The development shall be carried out in accordance with the approved details.

- 11) Notwithstanding the approved drawings, prior to the commencement of any superstructure works, a full landscape plan, material samples and management scheme for the treatment of any landscaped areas within the site, including both hard and soft landscaping shall be submitted to and approved in writing by the local planning authority in consultation with London City Airport. Details of the scheme shall include:
- i. Long term design objectives for the site;
  - ii. Design and layout of the new child play areas, communal, any public realm works, including access and security measures for the development;
  - iii. Full details of the biodiverse roof (in consultation with London City Airport), including details of the depth of substrate, details of any planted blanket or mat to be used, any other planting proposed, and any additional habitat features such as piles of stones or logs;
  - iv. Planting scheme, including written specifications (including cultivation and other operations associated with plants and grass) and schedules of plants, noting species, plant sizes and proposed numbers where appropriate;
  - v. Details of wildflower grassland, including details of the seed and/or plugs to be sown/planted and any ground treatment before planting;
  - vi. Boundary treatment including walls, fences and railings and gates;
  - vii. Disabled access throughout the spaces;
  - viii. Management responsibilities;
  - ix. Maintenance schedules for all landscaped areas;

- x. Biodiversity enhancement measures including details of the provision of bat and bird boxes; and
- xi. Details, species and size of a suitable replacement tree in the southwest corner of the site.

The development shall be carried out in accordance with the landscape plan and programme agreed and all soft landscaping works must be carried out within the first planting and seeding seasons following the occupation of any part of the development and thereafter maintained in perpetuity. Trees or plants that die, or are removed or become seriously damaged or diseased within five years of the development being finished must be replaced in the next planting season with plants of similar species and size.

- 12) No development including demolition shall commence until a detailed impact assessment and full details of the design and construction methodology for the building's foundations has been submitted to and approved in writing by the local planning authority, in consultation with DLRL and in the case of the detailed impact assessment the London Fire and Emergency Planning Authority. No works of demolition or construction shall take place until the applicant has submitted a report by a chartered structural engineer showing the proposed methodology. The methodology must demonstrate that:
- a) The proposed works will not compromise the safe operation of the DLR network.
  - b) The proposed works include appropriate protection measures that the applicant will put in place to ensure that no damage is caused to DLRL's infrastructure as a result of construction works or debris/equipment associated with the development.

The development implemented shall thereafter be retained in strict accordance with the approved details.

- 13) No development including demolition shall commence until a monitoring regime in accordance with DLR Standards and the Guidance for Third Parties has been submitted to and approved in writing by the local planning authority, in consultation with DLRL. The regime shall set out the procedure for monitoring of the DLR tunnels and track, ensuring no material load is imposed upon the tunnel.
- 14) No development including demolition shall commence until a full Asset Protection Agreement has been entered into with the DLRL, and submitted to and approved in writing by the local planning authority, in consultation with DLRL.
- 15) A. No development including demolition shall commence until a scheme identifying the extent of the contamination and the measures to be taken to avoid risk to the public, buildings and environment when the site is developed has been submitted to and approved in writing by the local planning authority. Details of the scheme shall include:



- i. A proposal to undertake an intrusive investigation at the site based on the findings of the desk study.
- ii. A 'site investigation report' to investigate and identify potential contamination.
- iii. A risk assessment of the site.
- iv. Proposals for any necessary remedial works to contain treat or remove any contamination.

B. The development shall not be occupied until:

- i. The remediation works approved by the local planning authority as part of the remediation strategy have been carried out in full. If during the remediation or development work new areas of contamination are encountered, which have not been previously identified, then the additional contamination should be fully assessed in accordance with A (iii-iv) above and an adequate remediation scheme shall be submitted to and approved in writing by the local planning authority and fully implemented thereafter.
- ii. A verification report, produced on completion of the remediation works to demonstrate effective implementation of the remediation strategy, has been submitted to and approved in writing by the local planning authority. The content of the report must comply with best practice guidance and should include, details of the remediation works carried out, results of verification sampling, testing and monitoring and all waste management documentation showing the classification of waste, its treatment, movement and/or disposal in order to demonstrate compliance with the approved remediation strategy.

16) No development approved by this permission shall be commenced until a strategy for the provision of sustainable water management has been submitted to and approved in writing by the local planning authority. The Sustainable Urban Drainage (SUDS) strategy shall include:

- a) a topographical plan of the site including cross-sections of adjacent water courses for appropriate distance upstream and downstream of the discharge point if relevant;
- b) provide plans and drawings of the proposed site layout identifying the footprint of the area being drained (including all buildings and access routes);
- c) plans, drawings and specification of SuDS proposals so that they are fully described including details of hard construction, soft landscaping and planting;
- d) the controlled discharge rate for a 1 in 1 year event and a 1 in 100 year event (with an allowance for climate change);
- e) calculations of water storage capacity of the proposals and demonstration that they meet the requirements of the site with a design statement describing how the proposed measures manage surface water as close to its source as possible and follow the

drainage hierarchy as set out in the London Plan (FALP 2015) and comply with SuDS 9 and 10 of the National Standards;

- f) details of any off-site works required, together with necessary consents;
- g) provide geological information including borehole logs, depth to water table and/or infiltration test results; and
- h) details of overland flow routes for exceedance events and a management plan for future maintenance.

The development shall be carried out in accordance with the approved details.

- 17) The development hereby permitted shall be carried out in accordance with the flood risk assessment 'Calders Wharf, Ferry Street, London, E14 3DT, Flood Risk Assessment and Sustainable Drainage Strategy'.
- 18) No development including demolition shall commence until a structural survey of the existing tidal river wall to establish if the tidal defences at this site are structurally sound and offer a level of protection up to the life expectancy of the development itself (60 years for commercial and 100 years for residential), including any necessary works, has been submitted to and approved in writing by the local planning authority, in conjunction with the Environment Agency. Such works shall be fully implemented prior to the occupation of the development.
- 19) No impact piling shall take place until a piling method statement (detailing the type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the approved piling method statement.
- 20) No development shall commence until a scheme for the provision of external lighting within the 16 metre wide buffer zone alongside the River Thames has been submitted to and agreed in writing by the local planning authority, in conjunction with the Environment Agency. Development shall be carried out in accordance with the approved scheme. There shall be no light spill from external artificial lighting into the watercourse or adjacent river corridor habitat.
- 21) Should any demolition or tree works be necessary between April and September a precautionary bat survey shall be undertaken immediately prior to any works taking place by a licensed bat worker. The survey shall be submitted to and approved in writing by the local planning authority before any such works commence.
- 22) During demolition and construction, tree protection methods shall be implemented in accordance with Tree Protection Plan DFC1337TPP Rev B contained within the document Arboricultural Impact Assessment, prepared by DF Clark Bionomique Ltd, dated 8 August 2013.

- 23) Prior to the commencement of superstructure works, full details of the provision of a minimum of 30 cycle storage spaces for residents, along with an additional 8 cycle parking spaces (Sheffield stands) shall be submitted to and approved in writing by the local planning authority. Such provision shall be made prior to the occupation of the building and shall thereafter be made permanently available for the occupiers of the building.
- 24) The energy efficiency, decentralised energy technologies shall be implemented in accordance with the proposals made in the 'Energy Statement Addendum Note 1-Clarification on Energy Statements ref: 59097D' and be retained for so long as the development shall exist.
- 25) No development including demolition shall commence until full details of the proposed Combined Heat and Power (CHP) system to be integrated to deliver the required carbon savings as outlined in the approved energy strategy has been submitted to and approved in writing by the local planning authority. The information shall include detailed specification of the plant equipment and thermal profiling to demonstrate that it has been appropriately sized. Details shall also include system schematic, plant room location and layout and air quality assessment of the proposed system to ensure appropriate design of the system. The development shall be carried out in accordance with the approved details.
- 26) A minimum of 70 m<sup>2</sup> of photovoltaic panels (peak output - 10kWp) shall be installed within the development. The renewable energy technologies shall be implemented in accordance with the approved Energy Statement and retained for so long as the development shall exist.
- 27) A minimum of 2 disabled vehicle parking spaces shall be permanently provided within the development and shall not be used for any other purpose, in accordance with the location specified within Drawing 2915 PL(500) Rev B.
- 28) Before the development hereby permitted is occupied, the applicant shall submit written confirmation from the appointed building control body, to the local planning authority that demonstrates 90% of the units meet Part M4 (2) and 10% of the units meet Part M4(3).
- 29) Prior to the commencement of works, a sustainability statement shall be submitted to and approved in writing by the local planning authority. This shall include details of the sustainability features that will be integrated into the design, including:
  - measures to minimise carbon dioxide emissions across the site, including the building and services (such as heating and cooling systems);
  - avoiding internal overheating and contributing to the urban heat island effect;
  - the efficient use of natural resources (including water), including making the most of natural systems both within and around buildings;
  - measures to minimise pollution (including noise, air and urban run-off);

- measures to minimise the generation of waste and maximising reuse or recycling;
  - avoiding impacts from natural hazards(including flooding)
  - ensuring developments are comfortable and secure for users, including avoiding the creation of adverse local climatic conditions;
  - securing sustainable procurement of materials, using local supplies where feasible, and
  - promoting and protecting biodiversity and green infrastructure.
- 30) Prior to the commencement of superstructure works, a Secured by Design Statement must be submitted to and approved by the local planning authority. The statement should contain details of the following:
- (a) CCTV covering areas of the development to be agreed;
  - (b) A dusk till dawn lighting scheme throughout the site is required;
  - (c) Measures to minimise potential for safety issues along the western portion of the site leading to the ground floor residential dwellings;
  - (d) Details of all fencing surrounding sensitive uses, of a minimum 1.8 metres in height, and appropriate fencing to be agreed adjoining the ground floor residential dwellings; and
  - (e) Mitigation measures to deter the opportunity of graffiti at the site.

The development shall be carried out in accordance with the approved details.

Prior to occupation of the development hereby approved, a Management Plan for security and safety associated with the community centre use must be submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.

## **Appeal B - Schedule of Conditions**

- 1) The demolition works to which this consent relates must be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 2915/PL(003) Rev A – Site Demolition Plan.
- 3) No works for the demolition of the building or wall shall commence until a construction contract, under which one of the parties is obliged to carry out and complete the works of the redevelopment of the site has been entered into and has been submitted to and approved in writing by the local planning authority.