
Appeal Decision

Site visit made on 17 March 2017

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 2nd May 2017

Appeal Ref: APP/E5900/W/16/3164432

2 Arnhem Wharf, Arnhem Place London E14 3RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Arnhem Wharf Residential Management Company against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/16/02230, dated 25 July 2016, was refused by notice dated 20 September 2016.
 - The development proposed is security fencing and access gates.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on public access to the Thames Path; and
 - The effect of the proposal on the character and appearance of the area.

Reasons

Access

3. The appeal site is part of Arnhem Wharf, a part 5/part 8 storey residential development located directly adjacent to the River Thames. The building fronts onto a section of river pathway which is connected to the Thames Path to the north, though as the pathway presently ends with a brick wall at the boundary with Kleins Wharf to the south, it is a dead end. Signage is in place to direct pathway users to follow Arnhem Place to the east in order to avoid this obstruction.
4. The proposal would place security fencing and an access gate across the section of pathway running from the north western corner of Arnhem Wharf to the River. This would take the form of metal post and rail fencing which would include a gate for vehicular access, intended for occasional maintenance use, and a pedestrian access gate which would be open daily between the hours of sunrise and sunset or 07.30 and 21.00 (whichever is the earlier).¹ The fence itself would be stepped, with the vehicular gates within the main east to west

¹ I note that similar access terms are set out in the Section 106 agreement which secured the riverside walkway fronting Arnhem Wharf as part of the original planning approval for this development.

- section, and the pedestrian gate within the stepped part of the fence, sited parallel to the River.
5. This proposal would be for a temporary period pending the opening up of the pathway further south when the site at Kleins Wharf is redeveloped.
 6. I accept that the presence of the gate would continue to permit access along this section of path during daylight hours. However, the pedestrian gate itself, even when open, would not be visible to those approaching the path from the north. Instead they would see a fence across the pathway which, for those unaware of its presence, would present a barrier to free movement. This would contrast with the current situation in which this section of pathway offers recreational users unobstructed access.
 7. I note the appellant's references to the fact that the land is in private ownership and that under the terms of the Section 106 agreement the owner is not obliged to permit access after dark. However these matters do not negate the requirement to provide effective access during the daytime. I also note the appellant's view that the appeal decision referred to by the Council, in which an application for electronic gates controlling access between a development and a walkway adjacent to the Thames was dismissed partly on public access grounds, is not directly relevant to this case.² Whilst I do not have the full details of this case before me, it appears that there are parallels with the present case in terms of seeking to maintain public access to the Thames.
 8. The proposal would therefore conflict with Policy 7.27 of the London Plan and Policy DM12 of the Tower Hamlets Managing Development Document 2013 (the MDD), both of which seek to protect access to the Blue Ribbon Network, of which the Thames Path is a part, for tourism and leisure uses. Whilst the Thames Path itself is currently diverted to avoid the dead-end, the section of pathway in front of Arnhem Wharf still allows recreational access along a pleasant part of the River, and the enjoyment of associated views. This harm to access would be for a temporary period, however, given the uncertainty about when the redevelopment of Kleins Wharf might take place, this does not justify the proposal.
 9. The appellant and some supporters have stated that this proposal would improve security, mitigate against the fear of crime and reduce anti-social behaviour at night-time around Arnhem Wharf. However, no evidence has been presented to suggest that these matters are currently problematic in this area. Furthermore, the design of this scheme with the ground floor flats sited in an elevated position, and most having significant landscaping separating them from the walkway, would deter such behaviour. There is also a considerable degree of natural surveillance of this area from balconies relating to both Arnhem Wharf and New Atlas Wharf, acting as a further deterrent.
 10. Finally, as signage for the Thames Path itself clearly directs users along Arnhem Place, I do not accept that the brick wall at the end of the path would be dangerous to cyclists.
 11. I therefore conclude that the proposal would have a detrimental effect on public access to the Thames Path. In this respect there would be conflict with

² APP/E5900/A/14/2228021

the London Plan Policy 2.27 and MDD Policy DM12 which both seek to improve public access to the Thames Path and Blue Ribbon Network.

Character and appearance

12. This is currently a wide and pleasant section of pathway. The proposed fencing would be around 2.4m in height and would span the full width of the walkway, including a splayed section over the River edge. This would create a visual barrier and the perception that the section of walkway beyond is out of bounds, effectively privatising what is currently an open walkway.
13. Whilst I have noted that access would still be possible via the side gate, this would not be apparent to those unfamiliar with this area. It would lead to a change in character away from an open, safe and inclusive community setting to one in which harsh restrictions on movement reduces connectivity and creates division. Whilst I note that the front entrance to Arnhem Wharf is gated, and that there are other gated entrances to developments in the vicinity, these facts do not justify the introduction of a fence across the walkway.
14. The style and finish of the proposed fencing does not reflect that used elsewhere in this local area, where a combination of brick walls/plinths with railings above is more common. I accept the appellant's point that the proposed railings would afford greater inter-visibility. However, notwithstanding the fact that there are fences of similar heights in this area, the appearance of the full height metal fencing in this prominent location would be overly domineering and out of character.
15. Overall, therefore, the proposal would have a detrimental effect on the character and appearance of the area. In this respect it would conflict with the London Plan Policies 3.9, 6.10, 7.2, 7.4, 7.5, 7.6, the Tower Hamlets Core Strategy 2010 Policies SP04, SP09, SP10 and SP12, and the MDD Policy DM23, all of which seek to improve the quality of life by creating inclusive environments which maintain and improve local character, and the legibility and permeability of pedestrian environments.

Conclusion

16. I have found that the proposal would be damaging to both public access to the Thames Path and the character and appearance of the local area. As material considerations do not outweigh this harm when assessed against the development plan taken as a whole, I conclude that the appeal should fail.

AJ Mageean

INSPECTOR