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## Appeal Decision

Site visit made on 25 July 2018

by **B Bowker Mplan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 October 2018

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**Appeal Ref: APP/E5900/W/17/3187063**

**King Henry's Wharf, Phoenix Wharf, Swan Wharf and Corner of Wapping High Street and Brewhouse Lane, London E1W 2NS**

- 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 approval to details required by a condition of a planning permission.
- The appeal is made by Bridewell (Thames) against the Council of the London Borough of Tower Hamlets.
- The application Ref PA/17/00453, dated 17 February 2017, sought approval of details pursuant to condition No 12 of planning permission Ref PA/13/00982 dated 2 May 2014.
- The development proposed is change of use of the existing wharf buildings (King Henry's Wharf and Phoenix Wharf) to provide 35 residential units, the creation of a new three-storey dwellinghouse (on land formerly occupied by Swan Wharf), and the erection of a new five storey building (on land on the north-western corner of the junction of Wapping High St and Brewhouse Lane) to provide 18 affordable units.
- The details for which approval is sought relates to condition No 12 which states:  
*No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:*
  - *the parking of vehicles of site operatives and visitors*
  - *loading and unloading of plant and materials*
  - *storage of plant and materials used in constructing the development*
  - *the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate*
  - *Wheel washing facilities*
  - *measures to control the emission of dust and dirt during construction*
  - *a scheme for recycling/disposing of waste resulting from demolition and construction works*
  - *notwithstanding any indications in approved documents, further options for the diversion of any bus routes*
- The reason given for the condition is:  
*In the interests of highway and pedestrian safety and to preserve the amenity of the area in accordance with the requirements of Tower Hamlets Core Strategy policy SP09 and SP10.*

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### Decision

1. The appeal is allowed and the Construction Management Plan details submitted pursuant to condition No 12 attached to planning permission Ref PA/13/00982 granted on 2 May 2014 in accordance with the application dated 17 February 2017 and the documentation and plans submitted with it are approved, including the documentation set out at section 7.1 of the Council's Full Statement of Case.

## **Preliminary Matters**

2. The appellants name was not provided in the planning application form or appeal form. The appellants name has since been provided and is used in the banner heading above. Concerns have been raised regarding the status of the appellants, including reference to Company Registry documentation. However this is a matter outside of my consideration of the appeal proposal.
3. During the appeal, the revised version of the National Planning Policy Framework was published. Comments were sought from the parties regarding the effect of this matter on the appeal proposal. The appeal has been determined accordingly.
4. By excavating part of the foundations for a consented building at the site, the appellants have sought to ensure that the development to which the planning permission relates has begun. Concerns have been raised that the footings dug relate to the crane and not the foundations as claimed. It has also been queried as to why the works undertaken do not count as a commencement for the purposes of the Section 106 agreement. Legal advice<sup>1</sup> has been submitted by the appellants to support the commencement of the permission. In addition, the Council raise no concern on this basis and consider that the permission is valid. Based on the Council's acceptance in this respect and as a matter of fact and degree, I am satisfied that the permission has commenced.
5. Concern has been raised regarding information submitted after the closure of consultation at the application stage. Drawing numbers 17/0120/SK02 Rev A (Proposed Temporary Traffic Signal and Signage Plan) and 17/0120/TK07 (7.5t Box Van Routing Along One Way Bridewell Place Operation) were not subject to public consultation at the application stage. However the traffic signal and signage plan proposes minor changes, which include changing the one way operation to Bridewell Place only. In addition, the van routing drawing comprises additional information. As such I do not believe that any party would be unfairly prejudiced by determining the appeal with regard to them. The appeal has been determined accordingly.

## **Main Issues**

6. There are no main issues in this appeal between the Council and the appellants, as confirmed in the Council's Full Statement of Case which says that, had it been in the position to determine the application, it would have granted consent. This position and the measures agreed as part of the proposal are also set out within the signed and dated Statement of Common Ground<sup>2</sup>. However, there are a number of matters of concern to local residents and other third parties and I consider these further below.

## **Reasons**

### *Highway and pedestrian safety*

7. The appeal site comprises two listed wharf buildings<sup>3</sup> and land to the immediate south which is intervened by Wapping High Street. The site is located within the Wapping Pierhead Conservation Area and is surrounded by

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<sup>1</sup> See Appendix 8 of the appellants' Statement of Case.

<sup>2</sup> Dated 15 February 2018.

<sup>3</sup> King Henry's Wharf and Phoenix Wharf, both Grade II listed buildings, including the Grade II listed King Henry's stairs leading to the pier.

residential use to the north, east and west. The Construction Management Plan (CMP) would divert a public right of way by implementing a one way system with temporary traffic lights and width restrictions on Wapping High Street for a maximum of 12 weeks during the construction period. The overall construction period would be for over two years.

8. During my site visit I saw that Bridewell Place is opposite the site and includes vehicular access points to Brewhouse Lane to the south and north east. I also saw that the sections of road between and surrounding the appeal site are narrow and cobbled. In this light, I note that concerns from residents have been raised regarding the suitability of the surrounding highway network, highway and pedestrian safety, public transport (including local bus services), emergency vehicular access, the traffic modelling used, and the resultant width of the highway owing to the construction process. Concerns from residents are also raised regarding the effect of the proposal on access to Bridewell Place, including access for servicing, and on traffic flows in the surrounding area.
9. The Council and appellants set out that the bus route would not be diverted and that road conditions surrounding the site would be assessed and agreed prior to works starting on site. Although not a requirement set by the condition subject to this appeal, in this respect the Council highlight condition No 13 of the original planning permission and the use of Section 278 of the Highway Act in relation to repairs and maintenance work. I also note the analysis undertaken by the appellants to ascertain the impact of the temporary traffic lights, including the provision of an extended red phase to allow movement of materials between sites, and that outside the temporary traffic lights the management of goods between sites would be managed by a banksman. Furthermore, the proposed site working hours set out at section 2.0 of the CMP would be mostly outside of morning and evening rush hours. As such, I am satisfied that the CMP would not unduly impact upon public transport or be detrimental to the free flow of traffic on the highway.
10. Local residents raise concern regarding the effect of the CMP on access for those with mobility impairments, prams and younger children on pathways along and near the site. However, I note that neither the Council nor Transport for London (TfL) have raised any concern on this basis. Furthermore, as highlighted by the Council, the north pavement of Wapping High Street would be kept open at all times with marshals/banksmen in place during construction working hours to ensure safety at all times. I also acknowledge that the traffic measures would be in place for a temporary period of 12 weeks. Taking into account these measures, the proposal would not have a harmful effect on pedestrian safety.
11. Comments have also been made in favour of using the wharf to transport materials, waste and machinery/plant to the site. However, although not a direct requirement of the condition, no substantive evidence is before me to disagree with the consensus view reached by the Council and the appellants that it would be unfeasible to use the river for the delivery of construction material. This aside, the contractor would be required to transport waste materials by river<sup>4</sup>.
12. Furthermore, vehicle manoeuvre plans and the use of traffic management on and around the site are put forward to ensure that there would be no conflict

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<sup>4</sup> See sections 8 and 10 of the CMP.

with access and servicing requirements of neighbouring properties. Drawing the above together, based on all I have seen and read, including the Council's and TfL's acceptance of the CMP and associated plans and documents, the proposal would not have a harmful effect on highway and pedestrian safety.

13. Therefore the CMP would ensure that there would be no harm to highway and pedestrian safety during the construction period. Consequently the proposal would meet the requirements of Core Strategy Policy SP09 which insofar as it relates to this matter seeks to ensure that development has no adverse impact on the safety and capacity of the road network.

#### *Living conditions*

14. During my site visit I saw that residential properties that include single glazed windows face onto the site. Local residents have raised concerns regarding noise, dust, vibration, air quality and the use of a crane during the construction process.
15. Section 12 of the CMP sets out the measures to be employed to control dust and noise during the construction period. In addition, the CMP sets out that site monitoring of air quality and noise pollution would be carried out on a daily basis with results published onto a dedicated website open to a working group to identify any excessive noise or air pollution and corrective measures when necessary. The appellants also confirm that the contractor would be required to form a working group as soon as possible after their appointment. These measures would further ensure no harm to the living conditions of local residents in respect of dust, air quality and noise.
16. As highlighted by the Council, the crane would be used only for works on the landside site and the CMP sets out the crane type would avoid unauthorised over-sail of roads and properties. I also note that piling would be auger drilled to minimise vibration and noise. I consider that these measures would further safeguard the living conditions of local residents in these respects.
17. From the evidence before me, I am satisfied that the implementation of the CMP would ensure that the construction period would not have a harmful effect on the living conditions of neighbouring occupants, with particular reference to noise, disturbance and dust. Consequently the proposal would meet the requirements of CS Policy SP10 which of relevance seeks to ensure development protects amenity.

#### *Other Matters*

18. Some of the concerns raised have been in respect of wildlife/protected species and the merits and details of the original permission. However, as these are not of direct relevance to my consideration of Condition No.12, which is the subject of this appeal, I have not considered them further. This also includes concern regarding potential World War two bombs at the site and the effect of the construction process on utilities and drains. This aside, the appellants and Council highlight the use of the working group, emergency protocol and the submission of an independently commissioned full survey in relation to potential bombs at the site. I also note that the Council raise no objection on the basis of utilities and drains and that the CMP sets out that any instances of surface water being passed into the public sewers will be agreed with the Environment Agency.

19. Concern has been raised regarding parking bay suspensions. Although not of direct relevance to the condition subject to the appeal, the CMP sets out that parking bay suspensions would be kept to a minimum and that the contractor will liaise closely with the Council and provide any required notice. In this respect, the appellants also set out that residents will be consulted prior to any application made for parking bay suspensions.
20. Concern has also been raised regarding the use of site plot 4 and it is contended that its use would create a precedent for future development. However the Council raise no concern regarding the use of the site for construction purposes, with reference to the permitted development rights available relating to temporary buildings and structures. Any potential future planning application for development at site plot 4 would be a matter for the Council to determine on its own individual merits. In addition, concern has been raised regarding property damage and the absence of a detailed survey of Bridewell Place. However this is not of direct relevance to the condition subject to the appeal. Moreover, compensation for any property damage incurred would be a private matter between the developer and affected party.
21. Concerns have been raised regarding the approach of the developer and the consultation undertaken by the appellants and the Council. However, based on the evidence before me, the Council has undertaken satisfactory consultation. Concerns are also raised regarding whether the developer would abide by any restrictions on construction activity. However I must determine the appeal on its own individual merits, with any potential issues of compliance with the CMP and the measures set out being a matter for the Council to enforce should such circumstances arise.
22. I have a statutory duty to have special regard to listed buildings and conservation areas. However, the Council raise no concern on this basis, and based on the temporary measures involved and the original permission and consent granted, I am satisfied that the construction process would preserve the above noted listed buildings and conservation area.

## **Conclusion**

23. Taking the above into account, the CMP would meet the terms of condition No 12, including the reasons underpinning the requirement relating to highway and pedestrian safety and the amenity of the area.
24. For the reasons given above, I conclude that the appeal should succeed.

*B Bowker*  
INSPECTOR