



Appeal Decision

Inquiry opened on 23 October 2018

Site visit made on 31 October and 9 November 2018

by Paul Jackson B Arch (Hons) RIBA

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

Decision date: 10th December 2018.

Appeal Ref: APP/E5900/W/18/3194952

**49-59 Millharbour, 2-4 Muirfield Crescent and 23-39 Pepper Street,
London E14 9TD**

- 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 Healey Development Solutions (Millharbour) Limited against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/16/03518, dated 30 November 2016, was refused by notice dated 22 January 2018.
 - The development proposed is demolition of existing buildings at 49-59 Millharbour, 2-4 Muirfield Crescent and 23-39 Pepper Street and comprehensive mixed use redevelopment including two buildings ranging from 26 storeys (90.05 metres (m) AOD) to 30 storeys (102.3 m AOD) in height, comprising 319 residential units (Class C3), 1,708 square metres (sqm) (GIA) of flexible non-residential floorspace (Classes A1, A3, A4 and D1), private and communal open spaces, car and cycle parking and associated landscaping and public realm works.
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Preliminary matters

1. The Inquiry sat for 6 days and closed on 31 October. I carried out a pre-Inquiry site visit on 22 October. An accompanied site visit was carried out on 31 October. The light was failing by the end of the day and the parties agreed that I could visit unaccompanied the view from the General Wolfe statue in Greenwich Park, within the Maritime Greenwich World Heritage Site (WHS). This took place on 9 November.
2. The description of the proposed development and the 'red line' identifying the development site was altered before final consideration by the Council. I agree with the parties that the minor changes do not amount to such a material change in the proposal that a new application was necessary. No-one's interests have been prejudiced and I have considered the proposal on the basis of the revised description which is set out in the header above.

Decision

3. The appeal is allowed and planning permission is granted for demolition of existing buildings and the comprehensive mixed use redevelopment including two buildings ranging from 26 storeys (90.05 metres (m) AOD) to 30 storeys (102.3 m AOD) in height, comprising 319 residential units (Class C3), 1,708 square metres (sqm) (GIA) of flexible non-residential floorspace (Classes A1, A3, A4 and D1), private and communal open spaces, car and cycle parking and associated landscaping and public realm works at 49-59 Millharbour, 2-4
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Muirfield Crescent and 23-39 Pepper Street in accordance with the terms of the application, Ref PA/16/03518, dated 30 November 2016, subject to the conditions in the schedule at the end of this decision.

Main Issues

4. The main issues are as follows:
 - The effect of the proposed development on the character and appearance of the area, in terms of density, height, scale and massing and the surrounding context; and
 - Whether a late stage review mechanism as part of the S106 Agreement is desirable or necessary.

Reasons

The site and its surroundings

5. The 0.65 hectare site straddles Pepper Street west of Glengall bridge, which separates the Inner and Outer parts of the Millwall Dock. Pepper Street forms part of a longstanding link between the eastern (Cubitt Town) and western (Barkantine Estate) parts of the Isle of Dogs, including what is now Tiller Road and Glengall Grove. The proposed towers would replace 3 and 4 storey brick buildings erected in the late 1980s. The proposed buildings would be staggered on the site. Building A at 30 storeys would be proposed on the north side of Pepper Street, whilst building B would be on the south side and further to the east, providing space for a small landscaped area or 'pocket park'.
6. Substantial commercial redevelopment has occurred about 1 kilometre to the north around West India Dock, centred at the around 250m high 1 Canada Square. A cluster of tall buildings surrounds 1 Canada Square and extends along Marsh Wall across Millwall Dock from east to west at its northern end. Development on the west side of Upper Millwall Dock falls rapidly in height southwards from the 48 storey 1 Millharbour (also known as Pan Peninsular) to 6/8 storeys at Bellerive House adjacent to the site of proposed building A. On the east side of Millwall Dock, development is generally around 14 storeys but is interrupted by the distinct curved glazed form of the 44 storey Arena Tower.
7. In distinct contrast, a large area west of the site along Tiller Road, Mellish Street and Alpha Grove comprises low-rise residential development of mixed origins including some late Victorian terraced houses. South of the site is Greenwich View Place, a development of 8 and 10 storey contemporary buildings mostly used for data processing. This lies on a conspicuous corner site facing south and east across Millwall Lower Dock.
8. The appearance of the Isle of Dogs is rapidly changing with new commercial and residential schemes, some of great height. Centred at 1 Canada Square, the whole ensemble is clearly seen from viewpoints along the Thames such as at Tower Bridge and Greenwich waterfront and from higher ground including Greenwich Park, part of the Maritime Greenwich WHS. With regard to the latter, I have taken account of Historic England's Tall Buildings Advice Note 4 of 2015.

Policy background

9. The development plan for the area consists of The London Plan of 2016 (LonP) and the Tower Hamlets Local Plan including the Core Strategy 2025 (CS)

- adopted in 2010 together with the Managing Development Document (MDD) and associated Adopted Policies Map adopted in April 2013.
10. A new draft London Plan (dLonP) was published for public consultation on 29th November 2017 and is set to run from 2019 to 2041. Due to the early stage reached, it attracts only limited weight. The emerging Tower Hamlets Local Plan 2031: *Managing Growth and Sharing the Benefits* is at a similar stage. Its policies have not yet been examined in public and it is subject to change. A draft Isle of Dogs draft Neighbourhood Development Plan is being consulted upon but has not reached a stage at which it can be given any significant weight.
 11. Earlier revoked advice is important in understanding the background to current policy guidance. In September 2000 the Council published the Millennium Quarter Masterplan Isle of Dogs (MQM2000) as approved interim planning policy. The Millennium Quarter includes the appeal site in an area extending down the whole of the west side of the Millwall Dock. The guidance recognised increasing pressure for development of the area south of Canary Wharf and South Dock and bordering on Millwall Dock and sought to avoid a piecemeal approach to development. In terms of height, existing buildings in the north of the area around South Dock at that time were between 4 and 19 storeys. The vision for the quarter¹, to be realised in a period of 10-15 years, anticipated commercial buildings of a maximum height of 25 storeys (or 100m above ground level) in the north of the area, stepping down in a south and south westerly direction² in order to relate to the scale and use of adjacent low-rise residential development.
 12. The 2010 CS sets out a more up to date vision for Millwall. Amongst a number of principles for development, it repeats the aim that taller buildings in the north should step down to the south and west to create an area of transition. Developing this theme, policy DM26 of the 2013 MDD seeks specifically to control building heights, advising that amongst other things, tall buildings should be of a height and scale that is proportionate to their location within the town centre hierarchy and sensitive to the context of the surroundings. The site falls within the Key Spatial Policy Area *Canary Wharf Activity Area* at its southern edge, where Figure 9 of the policy indicates buildings of more than half the height of 1 Canada Square would fall within an acceptable hierarchy, in principle.
 13. Site Allocation 17 (SA17) of the MDD provides current guidance for the Millennium Quarter. The explanatory text recognises the way that development envisaged under the MQM2000 has now evolved into high density tall buildings such as Pan Peninsular, a scheme of 40 and 50 storeys towards the northern end of Millwall Dock. Design principles for the site include respecting and being informed by the existing character, scale, height, massing and urban grain of the surrounding built environment and its dockside location: specifically, development should step down from Canary Wharf to the smaller scale residential areas south of Millwall Dock.

¹ Illustrated on Fig 6 of the MQM2000

² Illustrated on Fig 9 of the MQM2000

The effect on character and appearance

14. The main thrust of relevant adopted strategic and local development plan policies is that the Isle of Dogs is targeted for significant growth in terms of employment, commercial activity and new housing, predicated on new public transport connections and identified development capacity.
15. In addition to Pan Peninsular and other buildings along Marsh Wall, other tall buildings have been completed or approved and/or are under construction which do or will affect the character and appearance of the Millwall Dock area. Arena Tower (otherwise known as Baltimore Tower) is a somewhat isolated 46 storey glazed residential scheme in the centre of the east side of Upper Millwall Dock which is distinctive in its architectural style and dominates the Dock. It is prominent seen from a wide area of low-rise development to the east and south. The former 4 storey Westferry printworks building south west of the appeal site on the Millwall Lower dockside has been demolished and is being replaced with a comprehensive residential scheme including a school, public open space and 3 ascending high-rise blocks of 13, 17 and 30 storeys. A planning application for the latter to be increased to 46 storeys is currently under consideration.
16. In addition, Millharbour, the new boulevard parallel to Millwall Upper Dock linking Marsh Wall to Pepper Street, has been redeveloped with several schemes of up to 42 storeys. Whilst the overall height steps down in a southerly direction, to 8 storeys at Bellerive House and 9 at Cobalt Point, the dominant impression here is of closely situated tall buildings of substantial scale and bulk.
17. The current 'baseline' position is that the number of constructed and approved high-rise tall towers across Canary Wharf, South Quay and extending into the Millennium Quarter and across into Marsh Wall East is far more than envisaged in MQM2000. The position is summed up in the most recent Supplementary Planning Guidance adopted by the Council in 2015, the South Quay Masterplan (SQM) which covers the area on either side of Marsh Wall and extends south to include the northern section of the Inner Millwall Dock. This document notes that *'Development proposals are seeking residential tall building typologies that commonly exceed the density guidance set out in the London Plan and are some of the most dense developments in the UK'*. The SQMP also feeds into a draft plan for the wider area developed with the Greater London Authority, the Isle of Dogs and South Poplar Opportunity Area Planning Framework (OAPF), published for consultation in May 2018. This identifies the emerging character of secondary tall building clusters of mid-rise and tall buildings in Millwall and Cubitt Town along and behind the dock edges, in line with current development trends. The OAPF is reasonably advanced and carries significant weight.
18. To identify where development may be too large or too tall or is proposed in inappropriate locations, the Council has commissioned a Tall Buildings Study, a draft of which was published in July 2017. It aims to identify appropriate, inappropriate and sensitive locations for tall buildings and makes recommendations on potential sites. It identifies a Millwall Inner Dock Cluster as one of 5 tall building zones across the Borough. The site would be near the centre of this zone. The study recognises a potential for awkward relationships between new tall towers and older lower scale development and recommends that whilst tall buildings are considered appropriate in the northern portion of

the area, their location and scale need to be carefully mediated to ensure that the views to, and the identity of the Canary Wharf cluster is not irreparably altered and that a wall of development is not perceived from distant locations. As a principle, development should be no higher than two thirds of the height of the main Canary Wharf cluster (that is a maximum height of 155m AOD) and must step down as it moves away from the centrality of 1 Canada Square.

19. The tallest appeal building at 102.3m AOD falls well below half the height of 1 Canada Square. As such it would not offend the overriding principle of stepping down from the Canary Wharf cluster. The development would be about 400m away from the low-rise 4 storey residential development on the south side of Millwall Lower Dock and firmly part of the Millwall Inner Dock Cluster within the Activity Area. Having regard to the various indicative sections provided at the Inquiry showing how the 'step down' would occur³, the buildings would fall just below or just above notional lines drawn from the top of 1 Canada Square to the south side of the Lower Dock. Whilst helpful, however, this is not how developments are likely to be perceived by the viewer on the ground. In practice, the proposed towers would be seen as an extension of the cluster of high density residential schemes that have been built in Millharbour and those that already line the west side of the Upper Millwall Dock.
20. The Council's main objection stems from the sharper 'step down' evident along the western length of the dock, from Marsh Wall down to Glengall Bridge. Schemes here from 1-47 Millharbour were erected in accordance with the guidance in the MQM2000 which anticipated a far lower density of development in the Isle of Dogs overall. It is now revoked. There is no specific current policy guidance on how the requirement for a 'step down' or the need to respect and be informed by the existing character and urban grain of the surrounding built environment is to be interpreted on each individual site, in the same way as expressed in MQM2000.
21. In this case, the 2 towers would be firmly behind much lower buildings on the dockside at Davenport House and the Pepper St Ontiod, which continue the stepping down profile of adjacent development and also soften the sudden 'jump up' to the appeal scheme. Seen from the opposite side of the dock and in longer views from the south and west, the new towers would simply extend an existing area of higher built form. It has not been shown why the jump up from 8 to 30 and 24 storeys would lead to unacceptable harm. The skyline would change, particularly seen from the Millwall Dock, but the scheme would also consolidate and add interest. It is not clear why the desire to maintain the existing line of a 'step down' precludes a slightly different line or a degree of variation, given the designation of the site within the Canary Wharf Activity Area, intended for significant growth, and the advice in policy DM26.
22. Moreover, the completion of the much higher and more prominent Arena Tower on the east side of the dock, with a greater 'jump up' provides a stark example of an exception to the preference for a progressive step down in building height, for which no clear explanation was provided. The 30 storey tower on the Westferry printworks site further to the south, allowed by the Mayor of London, is another example. However, both lie within the Millwall Inner Dock cluster identified by the Tall Buildings Study. They also lie close to large areas of water. I consider that the preferred 'step down' approach would not

³ Fig 7.2 of the Tall Buildings Study, Fig 9 of MDD policy DM26, para 4.7 of the Officer's Report CD3.3, and Doc 11

necessarily preclude isolated tall buildings, providing that the policy principle is not unreasonably compromised and justified in the planning balance. It was accepted at the Inquiry that the 'step down' principle would not be offended by variations in height, if the trend of reducing height overall remained clear. The appeal proposal would fall firmly within this category and is helped by being sited near the Glengall Bridge and the Millwall Dock.

23. With regard to the more immediate context, there would be a dramatic change in height which would be very apparent to neighbouring occupiers to the west of the site, but this would not be significantly different to the change in scale to the north along Millharbour. The towers would be relatively slim compared to many other lower but more bulky schemes in the area. There would also be a clear line of separation provided by the Millharbour road and a parallel service road. I also consider that the appeal scheme would appear distinctly residential in character, compared with the data processing buildings adjacent. In time, planting in the new pocket park facing Millharbour would help to mitigate for the contrast in height and bulk of the proposal. The towers would be relatively slender and would not dominate or 'loom' over surrounding development.
24. Turning to the 'grain' of development, the towers would not be inappropriately sited, bearing in mind their location at a crossroads between Pepper St and Millharbour which is likely to become more significant following completion of the Westferry scheme. Successive policy documents draw attention to the importance of Pepper St in connecting the east side of the Isle including the Crossharbour DLR station, to the west. Millharbour is a main route to the business district and the Elizabeth Line and Jubilee Line at Canary Wharf. Pepper Street also forms part of the Council's green grid, intended to provide appealing walking routes. Whilst not of the importance of Crossharbour as a transport node, the appellant's argument that this junction could be much better marked carries weight.
25. In wider townscape terms, the general pattern of decreasing building heights away from the Canary Wharf cluster is clear in the context of the Isle of Dogs as a whole⁴. The proposed development would not appear inconsistent with the Millwall Dock Inner Cluster as identified in the Tall Buildings Study. The proposed two towers would not be as isolated as the Arena Tower or the forthcoming approved scheme at Westferry. They would be sited close to and would relate well to the adjacent large areas of water and dense development in Millharbour and Marsh Wall.
26. The Council is concerned that the scheme would set a precedent for other developments which could erode further the policy aim of building heights stepping down from Canary Wharf, but every potential site has different characteristics and attributes. Designs and materials will vary. Schemes coming forward would be assessed on their individual merits.
27. Importantly, it has not been shown that there is a significant conflict with current and emerging policy guidance. Taking into account the proposed location at a road junction and near the dockside, together with the residential appearance of the development, the height of the proposed towers would not seriously distract from or offend the general principle of transition or stepping down from Canary Wharf. The scheme would not conflict with the aims of LonP

⁴ The potential effect of the appeal proposal along with consented and proposed new development yet to be constructed is illustrated in outline on Inquiry Document (seen from the WHS)

policies 3.4, 7.4 and 7.7, objectives and policies SO22, SO23, SP10 and SP12 of the CS, or policies DM24 and DM26 of the MDD: or emerging strategic and local plan policies.

The second stage review mechanism

28. The scheme allows for 16% of the units to be affordable housing, a figure agreed by the Council's specialist consultants to be the maximum that the development can sustain. CS policy SP02 (3a) requires between 35 and 50% affordable housing. Policy 3.12 of the LonP advises that the maximum reasonable amount of affordable housing should be sought when negotiating on schemes having regard to factors including the specific circumstances of individual sites and development viability.
29. The Council requests a late stage review now because (a) the appellant company had previously offered to provide 35%, subsequently raised to 40% affordable housing when the application came forward for consideration by the Council, ostensibly for the reason that this could have led to a more rapid approval being granted (being closer to the Borough's target) and (b) the dLonP seeks to make late stage reviews part of the development plan.
30. Planning Practice Guidance (PPG) advises that it is the responsibility of site promoters to engage in plan making, take into account any costs including their own profit expectations and risks, and ensure that proposals for development are policy compliant. In this light, I agree with the Council that the earlier offers of varying percentages of affordable housing muddy the waters, as does a September 2018 viability assessment submitted to the Inquiry which indicates no affordable housing at all.
31. However, it is accepted that developers might place a premium on gaining a planning approval if an appeal can be avoided and construction commenced quickly. That would have been a commercial decision. Given the conflicting data, I have no reason to quibble with the 16% level, which is the Council's agreed position now and has been the subject of detailed negotiations between professionals for both parties. As a consequence, the previous offers made by the appellant company do not in themselves now carry any weight in justifying a late stage review. In considering this matter, I appreciate that the scheme has also moved on in design terms, involving increased costs.
32. On the other hand, it is suggested that there is uncertainty in the property investment market with respect to the EU referendum result, but no firm evidence was presented to suggest that the appetite for land and residential development has eased back on the Isle of Dogs. Moreover, the 'substantial implementation' stage identified in the S106 Agreement involves the demolition of the existing buildings, the loss of rent from them as well as ground preparation and a contract commitment. An early stage review would be triggered only if this did not occur within 24 months of consent. The need for a late stage review, given the failure to meet LonP and CS targets for affordable housing, would only arise if the scheme then took 'many years' to implement or build out⁵. Given its location and high-rise nature, on the balance of

⁵ With regard to McCarthy and Stone Retirement lifestyles Ltd & Ors, R (on the application of) v Greater London Authority [2018] EWHC 1202 (Admin) (23 May 2018) and Declaration 4 June 2018, which clarifies interpretation of the LonP Affordable Housing and Viability Supplementary Planning Guidance of August 2017

- probabilities, once started it is very unlikely this scheme would be left unfinished for any length of time or that it would take many years to complete.
33. In any event, in straightforward policy terms there is no requirement for a late stage review. It is not required by PPG, which recommends that the need for reviews is dealt with locally. For the reasons given above, is not now required by the LonP. The Council's Development Viability Supplementary Planning Document of October 2017 seeks what are termed advanced stage reviews, but this guidance followed the Mayor's August 2017 Affordable Housing and Viability Supplementary Planning Guidance and in light of the McCarthy and Stone Declaration, the Council does not rely on it. Whilst the dLonP seeks to incorporate late stage reviews, it is subject to objections on this point and may still be altered. It attracts only limited weight.
34. Accordingly, I do not find that the case for a late stage review has been convincingly made. This element of the S106 Agreement is unnecessary to make the development acceptable in planning terms and does not meet the relevant criteria set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.

Other matters

35. A signed and dated Section 106 Agreement has been provided with the aim of ensuring the provision of affordable housing and contributions towards carbon offsetting, construction employment initiatives and training. The Agreement also provides for car free development, the provision of a travel plan, a welfare facility, a health facility and the preservation and maintenance of public access routes. Except where indicated elsewhere in this decision with respect to a late review mechanism, I consider that the provisions of the Agreement are directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make it acceptable. They meet the tests set out in paragraph 56 of the 2018 NPPF and Regulation 122 of the CIL Regulations. As such I give the S106 Agreement significant weight.
36. Doubts were expressed with regard to the site's Public Transport Accessibility Level (PTAL) rating of 3. However the site would be within less than a minute's walk of an area with a PTAL rating of 4 and within about 3 minutes' walk of Crossharbour DLR station to the east. Around 12 minutes' walk to the north are the Jubilee and Elizabeth Lines. PTAL ratings are a helpful indicator of access to public transport but should not be regarded mechanistically. This matter does not indicate planning permission should be refused.
37. I have taken account of the potential impact on local occupiers in terms of outlook, daylight and overshadowing. Whilst there would be a noticeable difference for some local residents, the impact would not be so severe as to unacceptably conflict with the aims of the LonP, the local development plan or the NPPF in respect of healthy and safe living conditions.
38. The appeal development would be within the setting and visible from the Maritime Greenwich WHS, at an important and popular elevated panoramic viewpoint at the General Wolfe statue and from other parts of the raised parkland around it. However it would be seen firmly in the context of a great deal of contemporary development centred around 1 Canada Square, much of it significantly higher and more conspicuous. There would be no effect on the skyline and it would not approach the visual impact of for instance, the Arena

Tower or the forthcoming Westferry towers. From this viewpoint, Greenwich View Place is more noticeable than the appeal scheme would be, due to its striking contrasting façade and location on the dockside. It is also apparent in this overall view, in which a much wider area is visible than demonstrated in the scale model displayed at the Inquiry, that the appeal scheme would be proportionate in its location and would appropriately respond to the difference in scale of buildings between Canary Wharf and surrounding residential buildings. I conclude on this matter that no harm would be caused by the appeal scheme to the setting or the special heritage interest of this WHS.

39. Whilst the scheme would also be visible from Tower Bridge and obliquely from within the Tower of London WHS, this would be in the context of a busy developing city and a rapidly expanding designated growth area on the Isle of Dogs. There would be no impact on any protected views. No harm would result to this WHS. To complete this aspect, there is no dispute that there would be no harm caused to the Chapel House Conservation Area to the south.
40. I recognise the concern that incremental changes to the townscape, each having a minor and acceptable impact, could cumulatively result in a level of harm that is noticeable and undesirable. In the case of the Isle of Dogs, there may be a point at which the legibility of an area becomes less distinct with the risk that the identity of the Canary Wharf cluster could be irreparably altered. However the impact of this scheme, which lies within an acceptable profile as identified by MDD policy DM26⁶ would not significantly contribute to this process.
41. Concerns were expressed in pre-application discussions by the Council's Conservation Design and Advisory Panel (CADAP) on the height, scale and mass of the proposed development, the lack of a more comprehensive scheme and the potential to prejudice part of the adjacent site (these latter two also raised by the Greater London Authority (GLA)) amongst other things. In a process of consultation with officers of the Council that did not follow an ideal path, the appellant company took on board CADAP observations insofar as they related to the expression of structure and fenestration. I have had regard to the CADAP concerns but share the view of the GLA in their consultation response that recognising that the height would be higher than its immediate neighbours, there is no strategic concern with regard to height, scale or massing and that the scheme is generally well designed.
42. A more comprehensive scheme might be desirable but separate ownerships preclude a larger area contributing to the scheme. The apartments are all dual aspect and this, together with the angled design of some lower level bedroom windows facing south, indicates that there would be no serious impediment to redevelopment of the adjacent site to the south, should that come to pass.

Conditions

43. A list of conditions and reasons was agreed between the parties was discussed at the Inquiry and adjustments made in the interests of precision and enforceability. The appellants submitted their written agreement to pre-commencement conditions (or conditions which need to be discharged before starting a particular section of work). Pre-commencement conditions are necessary in respect of demolition and construction management plans in the

⁶ With reference also to Doc 11

interests of local amenity. Similarly, arrangements need to be made in advance to deal with contamination that may be present. The history of the area demands a pre-commencement condition covering archaeology. Piling, landscaping, biodiversity enhancement, external materials, shopfronts, drainage, extraction and ventilation, television reception, highway improvement, flood resilience, delivery and servicing and mitigation for any impact from noise producing equipment at Greenwich View Place are all matters that need to be approved before the works or a relevant part of the works commence.

Conclusions

44. The proposed scheme would provide 319 residential units of high quality with dual facing accommodation, 16% of which would be affordable units, together with non-residential uses that would enhance the street scene and provide useful services. There would be a significant contribution towards the need for housing in Tower Hamlets and in London generally. The development would add to the legibility of this part of the Isle of Dogs where important routes converge, including the proposed access to the extensive Westferry development to the south west. The height, scale and massing of the towers, which would have a distinctly residential appearance, would not conflict with the overall need to appear to step down from much higher buildings at Canary Wharf, as required by relevant current and emerging policies. The height of the scheme would fit in with the town centre hierarchy for Activity Areas in the MDD and be part of an emerging Millwall Inner Dock Cluster.
45. Whilst representing a considerable change from the 4 storey buildings currently on the site, the development would not significantly detract from the living conditions of nearby occupiers. The towers would form a variation in the skyline behind the Pepper St Ontiod and Davenport House in nearby views that would not significantly detract from the descending progression in height that is an important characteristic of existing schemes along the west side of the Upper Millwall Dock. No harm would be caused to important heritage interests at the Maritime Greenwich and Tower of London WHSs. These considerations along with the lack of harm to the character and appearance of the area and the contribution to economic and social aims of the development plan, in what is an area designated for significant growth, indicate that the development should be granted planning permission. The creation of a 'pocket park' of greenery adds an attractive environmental improvement that carries weight. The scheme would be of a high quality of architectural design.
46. For all these reasons, the appeal should be allowed.

Paul Jackson

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

James Burton	Of Counsel
He called	
Hugo Nowell BSc MA MAUD CMLI	Urban Initiatives Studio
Richard Humphries BSc Dip TP Dip TD	London Borough of Tower Hamlets

FOR THE APPELLANT:

Rupert Warren	Queens Counsel
He called	
Mark Gibney MRTPI	GVA
Mark Taylor BA DipPM RIBA	3DReid Architects
Peter Stewart MA(Cantab) Dip Arch RIBA	Peter Stewart Consultancy

INTERESTED PERSONS:

Cllr Mufeedah Bustin	London Borough of Tower Hamlets
Cllr Andrew Wood	London Borough of Tower Hamlets
Ruth Bravery	Local resident
Chris Parish	Local resident

DOCUMENTS

- 1 Appeal decision ref APP/E5900/W/3190531 225 Marsh Wall
London E14 9FW
- 2 Objection from Juliemma McLoughlin of the GLA dated 24 October
2018
- 3 Extract from Planning Practice Guidance ref ID: 10-009-20180724
concerning viability reviews during the lifetime of a project
- 4 Copy of email correspondence between Richard Humphreys and
Transport for London (TfL)
- 5 Letters dated 2 & 17 October 2018 from TfL to Richard
Humphreys regarding Westferry Printworks redevelopment
- 6 Page 30 of the South Quay Masterplan, provided by the appellant
- 7 View 23 reconfigured to include reflections, provided by the
appellant
- 8 View 1 with additional red line indicating location and profile of
proposed development together with blue line indicating permitted
schemes, provided by the appellant
- 9 Copies of objectors' written remarks, provided by Cllr Bustin
- 10 Plans indicating lines of coincidence for the two towers of the
appeal scheme including similar plans for Pan Peninsular and
Millharbour Village, provided by the appellant
- 11 Theoretical section showing line drawn between One Canada
Square and residential development south of Outer Millwall Dock,
provided by the Council
- 12 Copy of 1983 OS plan with potential roadways indicated in a

- dotted line, provided by the Council
- 13 View 27 of Millharbour corrected to include Bellerive House, provided by the appellant

Schedule of 28 conditions

Time Limit

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Approved plans

- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in the Schedule to this letter.

Hours of construction

- 3) a) Unless otherwise specified by a section 61 consent granted under the Control of Pollution Act 1974, the demolition and building operations required to carry out the development allowed by this permission must only be carried out within the following times and not at all on Sundays and Bank Holidays:-
- 8.00 am to 6.00 pm Monday to Friday
 - 8.00 am to 1.00 pm on Saturdays
- b) Any hammer driven piling or impact breaking out of materials pursuant to this permission shall be carried out only between the hours of:
- 10 am and 4 pm Mondays to Fridays and shall not take place at any time on Saturdays, Sundays or Public Holidays.

Hours of operation of non-residential uses

- 4) The Use Class A3/A4 units and the Community Centre and Welfare Facility (Use Class D1) hereby permitted shall not be open to customers outside the following times:

08.00 hours to 00.00 hours Monday to Saturdays inclusive and bank holidays; and
10.00 hours to 23.00 hours Sundays.

Refuse storage and recycling facilities

- 5) The refuse storage and recycling facilities shown on the approved plans shall be provided prior to the occupation of the development

and thereafter made permanently available for the occupiers of the buildings.

Cycle parking

- 6) The proposed long stay and short stay cycle parking facilities (including their associated facilities) shown on the approved plans shall be provided prior to occupation of each of the buildings and thereafter retained for the life of each part of the development.

Wheelchair accessible housing

- 7) Ten percent (10%) of the residential units shall meet Building Regulation requirement M4 (3) '*wheelchair user dwellings*' in accordance with the approved residential schedule.

Energy System

- 8)
 - a) The development shall be carried out in accordance with the Planning Stage Energy Statement D1928/REPORTS dated 11th November 2016 by Waterstone Design and the Sustainability Statement November 2016 by Waterman Infrastructure & Environment Limited.. The energy efficiency and sustainability measures set out shall be completed prior to the first occupation of the development and retained for its lifetime.
 - b) The development shall achieve regulated carbon dioxide emission savings of no less than saving of 32% for the residential element and 17% for the commercial element against the baseline of Target Emissions Rate of Part L of Building Regulations 2013.
 - c) The development shall not be occupied until a Post Completion Verification Report has first been submitted to and approved in writing by the local planning authority to confirm that the above minimum standards have been achieved and that all of the approved energy efficiency and sustainability measures have been implemented.

Noise Standards for Mechanical Plant and Equipment

- 9)
 - a) Any mechanical plant and equipment within the development shall be designed and maintained for the lifetime of the development so as not to exceed a level of 10dB below the lowest measured background noise level (LA90, 15 minutes) as measured one metre from the nearest affected window of the nearest affected neighbouring residential property. The plant and equipment shall not create an audible tonal noise nor cause perceptible vibration to be transmitted through the structure of the building.
 - b) A post completion verification report including acoustic test results and confirming that the above maximum noise standards have been complied with shall be submitted to the local planning

authority for its written approval prior to either the expiry of the period of 3 months from first occupation or the occupation or no more than 80% of the residential units within the development, whichever event occurs earlier.

Pre-commencement conditions

Demolition Management Plan

- 10) No demolition shall take place until a Demolition Management Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall provide for:
- the parking of vehicles of site operatives and visitors;
 - details of the site manager, including contact details (phone, facsimile, email, postal address) and the location of a large notice board on the site that clearly identifies these details of the site manager;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in demolition;
 - the feasibility of transporting waste by the River Thames and the Docks;
 - the erection and maintenance of security hoardings;
 - measures to be adopted to maintain the site in a tidy condition in terms of disposal/storage of rubbish, storage, loading and unloading of plant and materials and similar demolition activities;
 - measures to be adopted to ensure that the access from the emergency exits is safe and not obstructed during the works;
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during demolition;
 - a scheme for recycling/disposing of waste resulting from demolition;
 - all non-road mobile machinery, used in connection with the demolition of the development hereby approved (NRMM) must meet the minimum emission requirements set out in the Mayor of London's Control of Dust and Emissions during Construction and Demolition Supplementary Planning Guidance 2014.

Thereafter, demolition works shall only be carried out in accordance with the approved details.

Construction Management Plan

- 11) No construction shall take place 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;
 - details of the site manager, including contact details (phone, facsimile, email, postal address) and the location of a large notice

board on the site that clearly identifies these details of the site manager;

- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the feasibility of transporting construction materials by the River Thames and the Docks;
- the erection and maintenance of security hoardings;
- measures to be adopted to maintain the site in a tidy condition in terms of disposal/storage of rubbish, storage, loading and unloading of plant and materials and similar construction activities;
- measures to be adopted to ensure that the access from the emergency exits is safe and not obstructed during the works;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from construction works;
- all non-road mobile machinery, used in connection with the construction of the development hereby approved (NRMM) must meet the minimum emission requirements set out in the Mayor of London's Control of Dust and Emissions during Construction and Demolition Supplementary Planning Guidance 2014; and
- crane lighting and location of cranes.

Thereafter, the works shall only be carried out in accordance with the approved details.

Decontamination

- 12) a) No works shall take place on the site (save for demolition works, site preparation, erection of fencing, laying or provision of services, temporary surfaces and construction site buildings) until a remediation scheme to deal with any potential ground contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- i. A preliminary risk assessment which identifies:
 - All previous uses;
 - Potential contaminants associated with those uses;
 - A conceptual model of the site(s) indicating sources, pathways and receptors; and
 - Potentially unacceptable risks arising from contamination at the site;
 - ii. A site investigation scheme, based on (i.) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
 - iii. The results of the site investigation and detailed risk assessment referred to in (ii.) and based on these an options appraisal and remediation strategy giving full details of the remediation and

mitigation measures required and how they are to be undertaken;

- iv. A verification plan setting out the details of the data to be collected in order to demonstrate that the works set out in the remediation strategy in (iii.) are complete to a satisfactory standard; and
- v. A monitoring and maintenance plan, setting out provisions for long-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The contamination remediation works shall be implemented in accordance with the approved details and completed prior to the first occupation of each part of the development. The provisions of the monitoring and maintenance plan shall be in force from the first occupation of each part of the development and retained for its lifetime.

- b) If during the works any additional contamination is encountered, all works in the relevant part of the site shall cease immediately and not resume until either:
 - i. The potential contamination has been assessed and a remediation scheme has been submitted to and approved in writing by the Local Planning Authority.or
 - ii. Timescales for submission of a remediation scheme and details of works which may be carried out in the interim have been agreed in writing by the local planning authority.

Any additional land contamination shall be fully remedied prior to the first occupation of the development.

- c) The development shall not be occupied until a post completion verification report, including results of sampling and monitoring carried out, has first been submitted to and approved in writing by the local planning authority demonstrating that the site remediation criteria have been met.

Archaeology

- 13) No development shall take place on any part of the site until:
 - A) The developer has implemented a programme of archaeological evaluation in accordance with a Stage 1 written scheme of investigation which has (or have) been submitted to and approved by the local planning authority in writing.
 - B) If heritage assets of archaeological interest are identified by the evaluation under Part A, then prior to the commencement of development (other than demolition to existing ground level) on

that part of the site, a programme of archaeological investigation for that part of the site shall be implemented in accordance with a Stage 2 written scheme of investigation which has been submitted by the applicant and approved by the local planning authority in writing.

The development shall not be carried out otherwise than in accordance with the approved Written Scheme of Investigation. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part (B), and the results and archive deposition has been secured and provided to the local planning authority for analysing, publication and dissemination.

Piling method statement

- 14) No impact piling shall take place until a Piling Method Statement to include a Hydrogeological Risk Assessment of any physical disturbance to the aquifer or subsurface water or sewerage infrastructure has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Television & radio reception

- 15) Prior to the commencement of superstructure works, a study undertaken by a body or person approved by the Confederation of Aerial Industries or by the Office of Communications shall be submitted to and approved in writing by the local planning authority which:
- i) identifies the area within which television signal reception might be interfered with by the development and;
 - ii) measures the existing television signal reception within the study area and;
 - iii) assesses the impact of the permitted development on the television signal reception of those in the study area and proposes appropriate measures to mitigate such effects so that the signal shall be of at least the same quality as that before the development was undertaken, as recorded under (ii) above, and which provides contact details at the developer and at the local planning authority for persons whose reception has been affected by the development to provide notice that their reception has been so affected.

As soon as reasonably practicable and in any event within one month of receiving notice, and subject to those who have notified the developer or the local planning authority that their signal reception has been interfered with, provide their consent, the developer shall undertake the appropriate mitigation works as identified in the approved study. The developer shall remain responsible for such mitigation works for notifications made to the developer or to the local

planning authority before the expiry of 12 months from the practical completion of the development.

Assessment of noise from 1 Greenwich View Place

- 16) No development other than demolition shall occur until an Updated Noise Assessment to assess the impact on the development of the recently completed data centre at 1 Greenwich View Place has been submitted to and approved in writing by the local planning authority. The Updated Noise Assessment shall be accompanied by details of any necessary mitigation measures (for instance include acoustic glazing and/or ventilation), to ensure satisfactory environmental conditions within the proposed residential and nursery uses adjacent. Development shall be undertaken in accordance with the approved details and maintained in perpetuity.

Scheme of highway improvement works

- 17) No superstructure works shall occur until a Scheme of Highway Improvement Works necessary to serve the development under Section 278 of the Highways 1980 to facilitate such works has been approved in writing by the London Borough of Tower Hamlets as local planning authority and road traffic authority.

The development shall not be occupied until the Scheme has been completed in full accordance with the approved details.

Landscaping and public realm

- 18) A landscaping and public realm scheme together with a landscape management plan for the public and private areas in the development shall be submitted to and approved in writing by the local planning authority prior to the commencement of superstructure works.

The detailed plan shall include (where relevant) the following details:

- a.) The overall layout, including extent and type of hard and soft landscaping;
- b.) The location, species and sizes of proposed trees, as well as details of any trees to be retained along with necessary protection measures;
- c.) Details of soft planting, including any grassed/turfed areas, shrubs and herbaceous areas;
- d.) Enclosures including type, dimensions and treatments of any walls, fences, screen walls, barriers, railings and hedges;
- e.) Hard landscaping, including samples of ground surface materials, kerbs, edges, ridge and flexible pavements, unit paving, steps and if applicable, any synthetic surfaces;
- f.) Street furniture, external lighting, CCTV including type, materials and manufacturer's specifications;
- g.) Details of children's play space equipment and structures, including key dimensions, materials and manufacturer's specifications;

- h.) Any other landscaping features forming part of the scheme, including amenity spaces and green roofs;
- i.) A management plan to include a maintenance schedule for all landscaped areas;
- j.) A statement setting out how the landscape and public realm strategy provides for disabled access, ensuring equality of access for all, including children, seniors, wheelchairs users and people with visual impairment or limited mobility;
- k.) A wayfinding and signage strategy.

All landscaping in accordance with the approved scheme shall be completed/planted during the first planting season following practical completion of the development or in accordance with a programme agreed with the local planning authority. The landscaping and tree planting shall have a two year maintenance/watering provision following planting and any trees or shrubs which die, are removed, or become seriously damaged or diseased within five years of completion of the development phase shall be replaced with the same species or an approved alternative in the next planting season, to the satisfaction of the local planning authority.

The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.

Biodiversity enhancement

- 19) Prior to the commencement of superstructure works, a biodiversity enhancement scheme shall be submitted to and approved in writing by the local planning authority. The biodiversity enhancement scheme shall include but not be limited to the following:
- the location and total area of biodiverse roofs, substrate depth and type, planting and additional habitats;
 - The location, number and type of bat boxes and nest boxes for appropriate bird species, including Black Redstart.

The approved scheme shall be implemented in full prior to the occupation of the development.

External materials

- 20) Prior to the commencement of superstructure works full details (including samples) of all external facing materials shall be submitted to and approved in writing by the local planning authority. The submitted details shall include:
- a) Mock-up panels of the external cladding materials and glazing,
 - b) Samples of all other external facing materials;
 - c) Doors and windows to include details and specification of acoustic glazing and ventilation for the residential accommodation;
 - d) Balconies, balustrades and privacy screens to the residential accommodation;
 - e) Drawings and details of material finish to any rooftop plant.

Development shall be undertaken in accordance with the approved details.

Shopfronts

- 21) Prior to the commencement of superstructure works, full details of the design and materials of the proposed shopfronts and signage shall be submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.

Secured by Design

- 22) No superstructure works shall take place until details of security measures have been submitted to and approved in writing by the local planning authority. The development shall comply with the Secured by Design standards. The development shall aim to achieve the Secured by Design 'Gold' standard. The security measures shall be implemented in accordance with the approved details, prior to the first occupation of the development and retained for the lifetime of the development.

Surface water drainage

- 23) Prior to commencement of the superstructure works a surface water drainage scheme shall be submitted to and approved by the local planning authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development. The development shall be carried out in accordance with the approved details and retained thereafter for the lifetime of the development.

Extraction and ventilation from Class A3 & A4 uses

- 24) No units with Use Classes A3 and A4 shall be occupied until full details (including external appearance and technical specification) of any necessary extraction and ventilation systems have been submitted to and approved in writing by the local planning authority.

The extraction and ventilation systems shall be installed in accordance with the approved details and maintained in accordance with the manufacturer's recommendations for the duration of the use.

Flood resilience measures

- 25) Details of flood resilience measures to be incorporated into the design of the development shall be submitted to and approved in writing by the local planning authority prior to the commencement of superstructure works. Safe refuges shall be set above the 2100 tidal breach flood level of 5.46 m AOD. The development shall be carried out in accordance with the approved details and shall be completed in

their entirety prior to the occupation of the development and retained thereafter in perpetuity.

Prior to occupation conditions

Delivery & Servicing and Waste Management Plans

- 26) The development shall not be occupied until a Delivery and Servicing Plan and a Waste Management Plan have been submitted to and approved in writing by the local planning authority. The submitted Plans shall conform to the requirements of the Transport for London guidance on 'Delivery and Service Plans' and shall have the objective of:
- a) Demonstrating suitable access to the basement, particularly for refuse vehicles (including ramp details and gradients);
 - b) Demonstrating how the service vehicles will operate on site without requiring vehicles to wait on the public highway;
 - c) Ensuring service deliveries take place outside of peak hours and restricted to non-peak pedestrian/cycle flows;
 - d) Demonstrating how servicing will take place to Davenport House and the St. Ontiod Public House;
 - e) Demonstrating how Pepper Street and Muirfield Crescent will be restricted from unauthorised vehicle use supported by an Independent safety audit to ensure all measures are taken to secure the safety of pedestrians and cyclists throughout Pepper Street; and,
 - f) Demonstrating how the storage, transfer and removal of waste across the site will be carried out.

The approved Delivery and Servicing Plan and the Waste Management Plan shall remain in force for the lifetime of the development.

Non-residential BREEAM Certification

- 27) The non-residential elements of the development hereby permitted shall be constructed to achieve not less than BREEAM 'Excellent' in accordance with the relevant BRE standards (or the equivalent standard in such measure of sustainability for non-residential building design which may replace that scheme). The Developer shall within six months of occupation of the non-residential floorspace submit final certification to the local planning authority demonstrating that not less than 'Excellent' has been achieved.

Reason: To ensure the highest levels of sustainable design and construction in accordance with London Plan Policies 5.2 and 5.3; Tower Hamlets Core Strategy 2010 Policy SP11 and Tower Hamlets Managing Development Document 2013 Policy DM29.

Transport Management Plan

- 28) Prior to the first occupation of the development, a site wide Transport Management Plan shall be submitted to and approved in writing by the local planning authority, and must include the following details:
- a) The proposed allocation of and arrangements for the management of parking spaces including disabled parking bays serving the residential development.
 - b) The location of Electric Vehicle Charging Points (EVCP) including both active and passive provision for both the residential and office parking areas in accordance with adopted London Plan parking standards; and
 - c) The safety and security measures to be incorporated within the development to ensure the safety of car/cycle parking areas.

The car parking, EVCP and cycle parking shall be provided and managed in accordance with the approved strategy for the life of the development.

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