



Appeal Decision

Site visit made on 26 May 2022

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th July 2022

Appeal Ref: APP/D5120/W/21/3284030

Land at Standard Wharf, 189 Manor Road, Erith DA8 2AD

- 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 planning permission.
 - The appeal is made by Standard Wharf Ltd against the London Borough of Bexley Council.
 - The application Ref 19/01432/FUL, is dated 11 June 2019.
 - The development proposed is the redevelopment of land at Standard Wharf to enable vessels to moor alongside and load/unload cargo and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for redevelopment of land at Standard Wharf to enable vessels to moor alongside and load/unload cargo and associated works at Standard Wharf, 189 Manor Road, Erith DA8 2AD in accordance with the terms of the application, Ref 19/01432/FUL, dated 11 June 2019, subject to the conditions in the attached schedule.

Procedural Matters

2. For clarity and brevity, I have used the appellants headline description of development used on the application form and have omitted the detailed description of the works and drawing references.
3. For clarity I have also used the address for the appeal site used by both the appellant and the London Borough of Bexley Council (the Council) in their respective statements of case.

Main Issues

4. From my reading of the material submitted for the purpose of this appeal the main issue is the effect of the proposal on biodiversity, with reference to offsite mitigation.

Reasons

5. The appeal site is adjacent to the river Thames and there is currently the remains of a jetty into the Thames from an earlier use. The appeal site is part of a larger plot and is currently in industrial use. It is neighboured on either side by industrial land in a variety of uses. The site is accessed from Manor Road, which is fronted by both industrial and housing areas. The site is the

subject of a Safeguarded Wharf Direction issued by the Secretary of State and is identified as such in the London Plan (2021).

6. The proposal would allow for cargo to be transported by river rather than road. Both the appellant and Council agree that this would result in a significant reduction in lorry movements on local roads and would constitute a significant public benefit. The economic and employment benefits would also result in moderate local public benefit.
7. The proposal is to construct a wharf that would extend into the Thames, which would allow for the discharge of cargo from vessels directly onto the wharf. The proposed wharf would be built into the river and an existing area of saltmarsh using a reinforced revetment. This would involve dredging of the river and the removal of the remains of the existing jetty. It is further proposed that the remains of two boats are removed from the river to return this part of the foreshore area to uninterrupted mudflat.
8. Both the appellant and the Council have identified that the proposal would result in harm to the level of existing biodiversity on the appeal site, particularly its effect on the natural habitat of the river and saltmarsh, which would be lost by building the wharf out in the river. Given the proposed limited extent of the wharf, whilst taking into account the importance of this type of habitat to biodiversity in the Thames, I find that it is reasonable to describe the harm to biodiversity that would result as moderate.
9. It is agreed by the main parties to this appeal that it would not be possible to mitigate for this harm on the appeal site, and that off-site mitigation would be required. The appellant has put forward a mechanism by which they believe this mitigation could be delivered through the implementation of habitat enhancements to Thames foreshore in the local area, to be co-ordinated by the Council.
10. The appellant has used the Natural England Biodiversity Net Gain Indicator, which is recognised by the main parties as an appropriate methodology to calculate the level of financial contribution required to mitigate for the harm identified. The Council have, however, raised concerns that the mitigation measures identified are not identified in any current habitat and biodiversity enhancement strategy and that the identified financial contribution may not be sufficient to carry out the mitigation required.
11. The National Planning Policy Framework (2021) (the Framework) sets out that a local planning authority should use planning obligations only where it is not possible to address unacceptable impacts of a development through a planning condition and only where they are necessary to make it acceptable, directly related to it and fairly and reasonably related in scale and kind. As part of their appeal submission the Council suggested some heads of terms for a legal agreement to be submitted by the appellant pursuant to Section 106 of the Town and Country Planning Act 1990 (As Amended) (S.106), which would allow for their proper assessment of the proposed mitigation and the required level of financial contribution.
12. The appellant has subsequently submitted to me a signed and completed unilateral undertaking under S.106 that follows the terms suggested by the council. I am satisfied that this undertaking allows for both the extent of mitigation and the necessary level of financial contribution to implement them

to be proportionate to the harm identified, along with appropriate oversight by the Council and provision for their costs in doing so.

13. I find that there would be public benefits from the proposal, as identified above, and the provisions of the completed UU concerning the provision for the appropriate offsite mitigation measures would satisfactorily offset the moderate harm to biodiversity that would result on the appeal site from the development.

Conditions

14. I have had regard to the conditions suggested by the Council in the event of the appeal being allowed and both the Council and appellant have confirmed that they have no objections to the conditions in the attached schedule.
15. As well as the standard timing condition for implementation, to provide certainty I have added a condition to ensure that the development is carried out in accordance with the approved plans. To protect local ecology, I have imposed conditions relating to the submission and approval of Ecological Monitoring Strategy prior to commencement and the subsequent submission of periodic monitoring reports.
16. To protect biodiversity during construction I have imposed a condition requiring the submission of a Construction Environmental Management Plan for approval by the Council prior to commencement. To protect biodiversity and local ecology I have also required the submission of details of bat friendly lighting.
17. In the interest of river safety, for the users of the wharf and the public more generally, I have imposed a condition requiring the submission of details of riparian life-saving equipment. To protect local environmental standards and the public health I have included a condition relating to reporting ground contamination during construction.

Conclusion

18. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal be allowed, subject to the conditions in the attached schedule.

Victor Callister

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall only be carried out in accordance with the following approved plans and documents:

General Arrangement Plan 19701-001/010 December 2018; General Arrangement Plan 19701-001/004 Rev B December 2017; Site Boundary 19701-001-002 Rev C December 2017; PLA Chart Overlay 09701- 001-011 May 2019; Location Plan 19701-001-001; Extended Phase 1 Habitat and Bat Risk Assessment Survey August 2017; Design and Access Statement Rev 4; Supporting Planning Letter 19.038 LBBC 14-05-2021; Ecology Briefing Note 081020; Briefing Note – Calculating Compensation Value 13/05/21 by Eco Marine Consultants; Intertidal Assessment RT-MME129943 Rev A; WFD Scoping Report; Protected Species Statement July 2018 by Eco Marine Consultants; Standard Data Entry; Standard Wharf Additional Information July 2019; Intertidal Survey Technical Report August 2017 by Marine Ecological Surveys Limited; Intertidal Fauna Assessment January 2019; Habitats Regulation Assessment October 2017 by Marine Ecological Surveys Limited & EcoNorth; Habitats Regulation Assessment Addendum July 2018 by Eco Marine Consultants; Transport Statement January 2019 by Bellamy Roberts; Flood Risk Assessment August 2019 by Idom Merebrook ; Fish Resources Literature Review September 2017 by Marine Ecological Surveys Limited; Ecological Appraisal September 2017 by Marine Ecological Surveys Limited & EcoNorth; Ecological Appraisal Addendum July 2018 by Eco Marine Consultants ; Dredge Depth 19701-001-008 by Idom Merebrook ; Dredge Plan 19701-001-007 Rev A by Idom Merebrook ; Typical Sections 19701 001-006 rev A by Idom Merebrook ; Briefing Note - Calculating Compensation Value – Standard Wharf 130521.

3. Prior to commencement of the development hereby approved an Ecological Monitoring Strategy shall be submitted and approved in writing by the Local Planning Authority. The Strategy shall include detailed and structured proposals for the preparation of a monitoring strategy, which will be used to establish whether proposed mitigation, compensation and enhancement measures have been effective. The Strategy shall detail monitoring frequency. Implementation of the strategy over time will be informed by periodic 'Ecological Monitoring Reports'. Preparation of the strategy should follow the general guidance provided by the Chartered Institute of Ecology and Environmental Management. The appropriate content of such a report is set out in BS42020 clause 11.2.3.4. The development shall be carried out in accordance with the Strategy and shall continue to be implemented for the lifetime of the Strategy.

4. Periodic Ecological Monitoring Reports shall be submitted to the Local Planning Authority in accordance with the Ecological Monitoring Strategy required by condition 3.
5. Prior to commencement of the development hereby approved a Construction Environmental Management Plan (CEMP) including details and specifications for practical measures intended to protect and avoid or minimise adverse effects on biodiversity during the construction process (including piling) shall be submitted to and approved in writing by the Local Planning Authority. Preparation of the CEMP should follow the general guidance provided by the Chartered Institute of Ecology and Environmental Management. The appropriate content of such a report is set out in BS42020 clause 10.2. The development shall be undertaken in accordance with the approved CEMP.
6. Prior to commencement of the development hereby approved details in writing of any external lighting to be installed at the site, shall be submitted to the local planning authority for approval demonstrating how the lighting has been designed to be in accordance with the Institute of Lighting Engineers Guidance Note 08/18. Once agreed the same lighting shall be installed prior to first occupation of the site and retained thereafter.
7. Prior to commencement of the development hereby approved details in writing of Riparian life-saving equipment (to include escape ladders, life buoys and grab chains) shall be submitted to the local planning authority for approval. Once agreed the same equipment shall be installed prior to first occupation of the site and retained thereafter.
8. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

END OF SCHEDULE