



Appeal Decision

Site visit made on 29 May 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2024

Appeal Ref: APP/E5900/W/23/3328373

Tower Bridge Wharf, 86 St Katharine's Way, London, E1 2UL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Tower Bridge Wharf Management Company against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/21/02602.
 - The application sought planning permission for '*installation of gates either side of Tower Bridge Wharf*' without complying with a condition attached to planning permission Ref PA/03/01493, dated 3 February 2004.
 - The condition in dispute is No. 3, which states that '*the gates hereby permitted shall only be locked shut between the hours of 11pm to 8am the following morning and at all other times shall be locked in the open position so as to allow public access to the riverside walkway*'.
 - The reason given for the condition is '*to accord with the terms of the Planning Obligation Agreement dated 8th August 1986 and to ensure that access to the strategic riverside walkway is maintained for the benefit of the general public*'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 19 December 2023, the Government released an updated version of the National Planning Policy Framework (the Framework). As the changes do not affect the consideration of the main issue of these appeals, I have not sought comments on the revisions.

Background and Main Issues

3. Tower Bridge Wharf is a residential development of some 64 flats located off St Katharine's Way which was granted planning permission¹ in the 1980s. The development includes a paved area to the rear which is adjacent the Thames and is evidently designated as Public Open Space (POS) in the Tower Hamlets Local Plan 2031 (THLP) (adopted January 2020).
4. The condition subject to this appeal was attached to a grant of planning permission² to install gates to either side of the development. The disputed condition specified that the gates shall only be locked between the hours of

¹ PA/85/01059

² PA/03/01493

11pm and 8am the following morning. At all other times they are to remain open to allow public access to the area, known as 'the jetty'.

5. The proposal seeks to vary this condition to amend the time period within which the gates would be locked. This would see gates locked between dusk or 7pm, whichever is later, and 6am the following morning.
6. The main issues are therefore the effects of varying the condition on access to designated Public Open Space and pedestrian networks; and whether the proposal would preserve or enhance the character or appearance of the Tower Conservation Area (TCA).

Reasons

Access to POS and Pedestrian Networks

7. The appeal site has gated access from St. Katharine's Way and includes the Thames Path, which runs through the jetty. I observed on the site visit that the jetty was well used by members of the public at the early afternoon hour that I was present. There are benches for seating and scenic views over the river and towards Tower Bridge. The jetty is therefore clearly a valued public amenity.
8. During summer months, when dusk is latest throughout the year, this would see the gates locked and the jetty closed to the public at around 9-10pm. This would deprive the public of access to open space at an earlier time than current opening hours when the space would still be in high demand. While it is asserted that the jetty would open earlier the next morning, and therefore offer increased hours of access, the 6-8am period would be much less appealing for the public to use the space. Moreover, there is potential for increased noise and disturbance to people in the adjacent apartments at an hour when most people could reasonably expect peace and quiet, regardless of whether nearby gyms are open.
9. Moreover, the earlier opening time during the winter months would be even less attractive to use as the day would be at its darkest and coldest. In winter months, when the 7pm closing time would override dusk, the space would be similarly less appealing to sit out due to the dark and cold but would still lead to a much-reduced window of opening for the public by some 2-3 hours. As such, the argument that the proposal would see extra time for use of the public open space would be tempered by these matters.
10. The Thames Path runs through the jetty and is designated as a National Trail. While the route through the jetty area is not a straight section, as it deviates from St Katharine's way, the path holds high amenity value with its views along the valued Thames waterscape and of Tower Bridge. The path links several areas of POS including others that are located close to or within residential developments and the Hermitage Memorial Park.
11. The proposal would not close the path entirely but would again reduce the hours within which it is publicly accessible, particularly during winter months when it may offer a scenic route along the Thames. The earlier opening hours the following morning after closing the gates would allow increased use prior to 8am, which could be of benefit to those commuting during those hours, although overall the decreased accessibility of the path would be of detriment to users of pedestrian networks.

12. I understand that there is a history of anti-social behaviour (ASB) at the jetty, which includes illegal activities such as drug taking and vandalism alongside general noise and disturbance. Many of these instances are detailed in the Council's report³ appended to the appellant's evidence. I have also paid close attention to the testimonies of residents and comments from the Metropolitan Police's Neighbourhood Policing Team and a Designing Out Crime Officer. I have no reason to doubt that these activities have negatively impacted upon the living conditions of local residents as a result, and I sympathise with those affected. Moreover, signage and CCTV cameras have been installed at the location with mixed results.
13. However, data from the Council's report indicates that the majority of incidents occur during the afternoon from circa 2pm to 10pm. During the summer the gates would still be open at these times even with shorter opening hours. Moreover, there are reports of ASB after 11pm when the gates currently close. I note the response from the Met Police indicates that, while they agree that earlier closing times of the gates would assist in reducing ASB, they express their concern that the existing gates are easily climbable to allow entry into the site. The instances of ASB outside of existing opening hours would add credence to this view. Moreover, the Police express concern as to whether the measures proposed would have the desired effect and recommend further measures to make the gates harder to scale, which are not part of the proposal before me.
14. I share the concerns of the Council and Met Police that the proposed solution to simply close the jetty earlier would not effectively reduce ASB. The Council's report indicates that the precise location is not possible to pinpoint, although given the seclusion of the jetty it is reasonable to assume that the majority of incidents may occur there. However, many are also mentioned on St Katherine's Way and even if the perpetrators of ASB were to be locked out of the jetty earlier, it would seem as though their behaviour would simply spread to the areas around the apartment complex and nearby areas of open space, such as the Riverside Memorial Gardens. As such this would simply shift the issue elsewhere and I have significant concerns that in not effectively dealing with the root cause, this could lead to other areas being locked earlier in response. This would be to the detriment of law-abiding people who use these spaces for their intended purpose.
15. I am referred to a development at Trafalgar Court, which is ostensibly similar to the proposal before me whereby a walkway was closed during set hours. However, I have limited information on this matter before me, other than a photograph of signage at that location. In any event, if a planning application was submitted it would have had its own site-specific circumstances which led to the approval of amended opening hours and I am unaware of these. I have assessed the proposal on its own merits.
16. I have further concerns that the wording of the proposed amended condition would not pass the test of being concise, given the use of the word 'dusk' is somewhat ambiguous. Although this word is used on other signs throughout the Council area, there is a lack of clarity and dusk could be interpreted differently by different people. Although I note the appellant's willingness to

³ 'Anti-social Behaviour in St Katharine & Wapping' - February 2018; Community Safety Tower Bridge Wharf Report' - October 2021

consider a set time for the purposes of rewording the condition, this is not my role and I have assessed the proposal as it has been presented to me.

17. Drawing things together, the proposal would harm active lifestyles through reduced access to POS and permeability of pedestrian networks which contribute towards sustainable transport choices. This would be contrary to policies D.SG3, S.OWS1, S.OWS2, S.TR1 and D.OWS4 of the THLP and policies T1, T2, T3, T4, GG3, SI16 and G4 of the London Plan (LP) (adopted March 2021). Among other things, these seek to ensure that proposals improve the quality, value and accessibility of existing publicly accessible open space across the borough and that proposals along waterways should protect and enhance inclusive public access to and along the waterway front.

Character and Appearance of the TCA

18. The appeal site is located within the TCA, and as such I have had regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). This states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
19. The TCA covers an area alongside the north bank of the river Thames and includes part of Tower Bridge. From my observations on the site visit and the evidence before me, the TCA's significance, insofar as it relates to these appeals, is derived in part from its areas of open spaces, and its articulation of this part of London's riverfront and maritime history, including in and around St Katharine's Dock which offer pleasant vistas and walking routes.
20. The TCA is dominated by Tower Bridge, and it is clearly the biggest positive contributor to the character and appearance of the TCA. However, while I have concluded that restricting access to the POS and footpath would bring forth harms with regards to the first main issue, there are no physical developments proposed and therefore I see no reason why there would be harm to the character or appearance of the TCA from these amended opening hours.
21. The proposal would therefore preserve the character and appearance of the TCA in accordance with section 72(1) of the Act. It would also accord with policies S.DH3 of the THLP and HC1 of the LP. These seek, among other things, to ensure proposals preserve or, where appropriate, enhance the borough's designated and non-designated heritage assets in a manner appropriate to their significance.
22. Policies S.DH1, D.DH2 and D.DH4 of the THLP and D3, D8, HC3 and HC6 are also referenced in the decision notice under the reason for refusal which references the TCA. The policies above relate to a range of issues but do not have relevance to the preservation of the TCA. As such I have not concluded against them in regard to this main issue.

Other Matters

23. I note the appellant has taken issue with the Council's handling of the application. While this is unfortunate, it is not something I can factor into my decision making and the Council will have its own complaints procedure towards which I would point the appellant.

Conclusion

24. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR