

Committee: Strategic Development Committee	Date: 19 th January 2017	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Applications for Planning Permission + Listed Building Consent
Case Officer: Jerry Bell	Ref No: PA/16/00899 + PA/16/00900
	Ward: Canary Wharf

1. APPLICATION DETAILS

Location: The Quay Club, Marine Slab Pontoon to the North of Bank Street, Canary Wharf, London, E14

Existing Uses: The site is vacant with a history of B1 uses

Proposal: Demolition of the existing concrete slab and associated infrastructure; alterations to Bank Street including the removal of existing coping stones above the existing Banana Wall to enable the installation of proposed utilities services and future deck; the installation of new piles in the Bank Street; and the erection of a five storey building on the existing marine piles for use as a members club (Use Class Sui Generis) and other associated works incidental to the development

2. BACKGROUND

2.1 This application for planning permission and listed building consent was considered by the Strategic Development Committee on 20th October 2016. A copy of the original report is appended.

2.2 The application was recommended for approval, however members voted to REFUSE planning permission and listed building consent due to concerns over:

- The loss of open water space and the lack of exceptional circumstances justifying this;
- The adverse impact on the biodiversity of the dock;
- The adverse impact on heritage assets, notably the Grade I listed banana dock wall;
- Inadequate mitigation to address the harm caused by the application.

2.3 In accordance with Development Procedural Rules, the application was **DEFERRED** to a later committee to enable officers to prepare a deferral report to provide wording for reasons for refusal and provide commentary on the detailed reasons for refusal on the application.

3. REVISED OFFER / AMENDMENTS TO SCHEME

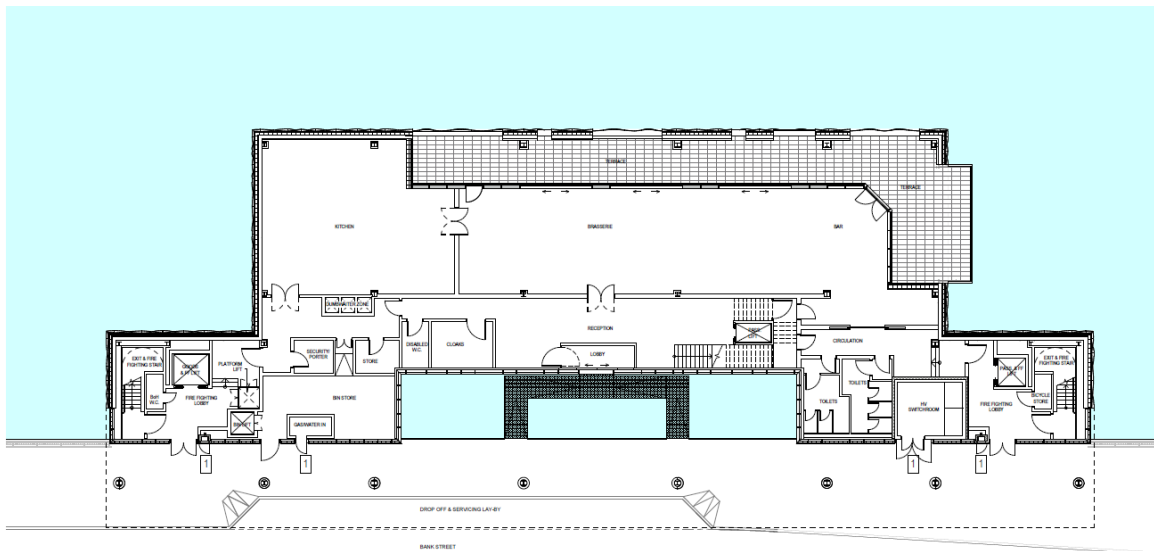
3.1 Following negotiations with Council officers, the applicant has submitted a series of amendments to address the objections of members and reduce the loss of open water space and the impact of the proposal on the Grade I listed banana dock wall.

3.2 The following is a summary of the amendments to the proposal:

- Alterations to the building at ground floor level which include setting back the central portion of the building to reveal 110sqm of water space along with views of the Grade I listed banana dock wall.
- A reduction in the number of alterations to isolated areas of the coping of the Grade I listed banana dock wall.
- Replacement of the previously proposed £600,000 financial contribution for improvements and enhancements to the natural environment in the borough with an enhanced £800,000 financial contribution towards water space and heritage features improvements and enhancements in the borough
- An additional non-financial obligation to secure public access to the building for local residents on a bi-annual basis, to view art and cultural exhibitions curated by Canary Wharf Group through its Arts and Events programme.

Loss of Open Water Space

3.3 The applicant has amended the ground floor plan by setting back the central portion of the building to reveal 110sqm of water space (meaning that the proposal would now result in the loss of 243sqm of water space as opposed to 353sqm under the previous proposal). Access to the building for visitors would be via a glazed ramped walkway which passes over the portion of uncovered water space.



Plan 1: Amended Ground Floor Plan

Heritage

3.4 In order to facilitate the proposed development, alterations to small isolated areas of the coping of the Grade I listed banana dock wall will be required. The previous proposal sought to make such alterations in 17 locations, however the applicant has now reviewed this and has managed to reduce this so that such alterations are only required in 15 locations.

- 3.5 The amended ground floor plan now enables a 26m stretch of the Grade I listed banana dock wall to remain visible, meaning that only two 19.5m portions of the wall at either end of the site will now be hidden.

Financial and Non-Financial Obligations

- 3.6 The applicant has revised the proposed financial and non-financial obligations being offered through the proposed S.106 agreement. This includes the withdrawal of the £600,000 fund towards improvements and enhancements to the natural environment in the borough and its replacements with a £800,000 fund towards water space and heritage features improvements and enhancements in the borough, as well as the introduction of an additional non-financial obligation to secure public access to the building for local residents on a bi-annual basis, to view art and cultural exhibitions curated by Canary Wharf Group through its Arts and Events programme.
- 3.7 The proposed water space and heritage features improvement and enhancement contribution would be used towards matters such as:
- Proposals to support, improve, maintain and encourage appropriate uses of water spaces;
 - Improving access to and/or over existing water spaces in the local area;
 - Providing additional areas of, or upgrading existing, public space elsewhere around docks and/or other existing water spaces in the local area;
 - Clean up waterways in the local area, and provide for biodiversity enhancements for water spaces in the local area;
 - Projects including potential opportunities identified as part of the proposed dock heritage survey;
 - Wider opportunities identified for the repair, improvement and enhancement of historic materials and features of the docks.
- 3.8 The proposed water space and heritage features improvement and enhancement contribution would also involve the preparation and delivery of a water space strategy which would contain principles regarding the management and use of those areas of the docks within the Canary Wharf estate, the preparation and delivery of a dock heritage survey which will provide an up to date study of the docks within the Canary Wharf estate, including the creation of a photographic record and a factual report on the condition of the dock walls, as well as the delivery of two heritage interpretation boards on Bank Street which will show written and graphic information regarding the history and structure of the Grade I listed banana dock wall.
- 3.9 The newly proposed public access obligation would involve the development and implementation of a public access strategy with the occupier to secure:
- A bi-annual event with public access to the exhibition space in the building for organised viewing of art and cultural exhibitions curated by Canary Wharf Group through its arts and events programme;
 - Minimum opening hours for the event not to be less than 3 hours with the event to be held on Sundays.
 - A bookings policy for access by local residents for the event.
- 3.10 Other S.106 financial and non-financial obligations previously secured (including employment, travel and sustainability obligations) will still be provided.

4. UPDATED CONSULTATION RESPONSES

- 4.1 The following were re-consulted regarding the amended application and their comments are enclosed below:

LBTH Biodiversity Officer

- 4.2 The amended proposal would reduce, but not completely avoid, the loss of open water, and hence the adverse impact on biodiversity would be less. With the mitigation and enhancements included in the recommended condition, this amendment would help to ensure an overall gain in biodiversity as required by DM11.

Canal and River Trust

- 4.3 No further comments received to date.

Historic England

- 4.4 We welcome the proposed amendments to the scheme, which have addressed the concerns that we raised in our letter of 17th August 2016. The proposed amendments include the setting back of part of the ground floor of the proposed building in order to reveal part of the Grade I listed dock wall and reveal the water within the dock. We recommend that the Council places conditions on any grant of planning permission seeking to ensure that the scheme is of the highest quality in terms of materials and design and that the interpretation of the dock wall is secured through the provision of feature lighting and public information.

5. LOCAL REPRESENTATION

- 5.1 The number of representations received in response to notification and publicity of the amended application is as follows:

No of individual responses:	Objecting: 0
	Supporting: 3

No of petition responses:	Objecting: 0
	Supporting: 0

- 5.2 The following issues were raised in support of the proposal:

- The facilities planned will benefit the whole local community on the Island.
- There is a lack of jobs within this ward, and this application would deliver jobs and training opportunities for local people.
- This development will not have any effect on residents.

6. SUMMARY OF ISSUES RAISED BY MEMBERS AND OFFICER'S RESPONSE

Loss of Open Water Space

- 6.1 Members objected to the fact that the proposed development sought to cover over 353sqm of water space, a form of open space, within Middle Dock.

- 6.2 Whilst officers consider that the reduction in the quantum of water space being covered by the proposal represents an improvement to the scheme, officers position regarding the covering of water space in this instance remains unchanged since the presentation of the original scheme. This is due to the fact that the water space being covered does not provide opportunities for play, recreation and sport and is also considered to be of limited amenity value, due to its size and shape and the fact that it is wedged between the dock edge and the existing deck. Furthermore the proposed development would not result in the loss of existing facilities for waterborne sport and leisure, would not adversely impact upon any existing access points to the water, would not adversely impact upon any existing waterway support infrastructure such as boatyards, moorings and jetties in, and also would not affect the navigability of the dock.
- 6.3 As such the proposal is considered acceptable as it is not considered to be contrary to policies 7.27, 7.28 and 7.30 of the London Plan (2016), policy SP04 of the Tower Hamlets Core Strategy (2010) and policy DM12 of the Tower Hamlets Managing Development Document (2013).

Heritage

- 6.4 Members objected to the proposal's impact upon the Grade I listed banana dock wall without adequate mitigation measures to offset the harm being caused by the proposed development.
- 6.5 With respect to the physical alterations being made to the Grade I listed banana dock wall, through alterations to small isolated areas of the coping to enable the installation of utility services and structural steel beams, officers welcome the reduction in the number of locations where such alterations are required. It should however be noted that neither Historic England nor LBTH conservation officers objected to these works as they would not result in any loss of original fabric, nor in the opinion of officers result in either substantial or even less than substantial harm to the Grade I listed banana dock wall due to the sensitive approach to the works being taken by the applicant.
- 6.6 Officers welcome the alterations to the proposed ground floor which enables a 26m section of the Grade I listed banana dock wall to be exposed. Historic England have also welcomed this amendment commenting that they *"welcome the proposed amendments to the scheme, which have addressed the concerns that we raised in our letter of 17th August 2016"*. Whilst it is still considered that the proposal still results in less than substantial harm to the Grade I listed banana dock wall, officers are content that the scheme delivers sufficient public benefit (through the economic benefits of the proposal as well as the proposed S.106 obligations) as well as sufficient mitigation measures (through the delivery of a dock heritage survey and the installation of two heritage interpretation boards on Bank Street) in order to overcome the less than substantial harm caused by the proposed development in line with guidance contained within the NPPF.
- 6.7 As such the proposal is considered acceptable as it is not considered to be contrary to the NPPF, policy 7.8 of the London Plan (2016), policy SP10 of the Tower Hamlets Core Strategy (2010) and policy DM27 of the Tower Hamlets Managing Development Document (2013).

Biodiversity

- 6.8 Members objected to the proposal's impact on the biodiversity of the dock.

- 6.9 It should be noted that whilst it was considered that the proposal would result in a minor adverse impact on the SINC, the Council's biodiversity officer was content that the mitigation measures being proposed (a floating marsh containing wetland habitat and the installation of a chainmail mesh curtain around the underside edge of the building) would be sufficient to mitigate any adverse impact caused by the proposed development, subject to further details being secured by condition.
- 6.10 The applicant's biodiversity consultants have reviewed the proposed amendments to assess the implications of the proposed alterations on the biodiversity of the dock, and have concluded that the proposed amendments represent a marginal improvement in ecological terms (when compared against the previous scheme) due to the fact that the quantum of dock water overshadowed by the proposed development will reduce. The previously proposed mitigation measures will still however provide suitable mitigation to offset any adverse impact caused by the proposed development.
- 6.11 The Council's biodiversity officer has been consulted on the proposed amendments and has stated the following: *"The amended proposal would reduce, but not completely avoid, the loss of open water, and hence the adverse impact on biodiversity would be less. With the mitigation and enhancements included in the recommended condition, this amendment would help to ensure an overall gain in biodiversity as required by DM11"*.
- 6.12 In light of the above officers still consider that the proposal is acceptable as it is not considered to be contrary to the NPPF, policy 7.19 of the London Plan (2016), policy SP04 of the Tower Hamlets Core Strategy (2010) and policy DM11 of the Tower Hamlets Managing Development Document (2013).

Inadequate Mitigation

- 6.13 Members objected to the proposed development due to the fact that inadequate mitigation had been proposed to address the harm caused by the application.
- 6.14 As set out both within the original committee report (dated 20th October 2016) and this report, officers consider that sufficient mitigation has been proposed to offset any harm caused by the proposed development, notably with respect to the proposal's impact on water space, heritage assets and biodiversity. These mitigation measures include a mixture of both considerable physical works on site as well as substantial financial obligations.
- 6.15 Given the extent of mitigation being proposed which officers consider to be sufficient in order to offset any harm caused by the proposed development, it is not considered reasonable to expect the applicant to provide any further mitigation beyond that currently being proposed.
- 6.16 In light of the above officers consider that the proposal is acceptable as any harm caused by the proposed development has been proposed to be suitably mitigated in accordance with the NPPF, the London Plan (2016), the Tower Hamlets Core Strategy (2010) and the Tower Hamlets Managing Development Document (2016).

7. IMPLICATIONS ARISING FROM A DECISION TO REFUSE THE APPLICATION

- 7.1 In the event that the Committee resolves to refuse the application, the following options could be exercised by the applicant.
- 7.2 The applicant could withdraw the application and later approach the Council for further pre-application advice on an amended proposal and thereafter submit new applications.

- 7.3 The applicant could exercise their right to appeal to the Secretary of State against the Council's decision and lodge an appeal for costs. The appeal would be determined by an independent inspector appointed by the Secretary of State.
- 7.4 Section 3 and 4 of this report set out the officer's assessment of how unlikely the Council would be in defending the reasons for refusal at appeal. However if the Committee do resolve that the application should be refused on grounds relating to: the loss of open water space; the impact on the biodiversity of the dock; the impact on the Grade I listed banana dock wall, and; inadequate mitigation put forward to address the harm caused by the development, officers will seek to defend the Council's position.

8. RECOMMENDATION

- 8.1 Officer's original recommendation as set out in the officer's report for Strategic Development Committee on 20th October 2016 to **GRANT** planning permission and listed building for the proposal remains unchanged.
- 8.2 However, if Members are minded to refuse planning permission and listed building consent for this scheme, then the proposed refusal reasons are as follows:

Reasons for Refusal:

1. The proposed development by reason of its resultant loss of water space within a Site of Importance for Nature Conservation (SINC), a form of open space, in the absence of exceptional circumstances is unacceptable development. The development is therefore contrary to policies 7.18, 7.28 and 7.30 of the London Plan (2016), policy SP04 (parts 1a and 4b) of the Tower Hamlets Core Strategy (2010), and policies DM10 (parts 1 and 2) and DM12 (parts 2 and 3) of the Tower Hamlets Managing Development Document (2013).
2. The proposed development by reason of its design and positioning covering over of portions of the Grade I listed banana dock wall would result in less than substantial harm which is not outweighed by the public benefits of the proposal .. The development is therefore contrary to paragraph 134 of the NPPF (2012), policy 7.8 of the London Plan (2016), policy SP10 (part 2) of the Tower Hamlets Core Strategy (2010), and policy DM27 (parts 1 and 2) of the Tower Hamlets Managing Development Document (2013).
3. The proposed development by reason of its adverse impact upon a Site of Importance for Nature Conservation (SINC) without sufficient social and economic benefits which would outweigh the impact upon biodiversity would result in unacceptable development. The development is therefore contrary to paragraph 109 of the NPPF (2012), policy 7.19 of the London Plan (2016), policy SP04 (part 3) of the Tower Hamlets Core Strategy (2010), and policy DM11 (parts 2 and 3) of the Tower Hamlets Managing Development Document (2013).