

<b>Committee:</b> Development Committee	<b>Date:</b> 14 <sup>th</sup> June 2017	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Place	<b>Title:</b> Application for Planning Permission
<b>Case Officer:</b> Chris Stacey-Kinchin	<b>Ref No:</b> PA/16/01798
	<b>Ward:</b> Canary Wharf

## 1. APPLICATION DETAILS

**Location:** Millwall Outer Dock, London, E14 9RP

**Existing Use:** Water space (sui generis)

**Proposal:** Erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.

## 2. **BACKGROUND**

2.1 This application for planning permission was considered by the Development Committee on 10<sup>th</sup> May 2017. A copy of the original report is appended.

2.2 Members were minded to REFUSE planning permission on the following grounds:

- The loss of open water space as a result of the proposal.
- Adverse impact on waterborne recreation and navigability within Millwall Outer Dock as a result of permanently moored vessels.
- The proposed servicing strategy (via Muirfield Crescent) would conflict with the free flow of pedestrians and cyclists and as such would represent a safety hazard.

2.3 In accordance with Development Committee Procedural Rules, the application was DEFERRED to enable officers to prepare a supplementary report with appropriate wording for reasons for refusal and the implications of the decision.

## 3. **IMPLICATIONS ARISING FROM A DECISION TO REFUSE THE APPLICATION**

3.1 In the event that the Committee resolves to refuse the application, the following options could be exercised by the applicant.

3.2 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.

3.3 The applicant could exercise their right to appeal to the Secretary of State against the Council's decision and lodge an application for costs. The appeal would be determined by an independent inspector appointed by the Secretary of State.

## **Financial implications - award of costs**

- 3.4 In dealing with appeals, all parties, including the Local Planning Authority, are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
- 3.5 Unreasonable behaviour in the context of an application for an award of costs may be either:
- Procedural – relating to the process; or
  - Substantive – relating to the issues arising from the merits of the appeal.
- 3.6 An example of the former might be failing to keep to the requirements of an appeal timetable to submit statements of case or other evidence. A further example of the latter might be taking a decision which could be described as unreasonable in the context of all of the evidence available to the decision maker. It is this latter aspect that the Committee members in their role as decision makers need to be mindful of.

## **4. COMMITTEE REASONS FOR REFUSAL**

- 4.1 With respect to the Committee's reason for refusal 1 – the loss of open water space, it should be noted that London Plan policies allow for development within areas of open water space where they serve a water related purpose and do not adversely impact upon then open character of the Blue Ribbon Network. Given that in this instance the proposed development does serve a water-related purpose and is considered to protect the open character of the Blue Ribbon Network officers do not consider that the proposal discords with policy. Given the above and the fact that the quantum of water space taken up by the proposal is minimal (the red line boundary of the site represents 1.9% of the total area of Millwall Inner and Millwall Outer Docks combined) officers do not consider that this reason for refusal is likely to be sustained by the Council on appeal.
- 2.1 The Committee's reason for refusal 2 cites that the proposed development would have an adverse impact upon waterborne recreation and navigability within Millwall Outer Dock. The application site is located in a recessed corner of the dock surrounded by structures on three of its sides, and is also located outside of the navigation channel which runs through the centre of Millwall Outer Dock. Given both the site's positioning and its scale officers do not consider that it will result in either an adverse impact upon the navigability of Millwall Outer Dock nor will it have an adverse impact upon the ability of Millwall Outer Dock to continue to be used for waterborne recreation. As such officers do not consider that the proposal discords with relevant planning policy and as such officers do not consider that this reason for refusal is likely to be sustained by the Council on appeal.
- 2.2 The Committee's reason for refusal 3 concerns the proposed servicing strategy (via Muirfield Crescent) would conflict with the free flow of pedestrians and cyclists and as such would represent a safety hazard. Given the level of servicing likely to be required for the proposed development, which is understood to principally comprise of two refuse collections per week, and the fact that the area that the vehicles would access is also currently used by other vehicles at present (those servicing the Pepper St Ontiod public house and those accessing the residential properties on the west side of the Glengall Bridge), officers do not consider that the proposed servicing strategy would represent a safety hazard. As such officers do not consider that this

element of the proposal discords with relevant planning policy and as such officers do not consider that this reason for refusal is likely to be sustained by the Council on appeal.

## **5. RECOMMENDATION**

- 5.1 Officers' original recommendation as set out in the officers' report for Development Committee on 10<sup>th</sup> May 2017 to **GRANT** planning permission for the proposal remains unchanged.
- 5.2 However, if Members are minded to refuse planning permission for this scheme, then the proposed refusal reasons are as follows:

### Reasons for Refusal:

#### Loss of Open Water Space

1. The proposed development by reason of its resultant loss of open water space and its failure to protect the open character of the Blue Ribbon Network would not improve the quality of the water space and is therefore inappropriate development. The development is therefore contrary to policy 7.28 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).

#### Impact Upon Waterborne Recreation and Navigability

2. The proposed development by reasons of its siting and scale would adversely impact upon the ability of Millwall Outer Dock to be used for waterborne recreation and would also negatively impact upon the navigability of Millwall Outer Dock. The development is therefore contrary to policies 7.27 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).

#### Servicing Arrangements

3. The proposed servicing strategy by reasons of its conflict with the free flow of pedestrians and cyclists would adversely impact the safety of the transport network. As a result the proposal is contrary to policies 6.3, 6.9 and 6.10 of the London Plan (2016), policy SP09 of the Tower Hamlets Core Strategy (2010), and policy DM20 of the Tower Hamlets Managing Development Document (2013).