

<b>Committee:</b> Development	<b>Date:</b> 15 May 2013	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director Development & Renewal		<b>Title:</b> Town Planning Application, Conservation Area Consent and Listed Building Consent	
<b>Case Officer:</b> Mary O'Shaughnessy		<b>Ref No:</b> PA/11/03371 – 3372 - 3373	
		<b>Ward:</b> Bow West	

## 1.0 APPLICATION DETAILS

**Location:** Site At Bow Wharf Adjoining Regents Canal And Old Ford Road, Old Ford Road, London

**Existing Use:** Vacant warehouse buildings and commercial units.

**Proposal:** Demolition of existing buildings to facilitate the redevelopment of the site to provide three buildings ranging in height from 3 - 6 storeys including Block A (part 3 part 4 storeys to the north of the Hertford Union Canal), Block B (6 Storeys to the south of the Hertford Union Canal) and Block C (4 storeys to the south of the Hertford Union Canal) to provide 34 residential units comprising 10 x 1 bedroom, 15 x 2 bedroom, 4 x 3 bedroom and 5 x 4 bedroom houses, 74.8 square metres of commercial floor space to be used as either Use Class A1, A2, A3, B1 or D1, including provision of one accessible parking space, cycle parking, public and private amenity space and associated works.

**Drawing Nos:**

- A1-01 REV01 (Site context plan)
- A1-10 REV01 (Ground floor plan)
- A1-11 REV01 (First floor plan)
- A1-12 REV01 (Second floor plan)
- A1-13 REV01 (Third floor plan)
- A1-14 REV01 (Fourth floor plan)
- A1-15 REV01 (Fifth floor plan)
- A1-20 REV01 (Building 'A' typical floor plans)
- A1-21 REV01 (Building 'B' typical floor plans)
- A1-22 REV01 (Building 'C' typical floor plans)
- A1-81 REV01 (Proposed site sections)
- A1-82 REV01 (Proposed site elevations)
- A1-91 REV01 (Proposed Building 'A' external elevations)
- A1-92 REV01 (Proposed Building 'B' external elevations)
- A1-93 REV01 (Proposed Building 'C' external elevations)
- A2-05 REV01 (Existing site plan)
- A2-10 REV01 (Demolition site plan)
- A2-81 REV01 (Existing site conditions)
- A2-82 REV01 (Existing site elevations)
- A4-01 REV01 (Proposed external envelope details)
- A4-02 REV01 (Proposed external envelope details)
- 2011-1129-AT-007 (Entry & Exit Manoeuvre using a 7.9m Pumping Appliance)

**Documents:**

- Design and Access Statement, Reference: L2853/DS1004, dated October 2011, prepared by Lewis and Hickey.
- Planning and Impact Statement, dated October 2011, prepared by Dalton Warner Davis.
- Bow Wharf Heritage Assessment, prepared by Dalton Warner Davis.
- Air Quality Assessment, dated 14 September 2011, prepared by SKM Enviros.

- Extended Phase 1 Habitat Survey – Bat Habitat Suitability Assessment, Reference: H2OURB-BOWWHA-3385, dated July 2011, prepared by Ecosulis.
- The Code for Sustainable Homes – Strategic Report, Version 4, dated 3 October 2011, prepared by EcoConsulting (UK) Ltd.
- Energy Report – Bow Wharf – Version 8, dated 4 October 2011, prepared by EcoConsulting.
- Asbestos Survey Report, Reference: TM0088/1, prepared by Chemtest onsite.
- Transport Statement, October 2011, prepared by TTP Consulting.
- Statement of Community Involvement, October 2011, prepared by Quatro.
- Daylight/Sunlight Report, dated 12 October 2011, prepared by GVA Schatunowski Brooks.
- Geotechnical and Geoenvironmental Report, Report No. 36398-01, prepared by STATS Limited.
- Bow Wharf Proposed fire-fighting access to new residential accommodation, Issue 4, Document Reference: MT13753R, dated 10 October 2012, prepared by ExovaWarringtonfire.
- Introduction to the Landscape Proposals, prepared by Outerspace.
- External Finishes Schedule Ref: L2853/B7/MA/GM, Issue 01, dated February 2012, prepared by Lewis & Hickey.

**Applicant:** H2O Urban (NO.2 LPP)

**Owner:** Canal and River Trust (formerly British Waterways)

**Historic Building:** Stop Lock Bridge – Grade II Listed  
2 Warehouses within the Bow Wharf Complex are locally listed -  
Former British Waterways Warehouse (3 storeys)  
Former Glue Factory (2 storeys)

**Conservation Area:** Regents Canal Conservation Area (formerly within Victoria Park Conservation Area)

## 2.0 RECOMMENDATION

2.1 Whilst officers' views on the planning merits of the scheme remain unchanged, if Members are minded to refuse planning permission, conservation area and listed building consent for this development, it is recommended that Members adopt the reasons for refusal outlined in this report (see paragraphs [6.3](#), [6.5](#), [6.7](#) and [6.8](#) below).

2.2 Since the applications were originally reported to Committee in April, the Managing Development Document was adopted by Full Council on 17th April 2013. As such it has full weight as part of the Council's 'development plan' in determining applications. Full Council also agreed to remove the retained Unitary Development Plan and Interim Planning Guidance policies. As such these policies should no longer be used to determine planning applications. Officers do not consider that the change in policy and weight to be given to the Managing Development Document has any material impact in terms of the reasons for refusal given by members at the April meeting, but members should be mindful of these changes.

## 3.0 BACKGROUND

3.1 This application for planning permission was reported to Development Committee on 11th April 2013 with an officers' recommendation for approval. A copy of the case officers' report and update report containing the summary of material planning considerations, site and surroundings, policy framework, planning history and material planning considerations is attached as Appendix 1 & 2 of this report.

3.2 After consideration of this previous report and the update report, Members resolved not to accept the officers' recommendation and were reminded to refuse planning permission due to concerns over:

- Impact on the character and appearance of the conservation area.

3.3 In accordance with Rule 10.2 of the constitution and Rule 4.8 of the Development Procedure Rules, the application was deferred to a future meeting of the Committee to enable officers to present a supplemental report setting out reasons for refusal and the implications of the decision. The proposed reasons for refusal and implications are set out at Sections 6.0 and 7.0 of this report.

#### **4.0 FURTHER RESPONSE TO MEMBERS' PREVIOUS CONCERNS**

##### **Materials**

4.1 The applicant has provided full details of the proposed materials to officers for consideration in light of concerns raised by members at the Development Committee meeting on the 11<sup>th</sup> April 2013.

4.2 Full details of the schedule of materials can be viewed at appendix 3. However, in summary, the proposed materials include slate roof, aluminium double glazed windows and doors with stained timber inner frame and steel balconies. The main materials for the buildings would be brick and samples of a London stock style brick with a weathered appearance which would be in keeping with the existing locally listed warehouse and the surrounding conservation area have been provided.

4.3 Planning Officers in conjunction with the Urban Design Officer have reviewed the proposed materials. It is considered that they are high quality materials which would preserve the character and appearance of the Regents Canal Conservation Area.

#### **5.0 OTHER ISSUES**

If members are minded to refuse planning permission officers are suggesting that a reason for refusal around s106 be included. This would ensure that if the applicant appeals against the council's decision and did not enter into a legal agreement that the Inspector would also need to consider the implications of the lack of any financial contributions or affordable housing being provided.

#### **6.0 CONSIDERATION OF REASONS**

6.1 Members raised one area of concern on which they resolved that they were minded to refuse this application. Outlined below are suggested reason for refusal based on this concern, followed by officer's comments and advice pertaining to the proposed reason.

6.2 Officers have also prepared a reason for refusal for the conservation area consent and the listed building consent application.

##### **Suggested Reasons for Refusal**

##### **Full Planning Permission – reason for refusal**

6.3 The proposal would represent an unacceptable form of development with regard to design, appearance, height, bulk, scale and massing which would fail to preserve or enhance the open character and appearance of this part of the Regents Canal Conservation Area. As such, the proposal would be contrary to strategic policy SP10 of the adopted Core Strategy

(2012), policies DM25 and DM27 of the adopted Managing Development Document (2013), the National Planning Policy Framework and the guidance contained within the Regents Canal Conservation Area Appraisal. These policies seek to ensure development preserves or enhances the character and appearance of the Regents Canal Conservation Area and that development takes account of local context.

- 6.4 **Officer Comment:** The applicant has provided a further document illustrating how the design evolution and materials would preserve the open character and appearance of the Regents Canal Conservation Area which may address Members concerns.
- 6.5 No planning obligations in the form of financial contributions have been secured to mitigate the impacts of the development. As a result, the proposal fails to meet the requirements of policy SP13 of the adopted Core Strategy (2010) and the Planning Obligations Supplementary Planning Document which seeks to agree planning obligations between the Local Planning Authority and developers to mitigate compensate and prescribe matters relating to the development.
- 6.6 **Officer Comment:** Officers are suggesting if members are minded to refuse planning permission that they also include this as a reason for refusal. This would ensure that if the applicant appeals and were not to enter into a legal agreement that the Inspector would also consider the implications of the lack of any financial contributions or affordable housing being provided.

#### **Conservation Area Consent– reason for refusal**

- 6.7 In the absence of an approved planning permission for the re-development of the site, the demolition of the existing buildings would leave an undeveloped site which would represent a blight on the character and appearance of the Regents Canal Conservation Area, contrary to strategic policy SP10 of the adopted Core Strategy (2012), policy DM27 of the adopted Managing Development Document (2013), the National Planning Policy Framework and the guidance within the Regents Canal Conservation Area Appraisal. These policies seek to ensure development preserves or enhances the character and appearance of the Regents Canal Conservation Area.

#### **Listed Building Consent– reason for refusal**

- 6.8 In the absence of an approved planning permission for the redevelopment of the site, the proposal, which includes alterations to the listed bridge, is not considered to protect the setting of the Grade II listed Stop Lock Bridge. As such, this would be contrary strategic policy SP10 of the adopted Core Strategy (2012), policy DM27 of the adopted Managing Development Document (2013), the National Planning Policy Framework and the guidance within the Regents Canal Conservation Area Appraisal. These policies seek to ensure that alterations respect the special architectural and historic interest of Listed Buildings.
- 6.9 **Officer Comment:** Officers consider the proposed alterations to the Grade II listed stop lock bridge are acceptable in principle and could be carried out (subject to the grant of planning permission for the works) without the need for having an approved development for the site.

### **7.0 IMPLICATIONS OF THE DECISION**

- 7.1 Following the refusal of the application the following options are open to the Applicant. These would include (though not be limited to):
1. The applicant could appeal the decisions and apply for an award of costs against the Council. Planning Inspectorate guidance on appeals sets out in paragraph B20 that:

*“Planning authorities are not bound to accept the recommendations of their officers.*

*However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the Council".*

2. There are two financial implications arising from appeals against the Council's decisions. Firstly, whilst parties to a planning appeal are normally expected to bear their own costs, the Planning Inspectorate may award costs against either party on grounds of "unreasonable behaviour". Secondly, the Inspector will be entitled to consider whether proposed planning obligations meet the tests of CIL Regulations 2010 (Regulation 122).
3. The Inspector will be entitled to consider the type and amount of affordable housing. This could result in the developers being able to provide affordable rented housing at up to 80% of market rents across this site, as opposed to the current proposed offer which secures the affordable rent at POD levels (especially in view of the Planning Inspector's Report which dealt with the Examination In Public into the Managing Development Document). Similarly, the developer may elect to either renegotiate planning obligations previously agreed or prepare a unilateral undertaking for a subsequent appeal which might well result in a lesser S.106 planning obligations package (both in terms of financial and non-financial obligations negotiated by your officers).

7.2 Whatever the outcome, your officers would seek to defend any appeal.

## **8.0 CONCLUSION**

8.1 All relevant policies and considerations have been taken into account. Whilst officers remain satisfied that planning permission, conservation area consent and listed building consent for this proposed development should be **GRANTED**, subject to suitable conditions and the signing of a S.106 Agreement taking account of the material samples submitted to illustrate that the proposed development would preserve the open character and appearance of the Regents Canal Conservation Area. Members are directed to the draft reasons for refusal and officers comments, viewed alongside the previous report and update report presented to the Development Committee on 11<sup>th</sup> April 2013 (see Appendices 1 and 2) and determine the planning application as appropriate.

## **9.0 APPENDICES**

9.1 Appendix One - Committee Report to Members on 15<sup>th</sup> April 2013  
Appendix Two – Update Report to Members on 15<sup>th</sup> April 2013  
Appendix Three – Materials Schedule