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**Application for Planning Permission**

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<b>Reference</b>	PA/22/01749
<b>Site</b>	Blackwall Way Yard Jetty, Blackwall Way, London
<b>Ward</b>	Blackwall and Cubitt Town
<b>Proposal</b>	Minor Material Amendments to Planning permission Ref: PA/21/00288, Dated 14/07/2022: Amendment(s) sought: Amendment to the wording of Condition 22 – Operational Requirements.  This application is accompanied by an Environmental Statement.
<b>Summary Recommendation</b>	Grant Section 73 application for Variation of a Condition.
<b>Applicant</b>	Hadley Blackwall Yard Property Limited
<b>Agent</b>	Avison Young
<b>Case Officer</b>	Aleksandra Milentijevic
<b>Key dates</b>	- Application registered as valid on 12/10/2022 - Further amendments received on 05/06/2024 and 26/06/2024 - Public re-consultation finished on 24/07/2024

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**1. BACKGROUND**

- 1.1. This application was considered by the Strategic Development Planning Committee on 9<sup>th</sup> October 2024. A copy of the original report is appended to this report.
- 1.2. As set out in the printed draft minutes of the meeting, the Committee voted to defer the application for further information to clarify the wording of the proposed condition and the impact on resident in terms of air quality and noise.
- 1.3. Officers have engaged with the Applicant's team with regards to the requirements and format of amended Condition 22, which now states as follows:

*The development hereby approved shall comply with the following maximum operational requirements:*

- a. *All vessels stopping at the jetty shall have maximum emissions of Tier II vessels of Regulation 13 of Annex VI of the International Convention for the Prevention of Pollution from Ships (MARPOL) amounting to Nitrogen Oxides (NO<sub>x</sub>) of 7.7g/kWh (grams per kilowatt-hour) or better, with maximum annual NO<sub>x</sub> emissions at the pontoon across all stopping vessels being of equivalent or less than 5.299 tonnes NO<sub>x</sub> per calendar year within the 1 km<sup>2</sup> grid of the London Atmospheric Emissions Inventory (LAEI) in which the jetty is located (centring on XY coordinates 538500, 180500).*

- b. *The maximum daily (based on 24 hours of each day from 00:00-23:59) traffic of all vessels stopping at the jetty shall not exceed 212 movements to and from the jetty (106 boat stops per day).*
- c. *Between the hours of 23:00-01:00 and 05:00-06:00, there shall be no more than 12 vessel movements per hour to and from the jetty (6 boat stops per hour). Each of the vessels stopping shall not exceed SEL/L<sub>AE</sub> (Single Event Level) of 73 decibels per movement, as measured during the boat's departure at a distance of no more than 70 metres from the pier.*
- d. *There shall be no vessel movements to and from the jetty between the hours of 01:00-05:00.*
- e. *The jetty shall be used solely for passenger service boats, excluding any private boat hire or river cruise vessels.*

*The Applicant shall ensure that all data in relation to the above operational requirements is kept for the lifetime of the development and shall provide such details to the Council upon request.*

*Reason: To manage the impact on the natural environment and amenity of the surrounding area in line with policies S.ES1, D.ES2, D.ES9 and D.DH8 of the Tower Hamlets Local Plan 2031.*

- 1.4. The amended condition continues to be based on the previously submitted air quality and noise assessments, and no further technical information has been presented by the Applicant. The proposed changes to Condition 22 are discussed below.

## **2. REPRESENTATIONS**

- 2.1. An additional representation was received following the Committee meeting on 9<sup>th</sup> October 2024. The following material considerations are noted in addition to the previously received representations set out in Section 4 of the original Committee report:

- Introduction of nighttime hours to be a fundamental change to the original permission
- Lack of consideration of other emissions across Tower Hamlets and Greater London, and other pollutants in the air quality assessment, such as Sulphur Oxides (SO<sub>x</sub>), particulate matter (PM), Carbon Monoxide (CO) and Carbon Dioxide (CO<sub>2</sub>)
- Lack of compliance with Local Plan and London Plan policies in relation to air quality neutral or positive
- Evidence base and methodology in the Applicant's Noise Impact Assessment.

- 2.2. The additional material considerations are addressed below in the section below.

## **3. UPDATED PLANNING ASSESSMENT**

### *Air quality*

- 3.1. The original Committee report sets out the relevant planning policies. London Plan policy SI1 references both the air quality neutral assessment and air quality positive approach while Local Plan policy D.ES2 only refers to the air quality neutral standard. The relevant guidance documents include the Air Quality Neutral London Plan Guidance (AQNLPG) and Air Quality Positive London Plan Guidance (AQPLPG).
- 3.2. The AQNLPG sets out the main sources of air pollution from new developments, one relating to Building Emissions Benchmark (BEB) which looks at emissions from equipment used to supply heat and energy to building, and the other relating to Transport Emissions

Benchmark (TEB) calculating emissions from private vehicles travelling to and from the development. Paragraph 2.2.1 of the AQPLPG clarifies that for development, including major development, that do not include additional sources relating to BEB and TEB are assumed to be Air Quality Neutral and to meet the Air Quality Neutral benchmarks and as such, do not require an air quality neutral assessment. Given the nature of the jetty development, neither BEB nor TEB would be applicable.

- 3.3. The AQPLPG sets out on page 1 a list of large-scale developments referable to the Greater London Authority (GLA) under the Town and Country Planning (Mayor of London) Order 2008 to which the air quality positive approach will be applied. This excludes Category 2C(1)(i) under Part 2 Major Infrastructure which refers to a passenger pier on the River Thames, under which the original jetty permission was referred to the GLA. In addition, the GLA have confirmed that the section 73 application does not raise any new strategic issues.
- 3.4. The additional received representation raised concerns with regards to the lack of consideration for other pollutants. Nitrogen Oxide (NO<sub>x</sub>) is the primary pollutant of concern associated with vessel movements as it forms secondary NO<sub>2</sub>. Due to the high background concentrations of NO<sub>2</sub> in the borough and London, it poses the highest risk with regards to exceedance of the air quality objectives.
- 3.5. In terms of other pollutants including SO<sub>x</sub>, particulate matter and CO, these would be regulated for all vessels under MARPOL Annex VI. CO<sub>2</sub>, whilst a greenhouse gas is not considered to be a pollutant harmful to health. In addition, the Council is compliant with legal objectives for CO, CO<sub>2</sub> and PM10. With regards to PM2.5, river transportation is not the primary source for this pollutant. As such, the assessment mainly focused on NO<sub>x</sub> remains to be considered acceptable.
- 3.6. The additional received representation raised a query with regards to the consideration of other emissions in Tower Hamlets and Greater London. The Applicant's assessment has been contextualised through the use of all shipping emissions for commercial and passenger vessels within the squared kilometre of the London Atmospheric Emissions Inventory (LAEI) where the jetty is situated. Given the localised and specific nature of the jetty development, particularly as the original jetty did not seek to introduce new vessels on the River Thames, but create a stop within the existing route, the proposed assessment remains acceptable.
- 3.7. Parts a) and b) of the amended condition seek to safeguard the air quality of the area by setting out the maximum NO<sub>x</sub> output for each individual vessel stopping at the jetty, as well as the maximum NO<sub>x</sub> of all vessels.
- 3.8. With regards to restrictions to individual vessels, part a) sets out the requirement that all vessels stopping at the jetty would need to comply with maximum Nitrogen Oxides (NO<sub>x</sub>) emissions capacity that would be equivalent to Tier II vessels as defined in the International Convention for the Prevention of Pollution from Ships (MARPOL). This means that the maximum NO<sub>x</sub> output for each individual vessel stopping at the jetty cannot exceed 7.7g/kWh.
- 3.9. In setting out the maximum emissions of all vessels, the reference is made to 5.299 NO<sub>x</sub> tonnes per year, which is derived from the Applicant's assessment of a future scenario with the operational requirements based on 212 movements to and from the jetty or 106 individual boat stops at the jetty implied in part b) of the condition. The maximum NO<sub>x</sub> output of all vessels is relevant to the part of the squared kilometre of the LAEI's grid in which the jetty is situated.
- 3.10. The maximum number of movements stipulated in part b) of the condition ensures that the total vessel traffic through the jetty does not exceed the 1% when compared against the LAEI 2019 background air quality levels, as per the agreed methodology detailed in paragraph 7.21 of the original Committee report.

- 3.11. The total number of movements implied in part b) also covers the relevant movements during the nighttime which are addressed in part c) of the condition relating to the noise considerations.
- 3.12. The Council's air quality officer confirmed that the proposed wording condition is appropriate and requested securing an air quality monitoring station for three years, which would demonstrate the compliance against the operational requirements during the early operation of the riverboat station. This is proposed to be secured via a planning obligation, which is further detailed below.
- 3.13. Officers remain of the view that the air quality impact from the proposed changes to operational requirements under Condition 22 would continue to be non-significant, and would not worsen the air quality of the area to a point which would warrant a refusal of planning permission on that basis.

#### *Noise*

- 3.14. The additional received representation raised queries with regards to the Applicant's Noise Impact Assessment (NIA) evidence and methodology. The Applicant confirmed that the baseline of using a site and passing vessels at Surrey Quays would not have meaningful noise differences from the vessels that will service the jetty. As concluded in the NIA, there could be up to 70 boats per hour during daytime and up to 6 boats per hour during nighttime stopping at the jetty before a significant adverse effect would be experienced by surrounding residents.
- 3.15. In terms of methodology used in the NIA, the use of Sound Exposure Level (SEL) is a noise metric averaging noise over a single second, which allows noise events of different duration and loudness to be compared, such as boats cruising or boats approaching, docking and departing from the jetty. The NIA and methodology therein has been reviewed by the LBTH noise officer and Council's external noise consultant from Temple, and Officers remain of the view that it represents an acceptable assessment.
- 3.16. Parts c) and d) of the amended condition specifically seek to protect the area and surrounding residents against the additional noise impact from the operation of the jetty during nighttime. The previous iteration of the nighttime noise restriction presented to Committee allowed for up to 6 movements per hour between the hours of 11pm to 6am.
- 3.17. The amended condition now splits the nighttime hours into operating (part c)) and non-operating (part d)) elements of the condition. The operating element would allow vessel movements between the hours of 11pm-1m and 5am-6am, while the non-operating element would be between the hours of 1am to 5am when no vessel stopping would be allowed at the jetty.
- 3.18. This represents an improvement to the previous iteration of the condition given that the potential impact would be decreased through the restriction of all vessel movements at the jetty between 1am and 5am. The Applicant has explained that the flexibility during the remaining nighttime hours is required to ensure that the riverboat station complies with the public transport timetables, as well as the potential use of the jetty for the provision of public river transport from the O2 Arena.
- 3.19. The Applicant proposes to keep the same maximum number of vessels that can stop at the jetty during the nighttime operating hours as indicated in the previous iteration of the condition. However, a clarification has been provided explaining that the previous part c) of the condition referred to 6 movements per hour whereas a movement in that case was an individual vessel stop at the jetty rather than an arrival or departure movement to and from the jetty. The amended condition clarifies this and ensures that the same terminology is used in parts b) and c) of the condition for the avoidance of doubt.
- 3.20. The Council's noise officer confirmed that the proposed wording condition is appropriate and requested securing a noise monitoring station at the jetty for three years, which would

demonstrate the compliance against the operational requirements during the early operation of the riverboat station. This is proposed to be secured via a planning obligation, which is further detailed below.

- 3.21. The noise limitations have been set out in such a way that any vessel movement would need to remain below the ambient noise levels, minimising the impact on the residents and surrounding area. Officers remain of the view that the noise impact would be acceptable and would not present a fundamental change to the original jetty permission.

#### *Amenity*

- 3.22. The use of the jetty as a passenger service boat, excluding private boat hire, continues to be secured through the amended condition, and has been now included as a standalone part e) of the condition, whereas previously it was embedded within part b) of the condition. This would continue to safeguard the amenity of the area in general, as well as with regards to noise.

#### *Monitoring stations*

- 3.23. As mentioned above, the Council's air quality and noise officers from the Environmental Health team requested the installation of air quality and noise monitoring stations for the first three years from the first operation of the jetty. It is proposed for this to be secured via a planning obligation in a Deed of Variation to the existing Section 106 Agreement for the original jetty permission.
- 3.24. The monitoring stations would be located where the impact would be experienced as the boats pass and stop at the jetty, and the obligation would also require the submission of a record of vessel movements to and from the jetty so that any noise and emissions associated with the jetty and any other background noise and emissions coming from other sources can be clearly distinguished.
- 3.25. Following the expiry of the three years, the Applicant will no longer be required to maintain the monitoring stations; however, the Applicant will remain responsible to keep all of the monitoring information relating to the operational requirements set out in the amended Condition 22 for the lifetime of the development.

## **4. RECOMMENDATION**

- 4.1. That the Section 73 application to vary Condition 22 – operational requirements is **GRANTED**, with the following revised wording for this condition:
- a. *All vessels stopping at the jetty shall have maximum emissions of Tier II vessels of Regulation 13 of Annex VI of the International Convention for the Prevention of Pollution from Ships (MARPOL) amounting to Nitrogen Oxides (NO<sub>x</sub>) of 7.7g/kWh (grams per kilowatt-hour) or better, with maximum annual NO<sub>x</sub> emissions at the pontoon across all stopping vessels being of equivalent or less than 5.299 tonnes NO<sub>x</sub> per calendar year within the 1 km<sup>2</sup> grid of the London Atmospheric Emissions Inventory (LAEI) in which the jetty is located (centring on XY coordinates 538500, 180500).*
  - b. *The maximum daily (based on 24 hours of each day from 00:00-23:59) traffic of all vessels stopping at the jetty shall not exceed 212 movements to and from the jetty (106 boat stops per day).*
  - c. *Between the hours of 23:00-01:00 and 05:00-06:00, there shall be no more than 12 vessel movements per hour to and from the jetty (6 boat stops per hour). Each of the vessels stopping shall not exceed SEL/L<sub>AE</sub> (Single Event Level) of 73 decibels per movement, as measured during the boat's departure at a distance of no more than 70 metres from the pier.*

- d. *There shall be no vessel movements to and from the jetty between the hours of 01:00-05:00.*
- e. *The jetty shall be used solely for passenger service boats, excluding any private boat hire or river cruise vessels.*

*The Applicant shall ensure that all data in relation to the above operational requirements is kept for the lifetime of the development and shall provide such details to the Council upon request.*

*Reason: To manage the impact on the natural environment and amenity of the surrounding area in line with policies S.ES1, D.ES2, D.ES9 and D.DH8 of the Tower Hamlets Local Plan 2031.*

- 4.2. The decision is subject to the prior completion of a Deed of Variation to the original Section 106 Agreement dated 7<sup>th</sup> July 2022, to secure the air quality and noise monitoring stations as a planning obligation.
- 4.3. That the Corporate Director of Housing and Regeneration is delegated the power to negotiate the legal agreement. If within three months of the resolution the legal agreement has not been completed, the Corporate Director for Housing and Regeneration is delegated power to refuse section 73 permission.
- 4.4. That the Corporate Director of Housing and Regeneration is delegated power to impose the remaining conditions and informatives as set out in the 9 October 2024 Strategic Development Committee Report, and the amended wording of Condition 22 as set out in this report.