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| <b>Committee:</b>  | <b>Date:</b>                             |
| Planning and Transportation  | 29 January 2018                          |
| <b>Subject:</b><br>1 No. BT Telephone Kiosk O/s 1 Lothbury London EC2R 7HH<br><br>Change of use of 1no. BT telephone box to 1no. retail kiosk (A1). Replacement of the existing telephone box glazing with toughened safety glass. | <b>Public</b>                            |
| <b>Ward:</b> Walbrook  | <b>For Decision</b>                      |
| <b>Registered No:</b> 17/01055/FULL  | <b>Registered on:</b><br>31 October 2017 |
| <b>Conservation Area:</b> Bank   | <b>Listed Building:</b> No               |

### Summary

The application relates to one K6 telephone box located on the south side of Lothbury, east of its junction with Old Jewry and opposite its junction with Coleman Street.

The kiosk is within the Bank Conservation Area. The telephone box is not listed. It is considered to be a non-designated heritage asset.

Planning permission is sought to convert the telephone box into a retail unit (Use Class A1).

During operational hours the door to the telephone box would remain open in order to enable access to the modular unit. A member of staff would stand outside the telephone box and serve customers. Customers would stand and queue on the highway.

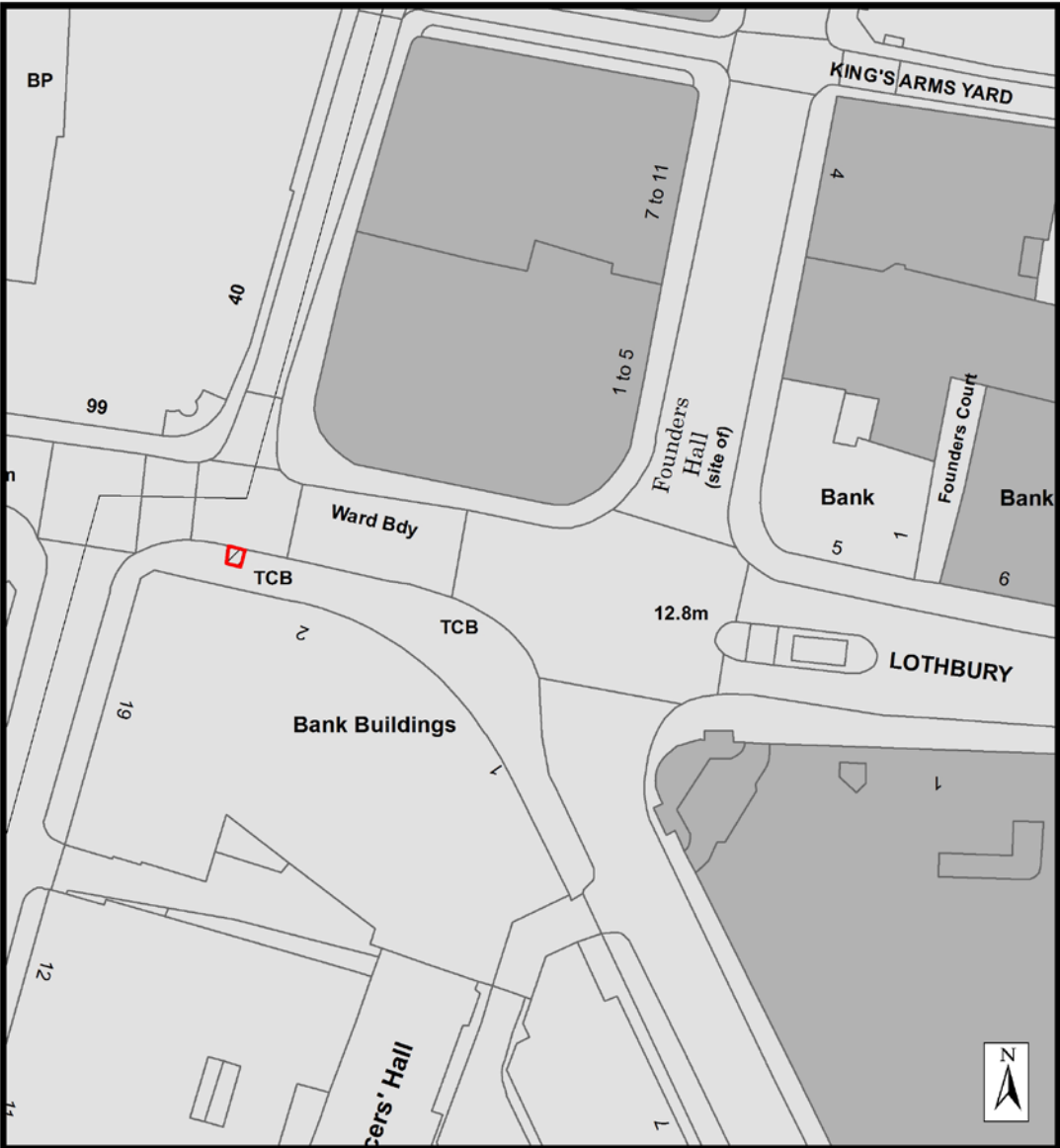
It is considered that the proposed use, its associated paraphernalia and the extent to which it would spill out onto the highway would detract from the significance of the telephone box as a non-designated heritage asset and would result in less than substantial harm to this part of the Bank Conservation Area.

The City's streets have high levels of footfall as does this location. It is anticipated that footfall at this location will increase over the next ten years. Increased pedestrian permeability and enhancement of the public realm is a priority for the City. The proposed use would obstruct the highway to an unacceptable degree.

### **Recommendation**

That the application be refused for the reason set out in the attached schedule.

# Site Location Plan



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ADDRESS:

Telephone Kiosk O/S 1 Lothbury

CASE No.

17/01055/FULL



**SITE LOCATION**



**LISTED BUILDINGS**



**CONSERVATION AREA BOUNDARY**



DEPARTMENT OF THE BUILT ENVIRONMENT



## **Main Report**

### **Site**

1. The application relates to one K6 telephone kiosk located on the south side of Lothbury, east of its junction with Old Jewry and opposite its junction with Coleman Street.
2. The K6 is a public telephone kiosk designed by Sir Giles Gilbert Scott in 1936 to commemorate the Silver Jubilee of King George V.
3. The telephone kiosk is not listed. It is considered to be a non-designated heritage asset. The site is within the Bank Conservation Area. The Grade II listed 3 – 4 Lothbury is to the north east of the site and the Grade I listed Bank of England is to the east of the site.

### **Proposal**

4. Planning permission is sought to convert the telephone kiosk into a retail unit (Use Class A1) that could sell pre-packed cold drinks, ice cream or hot beverages.
5. The existing telephone and associated equipment would be removed. A self-contained modular unit would be inserted into each telephone kiosk and would not have any fixings to the kiosk or the floor plate of the kiosk. Its footprint would fill the kiosk and would contain a coffee/ice cream machine, storage units and a power supply.
6. The modular unit would not be fixed in position. It would have retractable wheels that would enable it to be wheeled into and out of the telephone kiosk as and when required for maintenance.
7. During operational hours the door to the telephone kiosk would remain open in order to enable access to the modular unit. A member of staff would stand outside the telephone kiosk and serve customers.
8. Stock would be delivered to the site by bicycle or on foot in pedestrianised areas and by a car or small van in non-pedestrianised area. The applicant has advised that small stock levels are required.
9. The existing glazing would be replaced with toughened safety glass to match the appearance of the existing. A lock would be fitted to the door for security purposes.

### **Consultations**

10. The application has been publicised on site and in the press.
11. The views of other City of London departments have been taken into account in the consideration of this scheme.
12. Historic England states that the application should be determined in accordance with national and local policy guidance and on the basis of the City's specialist conservation advice.
13. The City of London Conservation Area Advisory Committee support the City's policy of seeking to reduce street clutter and objected to the proposal considering it to be detrimental to the street scene within this

setting in view of its proximity to a Grade II listed building. This particular change of use would most likely involve the unit being staffed at all times and the kiosk door being permanently open and thus detrimentally affect the Conservation Area. In addition, the Committee strongly objected to the proposal and the increased advertising which would destroy the unique character of this telephone kiosk.

14. The City of London's Licensing Manager has expressed concerns that the proposal would involve a person standing on the street selling goods. The applicant has been advised and has been asked to contact the licensing team for further advice on licensing requirements.
15. The Department of Markets and Consumer Protection have concerns regarding the lack of services and requested that the applicant contacts the department to discuss the change of use.

### **Policy Context**

16. The development plan consists of the London Plan, and the City of London Local Plan. The London Plan and Local Plan policies that are most relevant to the consideration of this case are set out in Appendix A to this report.
17. Government Guidance is contained in the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (PPG).

### **Considerations**

18. The Corporation in determining the planning application has the following main statutory duties to perform:-
  - To have regard to the provisions of the development plan, so far as material to the application, to local finance considerations so far as material to the application, and to any other material considerations (Section 70 (2) Town & Country Planning Act 1990);
  - To determine the application in accordance with the development plan unless other material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004);
  - In considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its settings or any features of special architectural or historic interest which it possesses. (S66 (1) Planning (Listed Building and Conservation Areas) Act 1990)
  - When considering the applications special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area (S72 (1) Planning (Listed Buildings and Conservation Areas) Act 1990).
19. In considering the planning application before you, account has to be taken of the statutory and policy framework, the documentation

accompanying the application, and the views of both statutory and non-statutory consultees.

20. Chapter 12 of the NPPF is relevant in this instance as it sets out key policy considerations for applications relating to designated and non-designated heritage assets. Other relevant guidance is provided by Historic England including the documents Conservation Principles, and The Setting of Heritage Assets, Building in Context (HE/CABE) and the PPS5 Practice Guide in respect of the setting of heritage assets.
21. Considerable importance and weight should be given to the desirability of preserving or enhancing the character or appearance of a conservation area and the setting of a listed building, when carrying out any balancing exercise in which harm to the significance of conservation areas or the setting of listed buildings is to be weighed against public benefits.
22. A finding that harm would be caused to a conservation area or the setting of a listed building gives rise to a strong presumption against planning permission being granted.
23. It is necessary to assess all of the policies and proposals in the Development Plan and to come to a view as to whether in the light of the whole plan the proposal does or does not accord with it.
24. The principal issues in considering this planning application are:
  - The extent to which the proposal complies with Government policy advice (NPPF) and the extent to which the proposals comply with the relevant policies of the Development Plan, having particular regard to:
    - The acceptability of the proposed alterations in design and heritage terms.
    - The suitability of the site to accommodate the proposed retail unit.

### **The Acceptability of the Proposal in Design and Heritage Terms**

25. Policy DM12.2 of the Local Plan states that development in conservation areas will only be permitted if it preserves and enhances the character or appearance of the conservation area. Policy DM12.1 seeks to ensure that the significance of heritage assets is sustained. Policy DM10.1 encourages a high standard of design in development proposals. Policy 7.8 of the London Plan seeks to ensure that development affecting heritage assets and their setting should conserve their significance by being sympathetic to their form, scale, materials and architectural detail. Chapters 7 and 12 of the NPPF set out relevant design and heritage policies.
26. The non-listed K6 telephone kiosk is considered to be a non-designated heritage asset for its evidential, historical and aesthetic value. It is an iconic design, a classic element of British street furniture and embodies a formerly commonplace means of communication. As well as this significance, consideration needs to be given to the impact

that the proposal would have on the significance of the Bank Conservation Area. The presence of the telephone kiosk in its current form is complementary to the surrounding Bank Conservation Area.

27. The K6 kiosk lies within the wider setting of two listed buildings. Grade II listed 3-4 Lothbury lies across the road to the north and the Grade I listed Bank of England lies to the east, across the other side of the junction with Prince's Street. As the kiosk is some distance from both listed buildings and separated by busy carriageways, the immediate setting of these listed buildings is not considered to be affected by the proposals.
28. A key characteristic of the K6 telephone kiosk is the 8 by 3 pattern of glazing which allow light and transparency into the structure and is in keeping with the "moderne" aesthetics of the 1930s. The proposed replacement glazing would match the existing and the insertion of a locking system would not materially alter the appearance of the telephone kiosk. Further details of the external alterations and a sample of the glazing could be required by condition.
29. Though unfixed to the fabric of the telephone kiosk, the proposed modular unit would fill the telephone kiosk and have a material impact on its external appearance. It would result in solidification of the appearance of the K6 telephone kiosk to the detriment of its lightweight aesthetic character. The proposed use would require the door to be open during operational hours, changing the visual form, character and footprint of the kiosk and detracting from its aesthetic qualities.
30. The proposed retail activity would not be contained within the telephone kiosk and would spill out on to the street. A member of staff would stand on the highway to sell the products and people would queue on the highway to buy them.
31. The proposed retail use and its associated paraphernalia would detract from the significance of the telephone kiosk as a non-designated asset. The resultant visual clutter and solidification of the telephone kiosk would detract from the visual amenity of the locality and result in less than substantial harm to the significance of this part of the Bank Conservation Area as a designated heritage asset.
32. The Bank Conservation Area Character Summary and Management Strategy SPD notes that the quality of the public realm in the conservation area is high, reflecting the high status and historic nature of the area. In this instance the public realm forms the setting of important listed buildings.
33. Consideration has been given to paragraph 134 of the NPPF. It is not considered that the less than substantial harm to the conservation area would be outweighed by the public benefits of the proposal. The proposals would therefore be contrary to policies DM 12.2, DM12.1 and DM10.1 of the Local Plan, policy 7.8 of the London Plan and the aims of chapters 7 and 12 of the NPPF.



### **The Suitability of the Site to Accommodate the Proposed Retail Unit**

34. Policy CS10 of the Local Plan seeks to focus new retail development on the Principal Shopping Centres and encourage movements between the Principal Shopping Centres by enhancing the retail environment in the retail links. The site is not within a Principal Shopping Centre or along a Retail Link as defined by the Local Plan.
35. Policy DM10.4 of the Local Plan encourages the enhancement of highways, the public realm and other spaces. It states that enhancement schemes should be of a high standard of design, having regard to the need to provide accessible and inclusive design, ensuring that streets and walkways remain uncluttered and the need for pedestrian priority and enhanced permeability.
36. The applicants refer to examples elsewhere in England, where permission of a similar nature has been granted. These would not be comparable with this proposal due to the significantly high level of pedestrian activity on the City's streets.
37. The site forms part of the route from Bank Station to Moorgate and experiences high levels of footfall particularly during peak commuter and lunchtime periods. Planned transport infrastructure changes that include Bank Station upgrades and Crossrail will significantly increase the volume of people passing through this arterial route.
38. The existing telephone kiosk already forms a pinch point on the footway. The proposed retail use would spill onto the highway to such a degree that it would result in obstruction and clutter, would detract from the permeability of the locality and from the public realm improvements in this area which sought to create clearer sightlines, rationalise street furniture and declutter.
39. During operational hours the door to the telephone kiosk would remain open and project over the highway. A member of staff would stand on the highway to serve customers. There is concern that the activity has the potential to reduce the pavement width to such an extent that it would make it difficult for wheelchair users to pass.
40. There is additional concern about the inadequacy of the proposed refuse storage arrangements which have the potential to cause further obstruction of the highway. Policy DM17.1 of the Local Plan encourages the provision of integrated waste storage facilities in new developments in order to avoid the need to place waste on the public highway. The modular unit would provide a waste cupboard. Waste would be collected on a daily schedule by a pre-paid sac collection service. The Waste and Amenity Manager expressed concern that waste cannot be put on the highway for collection between 04.00 and 11.00 as this contradicts the City's Time banding Regulations. There is concern that the waste cupboard would be unable to accommodate a standard refuse sack. The applicant has not demonstrated that a waste sack could be satisfactorily accommodated or that the frequency and timings of collections would be sufficient to prevent the need for waste to be deposited on the highway.

41. The clutter and highway obstruction that the proposed use would generate would detract from the public realm and pedestrian permeability contrary to the aims of policies DM10.4 and DM17.1 of the Local Plan and policies 6.10B and 7.5B of the London Plan.

### **Conclusion**

42. The proposed retail use and its associated paraphernalia would alter the form of the K6 telephone kiosk which would detract from the significance of the telephone kiosk as a non-designated heritage asset and would result in some less than substantial harm to the significance of this part of the Bank Conservation Area.
43. Within the City it is projected that footfall will increase further over the next 10 years with the completion of developments such as Crossrail and the growth of the 'Eastern Cluster'. The enhancement of the public realm and pedestrian permeability is a priority for the City. The proposed conversion of the telephone kiosk would obstruct the highway to an unacceptable degree. It has not been demonstrated that satisfactory refuse storage arrangements would be provided which may result in the need for refuse to be placed on the highway.
44. For these reasons the proposal is considered to be contrary to policies DM17.1, DM 12.2, DM12.1, DM10.1 and DM10.4 of the Local Plan, policies 6.10B, 7.5B and 7.8 of the London Plan and the aims of chapters 7 and 12 of the NPPF.

## **Background Papers**

### **Internal**

03.11.2017 Memo Department of Markets and Consumer Protection 2017

### **External**

16.04.2015 Minutes Conservation Area Advisory Committee

03.11.2017 Letter Historic England

Design and Access/ Heritage Statement September 2017

Existing Drawing Number: EX01

Proposed Drawing Number: PL01

## **Appendix A**

### **London Plan Policies**

The London Plan policies which are most relevant to this application are set out below:

Policy 7.5 London's public spaces should be secure, accessible, inclusive, connected, easy to understand and maintain, relate to local context, and incorporate the highest quality design, landscaping, planting, street furniture and surfaces.

Policy 7.8 Development should identify, value, conserve, restore, re-use and incorporate heritage assets, conserve the significance of heritage assets and their settings and make provision for the protection of archaeological resources, landscapes and significant memorials.

### **Relevant Local Plan Policies**

#### ***CS10 Promote high quality environment***

To promote a high standard and sustainable design of buildings, streets and spaces, having regard to their surroundings and the character of the City and creating an inclusive and attractive environment.

#### ***CS12 Conserve or enhance heritage assets***

To conserve or enhance the significance of the City's heritage assets and their settings, and provide an attractive environment for the City's communities and visitors.

#### ***CS16 Improving transport and travel***

To build on the City's strategic central London position and good transport infrastructure to further improve the sustainability and efficiency of travel in, to, from and through the City.

#### ***CS17 Minimising and managing waste***

To support City businesses, residents and visitors in making sustainable choices regarding the minimisation, transport and management of their waste, capitalising on the City's riverside location for sustainable waste transfer and eliminating reliance on landfill for municipal solid waste (MSW).

#### ***DM10.1 New development***

To require all developments, including alterations and extensions to existing buildings, to be of a high standard of design and to avoid harm to the townscape and public realm, by ensuring that:

- a) the bulk and massing of schemes are appropriate in relation to their surroundings and have due regard to the general scale, height, building lines, character, historic interest and significance, urban grain and materials of the locality and relate well to the character of streets, squares, lanes, alleys and passageways;
- b) all development is of a high standard of design and architectural detail with elevations that have an appropriate depth and quality of modelling;
- c) appropriate, high quality and durable materials are used;
- d) the design and materials avoid unacceptable wind impacts at street level or intrusive solar glare impacts on the surrounding townscape and public realm;
- e) development has attractive and visually interesting street level elevations, providing active frontages wherever possible to maintain or enhance the vitality of the City's streets;
- f) the design of the roof is visually integrated into the overall design of the building when seen from both street level views and higher level viewpoints;
- g) plant and building services equipment are fully screened from view and integrated in to the design of the building. Installations that would adversely affect the character, appearance or amenities of the buildings or area will be resisted;
- h) servicing entrances are designed to minimise their effects on the appearance of the building and street scene and are fully integrated into the building's design;
- i) there is provision of appropriate hard and soft landscaping, including appropriate boundary treatments;
- j) the external illumination of buildings is carefully designed to ensure visual sensitivity, minimal energy use and light pollution, and the discreet integration of light fittings into the building design;
- k) there is provision of amenity space, where appropriate;
- l) there is the highest standard of accessible and inclusive design.

#### ***DM10.4 Environmental enhancement***

The City Corporation will work in partnership with developers, Transport for London and other organisations to design and implement schemes for the enhancement of highways, the public realm and other spaces. Enhancement schemes should be of a high standard of design, sustainability, surface treatment and landscaping, having regard to:

- a) the predominant use of the space, surrounding buildings and adjacent spaces;
- b) connections between spaces and the provision of pleasant walking routes;
- c) the use of natural materials, avoiding an excessive range and harmonising with the surroundings of the scheme and materials used throughout the City;

- d) the inclusion of trees and soft landscaping and the promotion of biodiversity, where feasible linking up existing green spaces and routes to provide green corridors;
- e) the City's heritage, retaining and identifying features that contribute positively to the character and appearance of the City;
- f) sustainable drainage, where feasible, co-ordinating the design with adjacent buildings in order to implement rainwater recycling;
- g) the need to provide accessible and inclusive design, ensuring that streets and walkways remain uncluttered;
- h) the need for pedestrian priority and enhanced permeability, minimising the conflict between pedestrians and cyclists;
- i) the need to resist the loss of routes and spaces that enhance the City's function, character and historic interest;
- j) the use of high quality street furniture to enhance and delineate the public realm;
- k) lighting which should be sensitively co-ordinated with the design of the scheme.

#### ***DM12.1 Change affecting heritage assets***

1. To sustain and enhance heritage assets, their settings and significance.
2. Development proposals, including proposals for telecommunications infrastructure, that have an effect upon heritage assets, including their settings, should be accompanied by supporting information to assess and evaluate the significance of heritage assets and the degree of impact caused by the development.
3. The loss of routes and spaces that contribute to the character and historic interest of the City will be resisted.
4. Development will be required to respect the significance, character, scale and amenities of surrounding heritage assets and spaces and their settings.
5. Proposals for sustainable development, including the incorporation of climate change adaptation measures, must be sensitive to heritage assets.

#### ***DM12.2 Development in conservation areas***

1. Development in conservation areas will only be permitted if it preserves and enhances the character or appearance of the conservation area.
2. The loss of heritage assets that make a positive contribution to the character or appearance of a conservation area will be resisted.

3. Where permission is granted for the demolition of a building in a conservation area, conditions will be imposed preventing demolition commencing prior to the approval of detailed plans of any replacement building, and ensuring that the developer has secured the implementation of the construction of the replacement building.

### ***DM16.2 Pedestrian movement***

1. Pedestrian movement must be facilitated by provision of suitable pedestrian routes through and around new developments, by maintaining pedestrian routes at ground level, and the upper level walkway network around the Barbican and London Wall.

2. The loss of a pedestrian route will normally only be permitted where an alternative public pedestrian route of at least an equivalent standard is provided having regard to:

- a) the extent to which the route provides for current and all reasonably foreseeable future demands placed upon it, including at peak periods;
- b) the shortest practicable routes between relevant points.

3. Routes of historic importance should be safeguarded as part of the City's characteristic pattern of lanes, alleys and courts, including the route's historic alignment and width.

4. The replacement of a route over which pedestrians have rights, with one to which the public have access only with permission will not normally be acceptable.

5. Public access across private land will be encouraged where it enhances the connectivity, legibility and capacity of the City's street network. Spaces should be designed so that signage is not necessary and it is clear to the public that access is allowed.

6. The creation of new pedestrian rights of way will be encouraged where this would improve movement and contribute to the character of an area, taking into consideration pedestrian routes and movement in neighbouring areas and boroughs, where relevant.

### ***DM17.1 Provision for waste***

1. Waste facilities must be integrated into the design of buildings, wherever feasible, and allow for the separate storage and collection of recyclable materials, including compostable material.

2. On-site waste management, through techniques such as recycle sorting or energy recovery, which minimises the need for waste transfer, should be incorporated wherever possible.

## SCHEDULE

APPLICATION: 17/01055/FULL

### **1 No. BT Telephone Kiosk O/s 1 Lothbury London**

**Change of use of 1no. BT telephone box to 1no. retail kiosk (A1).  
Replacement of the existing telephone box glazing with toughened safety glass.**

## REASON FOR REFUSAL

- 1 The proposed conversion of the telephone box to a retail unit (Use Class A1) would detract from the significance of the K6 telephone box and result in less than substantial harm to part of the Bank Conservation Area. The scheme would obstruct the highway and detract from the public realm contrary to policies DM17.1, DM12.2, DM12.1, DM10.1 and DM10.4 of the Local Plan and policies 6.10B, 7.5B and 7.8 of the London Plan.

## INFORMATIVES

- 1 In dealing with this application the City has implemented the requirements of the National Planning Policy Framework to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in dealing with planning applications in the following ways:

detailed advice in the form of statutory policies in the Local Plan, Supplementary Planning documents, and other written guidance has been made available;

a full pre-application advice service has been offered;

where appropriate the City has been available to provide guidance on how outstanding planning concerns may be addressed.

However, notwithstanding the above, it has not been possible to achieve solutions to the problems as the proposals are contrary to planning policies, do not demonstrate other over-riding material considerations, and negotiations could not overcome the problems.

- 2 The Plans and Particulars accompanying this application are: PL01.