



Appeal Decision

Site visit made on 29 June 2023

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2023

Appeal Ref: APP/A5840/W/22/3313780

The Golden Hinde Shop, St Mary Overie's Dock, Cathedral Street, London SE1 9DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Golden Hinde Limited against the decision of London Borough of Southwark.
 - The application Ref 22/AP/2121, dated 15 June 2022, was refused by notice dated 4 October 2022.
 - The development proposed is retention of a kiosk and the change of use of open land to retail (Class E).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development in the banner heading above is taken from the Council's decision notice which accurately and succinctly describes the development. The kiosk is in situ, and I am therefore dealing with the appeal retrospectively.
3. The Council's reason for refusal is focussed on the effect of the development on the Borough High Street Conservation Area (CA) and the main issue reflects this matter in dispute. However, I have also been referred to the setting of Southwark Cathedral (grade I listed building) and the remains of Winchester Palace (grade II* listed building and a scheduled ancient monument (SAM)).
4. Accordingly, I have had regard to the statutory duties under both sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) in relation to the listed buildings and CA. As both parties have addressed all these heritage assets within their evidence, their interests have not been prejudiced by my consideration of them in my decision.

Main Issue

5. The main issue is whether the development preserves or enhances the character or appearance of the Borough High Street CA.

Reasons

Special interest and significance

6. The CA covers a large area and includes a great diversity of buildings with different character areas. The appeal site lies within 'Sub Area 3 – Riverside', as described within the Council's CA Appraisal (2006). The site is part of an

area of pedestrianised surfacing adjacent to St Mary Overie's Dock (the dock), which contains the replica Golden Hinde ship. This is a tourist attraction sitting prominently within localised views around the dock.

7. Significant redevelopment in the 1980's in this part of the CA has meant that much of the built form does not have a high level of architectural and historical interest. Despite this, the route through Clink Street to the dock and around to Cathedral Street remains attractive.
8. The narrowness of Clink Street, the surfacing of Cathedral Street and the presence of several canonised bollards create a medieval quality. Moreover, the tall height of buildings enclosing the public spaces reveal, in stages, the remains of Winchester Palace, the Golden Hinde ship, views of the Thames River and Southwark Cathedral when moving through this part of the CA.
9. In so far as it relates to this appeal, the significance of this part of the CA is derived from these focal point features and the quality of the pedestrianised open spaces that connect them, including the area around the appeal site. These, and the absence of vehicular traffic, result in an attractive environment that contributes positively, albeit to a small degree, to the character and appearance of the CA as a whole, and thereby to its significance as a designated heritage asset.

Appeal development and effects

10. The kiosk is positioned such that it can be clearly seen in the forefront of the Golden Hinde when travelling along Clink Street past the remains of Winchester Palace toward the dock, particularly when approaching along the southern side of the street. Even though it has a modest footprint the kiosk's central position near the junction of Clink Street means it is a highly visible feature within the relatively small pedestrianised area adjacent to the dock.
11. Despite its black colour and modest size, its box like shape and modern glossy finish are striking features giving it a utilitarian appearance. This, combined with its positioning, intrude into the views of the ship from Clink Street and this part of the pedestrianised open spaces adjacent to the dock. I accept that the buildings in the immediate vicinity of the kiosk are not 'historic'. However, the kiosk diverts attention from one of the focal point features (the ship) and its presence in this highly visible position erodes the quality of the pedestrianised area around the dock. For these reasons, the intrusion into the attractive pedestrianised open space around the dock is harmful.
12. I note that the appellant would be happy to accept a condition for a temporary permission for 5 years. However, there are no firm details before me that any planning circumstances would likely change, or that an alternative longer-term solution would come forward at the end of such a temporary permission. Moreover, the harm to the CA that I have identified would still occur during a temporary period. As such, I do not consider there to be any circumstances where a temporary permission may be appropriate in this instance.
13. I accept that the kiosk's function is to sell tickets and merchandise for the Golden Hinde. As such, there will be some residual benefits that have the potential to better reveal the significance of this part of the CA. However, there is no firm evidence that the development before me is the only means of

securing such benefits, moderating the weight I afford this matter. It does not therefore outweigh the harm I have identified.

14. Drawing the above together, I find that the development does not preserve or enhance the character or appearance of the Borough High Street CA.

Public benefits and heritage balance

15. Paragraph 199 of the National Planning Policy Framework (the Framework) (2021) advises that when considering the impact of a development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
16. With reference to paragraphs 201 and 202 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Given the localised nature of the development, seen in views along Clink Street, adjacent to the dock, and Cathedral Street, I find the harm to be 'less than substantial' in this instance but, nevertheless, of great weight. Under such circumstances, paragraph 202 advises that this harm should be weighed against the public benefits of the proposal, which includes securing the asset's optimum viable use.
17. I acknowledge that within each category of harm, the extent of the harm may vary. However, for the purposes of undertaking the heritage balance, the Framework does not require the decision maker to place the harm somewhere on a spectrum. In any event, even if I accepted this line of reasoning, a low level of less than substantial harm should not be equated with a lesser planning objection and is still of considerable importance and weight.
18. There are economic and social benefits resulting from the installation of the kiosk, the general investment into the tourist attraction, increased presence in the street, and improvements to the attraction's ticket and merchandise sales arrangements. There will also be some residual benefits that have the potential to better reveal the significance of this part of the CA. Moreover, there are health and safety benefits to staff in providing a secure, dry, and comfortable place to work. However, I am not convinced that the only way of securing the benefits outlined above is via the particular design and location of development before me moderating the weight I afford these matters.
19. Overall, the weight that I ascribe to the public benefits resulting from the development, are not sufficient to outweigh the great weight that I attach to the harm I have identified. As such, the development does not comply with paragraph 202 of the Framework.
20. The development fails to preserve the character and appearance of the CA. This is contrary to the requirements of sections 72(1) of the Act. It is also contrary to the requirements of Policies P14 and P20 of the Southwark Plan (2022), which says amongst other things, that development must respond positively to the context using durable, quality materials and provide a positive pedestrian experience.
21. Having regard to the legitimate and well-established legislative and planning policy aim of the conservation and enhancement of the historic environment, a refusal of consent would therefore be proportionate and necessary.

Other Matters

22. The remains of Winchester Palace are both a grade II* listed building and a SAM. Its historical use as the residence of the Bishops of Winchester, as a civil prison during the Civil War, the surviving remains of the Great Hall, including fourteenth century stonework and its rose window, and the potential for archaeological investigation all contribute to its historical, architectural, and archaeological interest and significance.
23. In so far as it relates to this appeal, the approach along Clink Street, including glimpsed views from adjacent to the dock around the appeal site, contribute to the significance of the palace as the main areas in which the remains can be appreciated from. This is due to the proximity of more recent development that is tightly knit around the remains.
24. Southwark Cathedral is a grade I listed building, dating from the twelfth and thirteenth century. Its historical use as a religious site from the early Saxon period, surviving medieval fabric, its landmark tower, and its external Gothic architectural character all contribute to its special historical and architectural interest and significance.
25. In so far as it relates to this appeal, despite modern developments, the cathedral is partially visible in views from the public realm around the dock, gradually revealing itself when travelling along Cathedral Street toward it. Such views, although much altered, are part of the experience of understanding and appreciating the significance of the cathedral as a building of considerable social and cultural importance. Therefore, the views form part of the setting of this building and make a positive contribution to its significance.
26. The kiosk can be seen in combination with a small part of Southwark Cathedral and the remains of Winchester Palace. However, the size of the kiosk, its location adjacent to the dock and divorced from these respective heritage assets are such that, on balance, mean it has a neutral effect on the ability to experience their significance. Accordingly, the development has a neutral impact on the contribution that setting makes to the significance of these designated heritage assets. The absence of harm in this regard, weighs neither for nor against the appeal, and does not alter my findings in the main issue in relation to the CA.
27. Concerns regarding the processing of the application or pre-application request are not matters for my consideration as part of this appeal and do not alter the planning and heritage merits of the development.

Conclusion

28. The development conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be made other than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

Mr R Walker

INSPECTOR