

SAVILLE THEATRE

135 SHAFTESBURY AVENUE

(BUILT) HERITAGE, TOWNSCAPE AND VISUAL IMPACT
ASSESSMENT

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EXECUTIVE SUMMARY

Montagu Evans have prepared this Heritage, Townscape and Visual Impact Assessment ('HTVIA') on behalf of YC Saville Theatre Limited.

In this report we assess the impact of the proposed redevelopment of the former Saville Theatre, 135-149 Shaftesbury Avenue, on its special heritage interest as an interwar theatre which is designated as a Grade II listed building.

The HTVIA also considers the building in its local townscape context, and how the proposals would affect the character and appearance of the area.

The proposals seek to reinstate a theatre to the listed building and introduce a new hotel use on the Site. In principle these two different uses are welcomed. The proposals would return the building to its original use and reverse the unsympathetic works that converted the building to a cinema in the 1970s and early 2000s.

The cinema conversion (which took place before the building was listed in 1998) removed the original theatrical interiors completely and very little of its significance is derived from the fabric inside the building. The proposals have been prepared in light of this context and a full understanding of the building's surviving historic fabric.

The redevelopment would involve the part-demolition of the listed building with retained façade and the development of a new building which is six storeys taller than the existing building. There would also be four levels of basement.

The proposals are the product of very careful options analysis which is described in the Design and Access Statement.

The existing building is in poor condition because of the onset of Regents Street Disease and the later alterations. As a consequence, it requires very significant investment. We understand that such investment is not possible through the existing use, and we are advised that the future of the building would be at risk without the repair works proposed.

The proposals have been the subject of extensive consultation with the London Borough of Camden, Historic England, the Greater London Authority, local residents and interested parties/consultees including the Theatres Trust.

CONTEXT: THE PREVIOUS PROPOSALS

The current designs, uses and pre-application discussions have been informed by a previous scheme for the site which was subject to an Appeal in 2020.

The previous scheme involved the redevelopment of the building for cinema and hotel use with a two-storey extension at roof level. The Appeal was dismissed; and part of the reason was the less than substantial harm to the listed building which was not outweighed by the heritage or other public benefits.

The current proposals seek a taller increase in height on the site however there are important differences between this and the previous application:

First, much more is known about the significance of and surviving fabric in the listed building as a result of study for the Appeal and a review of the list entry description by Historic England which concluded in May 2023.

Second, the current proposals reinstate a theatre use and there is an operator on board – Cirque du Soleil. The design of the proposed theatre is therefore fully compliant with industry requirements.

Third, there is a hotel operator on board, who are citizenM, and the hotel accommodation is likewise based on full requirements.

Fourth, it is now known that the building has Regents Street Disease and the investment required to address this issue and maintain the building long-term is more significant than previously contemplated at the Appeal in 2020.

Fifth, the proposed layout of spaces within the building would celebrate the theatrical use with foyer and hospitality spaces at ground floor level. This is

an improvement on the previous scheme in which the cultural use (cinema) was entirely contained within the basement and no part of this function was in the historic, above-ground envelope.

Sixth, the design of the new upper floors is more appropriate than the previous proposals, which were fully glazed and did not relate well to the existing building.

For functional and operational reasons, the hotel needs to be for a certain size and the theatre is placed in the new basement. In order to accommodate the required level of accommodation for the hotel, within a building volume that is acceptable, there has been extensive optioneering.

Although the theatre is being designed for a specific occupier, its structural design means that it can be flexible and has longevity. The optioneering has included different configurations of the hotel relative to the theatre, in order to accommodate the hotel use with the requisite number of rooms.

The conclusion has been reached that the optimum place for the theatre is subterranean. In order to create the theatre and hotel use, the demolition of the interior is proposed. The only areas of internal original fabric of any substance are the ancillary rooms and staircases at the back and they cannot be accommodated into the new arrangement.

In order to construct the new building and ensure a successful architectural treatment to the rear elevation, that elevation has to be taken down and reinstated. For that reason and practically, the application should be treated as demolition in the *Shimizu*¹ sense.

The other elevations, including the principal south elevation, which contains a very large frieze by renowned sculptor Gilbert Bayes, would be retained, repaired and restored to its original appearance.

The interior design has been formulated to create an arrival experience behind the restored main entrance from Shaftesbury Avenue which has a

¹ *Shimizu (UK) Ltd v. Westminster City Council* [1997] 1 WLR 168; [1997] 1 All ER 481

grand and theatrical character. The movement down into the auditorium will likewise be enjoyable and will be inviting and generously sized to heighten the experience and sense of anticipation.

The new development would be within the existing building envelope plus six storeys above. It has been reduced in scale as far as possible to meet the hotel requirements and there have been extensive options for the massing and façade treatment.

The final proposals would introduce a 'belt' immediately above the existing parapet which would create a gap between the historic building and new massing. The upper floors have an interesting design using vertical brick fins to contain windows whilst having a solidity in the elevation. The rear elevation is treated differently with setbacks and lighter materials to reduce the perceived height from the north.

SUMMARY HERITAGE ASSESSMENT

The heritage assessment considers the effect of the proposals on the former Saville Theatre as a Grade II listed building and the setting impact on heritage assets in the surrounding area, including two conservation areas.

There would be harm to the special interest of the former Saville Theatre as a result of:

- The removal and loss of surviving original fabric internally;
- The demolition of the existing rear elevation; and
- The construction of a new building which rises six storeys above the existing parapet line which would alter the original proportions of the building.

As described earlier the harmful impacts have been minimised and to some extent mitigated through the detailed design of the extension.

Policy requires the level of harm to be articulated and we summarise our analysis below:

According to the list entry description, the building's architectural interest lies in *"its restrained and carefully proportioned form, specifically designed to integrate the purpose-designed sculptural work by Gilbert Bayes"*. With reference to this reason for designation, the architectural interest in the building lies in its offering as an appropriate setting for the sculpture. It is the sculpture that distinguishes the building.

The proposed architectural concept for the new storeys above the existing building includes the horizontal setback (the 'belt') which creates a visual break and emphasises the horizontality of the whole building. The horizontality reinforces the continuity of the frieze, which, is prominent and flush from the façade as distinct from the horizontal belt which is recessed.

The proposals would retain and restore the frieze and its original setting. The design of the new development is influenced by the frieze and seeks to emphasise it. Therefore, the level of harm cannot be high in our view because the proposals would not seriously diminish or remove the main reason for the building's designation.

We conclude there would be low to moderate less than substantial harm from the new massing.

If the decision-maker were to take a different view, then we do not think the less than substantial harm could be any more than moderate.

In our assessment we apply the 'internal heritage balance' approach, which means that we consider the harm and benefit of the proposals to arrive at a net position before applying the policies in the NPPF.

In this case, the proposals would achieve significant heritage benefits:

- The reinstatement of original theatre use;
- Addressing the Regents Street Disease and the deterioration in the façades;
- Restoring the front elevation to its original appearance; and
- Architectural lighting, long-term maintenance and the opportunity for interpretation.

The proposals would provide the building with a sustainable use with longevity: the theatre is adaptable, and the hotel use is a complementary one. Both uses are publicly accessible and actively invite people to enjoy the space.

In terms of the heritage balance, the degree of change to the listed building would be profound. The heritage benefits are weighty and count strongly in favour of the scheme, but they would not be sufficient to outweigh the harm entirely.

Therefore, we conclude there would be a low level of residual less than substantial harm to the Grade II listed building to be considered in the planning balance.

Paragraph 208 of the National Planning Policy Framework (2023) ('NPPF') requires less than substantial harm to a designated heritage asset to be balanced against public benefits.

We refer the decision-maker to the Planning Statement which sets out the planning benefits in full. These would include the townscape and visual benefits described below.

If the decision-maker were to take a different approach and engage paragraph 208 of the NPPF without undertaking the internal heritage balance, then the outcome would be the same. It has been clarified in recent judgements that either approach is acceptable.

SUMMARY TOWNSCAPE AND VISUAL ASSESSMENT

This report also considers the proposals in their townscape context. The proposed uses are complementary to the function of the area and would introduce activity and natural surveillance to the area to the north of the site which is currently uninviting and experiences anti-social behaviour.

The position of the entrances and the new architecture would invite people on a journey from Seven Dials to Shaftesbury Avenue which would be a significant townscape benefit.

The visual impact of the proposals would be quite limited, and this has been demonstrated by a Zone of Theoretical Visibility, verified views and model testing.

The current experience of the theatre is one of surprise and reveal, and an appreciation of the intricate detail of the frieze from positions close to the building. The proposals would retain this visual character and quality of the building: it would be part of the experience of the area which is already full of remarkable things, and things that are different from one another.

People would continue to enjoy the historic building as part of the amenity of views from the area notwithstanding the harm we have identified to the significance of the asset.

The frieze would remain an important and interesting part of the streetscape on Shaftesbury Avenue and appreciation would be enhanced by repair, lighting and interpretation.

On the journey from north to south, people would see a remarkable combination of old and new on the site, alongside the older townscape components at Seven Dials and St Giles Church (which are 17th century).

The area is one of real architectural variety, seen in the context of an ever-changing central London environment.

In the summer, the London Plane trees would reduce the visibility of the upper parts of the proposals and increase the sense of containment to the street level where again the frieze would take centre stage.

CONCLUSIONS

The proposals are ambitious and would cause less than substantial harm to a Grade II listed building. Overall and considering the heritage benefits that the proposals would achieve for the building, we conclude that the level of harm would be low. Paragraph 208 of the NPPF requires a balance of public benefits in cases of less than substantial harm to designated heritage assets, we refer the decision-maker to the Planning Statement. The public benefits would include the townscape and visual benefits described in this report.

In conclusion, there would be a profound change to the character of the listed building, however the proposals would also be an exciting new act in the building's history, as well as the history of Theatreland in Camden, that would conserve its historical use and architectural significance.

1.0
INTRODUCTION
FORMER SAVILLE THEATRE

INTRODUCTION

1.1 Montagu Evans have been instructed by YC Saville Theatre Limited (hereafter the 'Applicant') to provide consultancy services and produce this Heritage, Townscape and Visual Impact Assessment (the 'HTVIA') in support of proposals which are subject to applications for planning permission and Listed Building Consent for the redevelopment of the former Saville Theatre at 135-149 Shaftesbury Avenue, London WC2H 8AH (the 'Site').

1.2 The Site is located in the London Borough of Camden who are the local planning authority ('LBC' or the 'Council'). It is a rectangular plot of land between Shaftesbury Avenue, New Compton Street, Stacey Street and St Giles Passage, and the existing building forms the entire urban block. It was built as a theatre in 1937 and it is Grade II listed.

1.3 **Figure 1.1** outlines the boundary of the Site. An aerial view of the Site from Google Earth is provided at **Figure 1.2**.

1.4 The description of development for the proposals (the 'Proposed Development') is as follows:

Part demolition, restoration and refurbishment of the existing Grade II listed building, roof extension, and excavation of basement space, to provide a theatre (Sui Generis) at lower levels; restaurant / bar and office space (Class E(b) / Class E(g) / Sui Generis) at ground floor level; and hotel (Class C1) at upper levels; provision of ancillary cycle parking, servicing and rooftop plant, and other associated works.



Figure 1.1 Site Location Plan



Figure 1.2 Aerial View of the Site. Source: Google Earth

THE PROPOSED DEVELOPMENT

- 1.5 The Proposed Development is described in the Design and Access Statement ('DAS') prepared by the architects, SPPARC, and the relevant aspects for the HTVIA are described in this report.
- 1.6 In summary, the Proposed Development seeks to re-introduce a live performance venue to the Site and introduce a new hotel use. The Proposed Development would become the first UK-based permanent home of Cirque du Soleil. At upper levels, the affordable luxury boutique hotel would be operated by citizenM.
- 1.7 This would be achieved through the part-demolition of the listed building to construct a new building behind retained façades. The new building would introduce six storeys above the existing envelope of the building plus plant.
- 1.8 The Proposed Development would include part-demolition, part-retention and stabilisation and refurbishment of the Grade II listed theatre.

- 1.9 The original theatre interiors were removed in the mid-20th century when the building was converted into a cinema in two phases. No fabric from the original auditorium survives and there are only fragments of some original stairs and dressing room spaces to the rear.
- 1.10 The most significant aspect of the listed building is the front (south) elevation which incorporates a frieze by the renowned sculptor Gilbert Bayes (1872–1953) entitled 'Drama Through the Ages' (Figure 1.3). The elevation and frieze would be entirely retained and restored, including the removal of unsympathetic alterations and reinstating its original character.
- 1.11 New basement levels would be excavated to accommodate the new live performance space, with the introduction of retail and theatre lobby, box office and front of house facilities at street level.



Figure 1.3 Sections of the Gilbert Bayes Frieze in the Front Elevation of the former Saville Theatre, 'The History of Drama Through the Ages'

PRE-APPLICATION ADVICE

- 1.12 The Proposed Development has been subject to pre-application consultation with the LBC, Historic England, Theatres Trust and the Greater London Authority. The feedback from the consultees has been taken into account during design development, and the pre-application process is described in the DAS.

RELEVANT BACKGROUND

- 1.13 A previous application for the Site was made in January 2018 (LBC references 2017/7051/P and 2018/0037/L) (the '2018 Scheme'). The description of development was as follows:

The comprehensive refurbishment of the existing Grade II listed building and the provision of a new two storey roof extension and new basement level, providing a new four-screen cinema (Class D2) and spa (sui generis) at basement levels, a restaurant/bar (Class A3/A4) at ground floor level, a 94 bed hotel (Class C1) at part ground and first to sixth floors and associated terrace and bar (Class A4) at roof level, together with associated public realm and highways improvements.

- 1.14 The application was refused and subject to an Appeal (PINS references APP/X5210/W/19/3243781 and APP/X5210/Y/19/3243782). The Public Inquiry was held in December 2020.
- 1.15 In terms of the heritage impacts, the Inspector identified less than substantial harm to the significance of the listed building that would not be outweighed by the public benefits. The harm to the listed building was derived from "the change of use (including loss of fabric) and significant levels (of less than substantial harm) to the listed building through the rooftop extension" (paragraph 91 of the Inspector's Report).
- 1.16 It is noted that the cultural use (cinema) was small and provided entirely in a new basement, with the existing above-ground envelope of the listed building being hotel and associated uses, including a spa. The current Proposed Development represents a more appropriate solution for the listed building by introducing a theatre, the original use, and having the theatre lobby and associated hospitality space at the ground floor. In doing so, the cultural identity of the building would be better reinstated than the 2018 Scheme.

- 1.17 The height of the Proposed Development is greater than the two storeys proposed in the 2018 Scheme and there would remain less than substantial harm. The pre-application discussions with the LBC and Historic England have sought to minimise the harm as far as possible through design, including the form, placement and architectural expression of the new massing.
- 1.18 The evidence produced for the Appeal and subsequent studies, including the Enhanced Listing of the former Saville Theatre by Historic England in May 2023, means there is much more information available on the significance and condition of the listed building since the 2018 Scheme was developed. This means that the impact on significance and benefits can be understood more fully.
- 1.19 For example, it is now understood that Regent Street Disease² is threatening the façades and therefore significant investment is required to remediate this issue and prevent serious damage. The remediation would be a significant benefit.
- 1.20 The Inspector did also recognise there would be "significant" heritage benefits to the listed building from "the repairs to the external frieze and the roundels, the repair and reinstatement of the arched window, and wider structural repairs. The proposal would also reintroduce the historic poster boxes and insert a new sympathetic canopy" (paragraph 83). The Proposed Development would achieve these same benefits.
- 1.21 The Inspector found a harmful effect on the significance of the Denmark Street Conservation Area and Seven Dials (Covent Garden) Conservation Area, however he concluded this would be "acceptable" in the context of the heritage and other public benefits (see paragraphs 91 and 92).
- ### PURPOSE OF THE REPORT
- 1.22 The HTVIA provides an assessment of the Proposed Development on heritage assets, local townscape character and visual amenity.
- 1.23 The heritage assessment will consider the significance of heritage assets and the effect of the Proposed Development upon that significance. The Proposed Development involves physical works to the Grade II listed

² Regent Street Disease is the corrosion of steel frames within masonry clad buildings. The problem arises because the masonry (stone, brick or even terracotta) are porous, and this means that moisture can permeate the substrate of the building and eventually reach the steelwork which begins to rust and break down. The rusting steelwork can expand significantly causing the surrounding masonry to burst and fall away from the building, representing serious damage as well as potential danger to life from falling debris.

building on the Site, and there are heritage assets in the surrounding area that may be affected as a result of change to the contribution that setting makes to their significance. The Site is not located in a conservation area, however the Denmark Street Conservation Area and Seven Dials (Covent Garden) Conservation Area cover land immediately north and south of the Site.

- 1.24 The townscape assessment will consider the Proposed Development within its urban context, including the buildings, the relationships between them, the different types of urban open spaces, including green spaces and the relationship between buildings and open spaces.
- 1.25 The visual assessment will consider the impact of the Proposed Development upon visual receptors. The assessment relates to how people will be affected by changes in views and visual amenity at different places, including publicly accessible locations. Visual receptors are always people and usually defined according to use e.g. resident, pedestrian, road user etc., as opposed to landscape features.
- 1.26 The assessment is informed by 12 accurate visual representations (verified views or 'AVRs') prepared by Cityscape Digital. Their methodology is at **Appendix 1.0**. The location of the viewpoints has been informed by architectural and historic accounts of the area, an appraisal of the existing Site and surroundings, and relevant policy designations.

STRUCTURE OF THE REPORT

- 1.27 The HTVIA is structured as follows:
- The assessment methodologies are described at **Section 2.0**;
 - **Section 3.0** sets out the legislation, planning policy and guidance that is relevant to the assessment;
 - **Section 4.0** describes the historical development of the Site and surrounding area;
 - The significance of the Saville Theatre is described at **Section 5.0**;
 - The significance of heritage assets in the surrounding area that may experience setting impacts from the Proposed Development is described at **Section 6.0**;
 - The local townscape character and visual amenity is described at **Section 7.0**;
 - **Section 8.0** is a description of the Proposed Development;
 - **Section 9.0** assesses the effect of the Proposed Development on the former Saville Theatre;
 - The setting impacts on heritage assets in the surrounding area are described at **Section 10.0**;
 - The effect on townscape character is at **Section 11.0**;
 - The effect on visual amenity and visual receptors is at **Section 12.0**; and
 - The HTVIA is concluded at **Section 13.0**.

2.0
METHODOLOGY
FORMER SAVILLE THEATRE

METHODOLOGY

- 2.1 This section describes the assessment framework for heritage and townscape and visual assessment.
- 2.2 The method for each discipline is the product of legislation, policy and best practice guidance, set out in detail in **Section 3.0**.

HERITAGE ASSESSMENT

- 2.3 The term ‘heritage asset’ is used within this assessment to describe both designated and non-designated heritage assets. Designated heritage assets include listed buildings, conservation areas and Scheduled Monuments for example. Non-designated heritage assets include locally listed buildings, or any other building or feature identified as having historic or architectural interest either by the local planning authority or through the design development process.
- 2.4 Paragraph 200 of the NPPF states:
In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 2.5 ‘Significance’ (for heritage policy) is defined in the NPPF (Annex 2) as:
the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting.
- 2.6 This is reaffirmed by *Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment* (Historic England, 2015).
- 2.7 It is commonly agreed that Grade I and II* buildings are of “exceptional” and “particularly important” interest; therefore, these are generally afforded a higher significance. This differentiation is best summarised by the drafting of paragraph 200 of the NPPF, which states that the

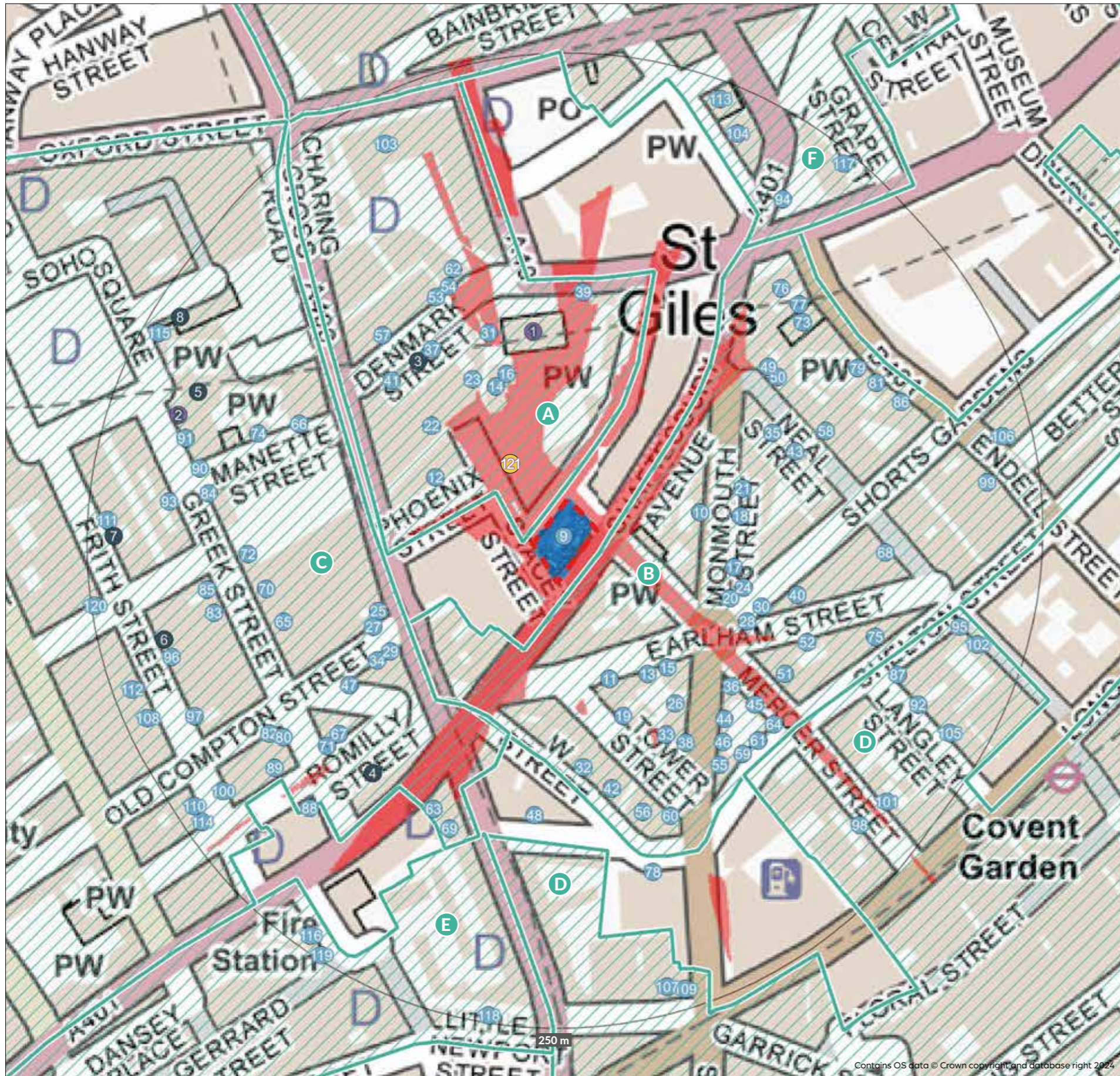
“level of detail (to describe the significance of heritage assets) should be proportionate to the assets’ importance”; thus, a grading is appropriate. We have given due and proportionate regard to all heritage assets assessed.

- 2.8 Where a proposal may have an effect on the surroundings in which the heritage asset is experienced, a qualitative assessment is made of whether, how and to what degree setting contributes to the significance of heritage assets. Setting is defined in the NPPF as:
the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
- 2.9 The assessment of setting is informed by the checklist of potential attributes outlined by the *Historic England guidance document Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets* (2017) (hereafter ‘GPA3’).
- 2.10 GPA3 identifies five steps towards assessing the implications of development proposals which may affect the setting of heritage assets (it is consistent with other guidance):
- Identify the assets affected;
 - Assessing the contribution setting makes to significance;
 - Assessing the effect of the proposed development;
 - Maximising enhancement and minimising harm; and
 - Making and documenting the decision and monitoring outcomes.
- 2.11 Step e is incumbent on the decision maker, through the provision of conditions.

SCOPE OF HERITAGE ASSESSMENT

- 2.12 The scope of the heritage assessment, i.e. the assets that may experience effects from the Proposed Development, has been based on desk-based study and analysis of a Zone of Theoretical Visibility (‘ZTV’) produced by Cityscape Digital.
- 2.13 The heritage assets within an initial study area of 500m from the Site was prepared in order to understand the spread and nature of assets.

- This map was used to identify the sensitive assets and inform design development.
- 2.14 The ZTV of the Proposed Development was overlaid on the heritage asset map to determine the final scoping for this report – see **Figure 2.1**.
- 2.15 The ZTV demonstrates that the visual envelope of the Proposed Development is relatively limited. The ZTV is provided in full at **Appendix 2.0**.
- 2.16 Where there would be no intervisibility with the Proposed Development we have scoped out the asset from assessment. This is because the distance and/or interposing development means there would be no visibility of the Proposed Development and the setting of the asset would not change.
- 2.17 The map at **Figure 2.2** shows the heritage assets that have been scoped in for assessment, and they are described in full at **Section 5.0**.
- 2.18 It is noted that there is visibility of the Proposed Development from Tottenham Court Road to the north of the Site and there are listed buildings in this location.
- 2.19 The model views at **Figures 2.3–2.5** show how the Proposed Development would appear from Tottenham Court Road. The Proposed Development, in blue, would be seen in the backdrop of the view to the right of Centrepont.
- 2.20 Centrepont is a prominent feature in the view from Tottenham Court Road and it is a Grade II listed building. The model views demonstrate that there would be no change to how Centrepont is seen or appreciated in the long views from Tottenham Court Road: the Proposed Development would appear in the background and as part of the established urban environment. Centrepont would remain the tallest building and focal point in the view, and the ability to read its attractive Brutalist architecture would be preserved. On this basis, Centrepont is not included for any further assessment.
- 2.21 The height of the building is not intrusive and forms part of the modern urban scene. There would be no effects on the significance of listed buildings that face Tottenham Court Road, nor indeed any material change to the townscape character or visual amenity.
- 2.22 On this basis, heritage assets on Tottenham Court Road do not require assessment.



HERITAGE ASSET PLAN

- Application Site
- Conservation Areas
 - A. Denmark Street CA
 - B. Seven Dials (Covent Garden) CA
 - C. Soho CA
 - D. Covent Garden CA
 - E. Chinatown CA
 - F. Bloomsbury CA
- Listed Buildings
- Grade I
 - 1. Church of St Giles in The Fields
 - 2. House of St Barnabas
- Grade II*
 - 3. No 6, and No 7, Denmark Street
 - 4. Palace Theatre
 - 5. 26, Soho Square W1
 - 6. 15, Frith Street W1
 - 7. 6, Frith Street W1
 - 8. Roman Catholic Church of St Patricks
- Grade II
 - 9. Former Saville Theatre
 - 10. 14, 16 and 18, Monmouth Street
 - 11. Fw Collins and Son, and Lamp Post outside No 14
 - 12. Phoenix Theatre
 - 13. 22, Earham Street
 - 14. Elms Lester Painting Rooms
 - 15. 24 and 26, Earham Street
 - 16. St Giles Vestry Rooms and attached Wall with Lamp South West of Church
 - 17. 35, 37, and 39, Monmouth Street
 - 18. 27, Monmouth Street
 - 19. 22, Tower Street
 - 20. Crown Public House
 - 21. 21, Monmouth Street
 - 22. 12, Flitcroft Street
 - 23. 6, Flitcroft Street
 - 24. 1, Shorts Gardens
 - 25. 101, Charing Cross Road
 - 26. 10, Tower Court
 - 27. 2, 4, and 6, Old Compton Street
 - 28. 2, Shorts Gardens
 - 29. 99a, Charing Cross Road
 - 30. 4 and 6, Shorts Gardens
 - 31. Lych Gate to The West of Church of St Giles in The Fields
 - 32. 24, West Street
 - 33. 5-8, Tower Court
 - 34. 5, Old Compton Street
 - 35. 61, Neal Street
 - 36. 45-51 Monmouth Street and 29-31 Mercer Street
 - 37. 5, Denmark Street
 - 38. 42-48, Monmouth Street
 - 39. K2 Telephone Kiosk
 - 40. The Crafts Centre
 - 41. 9 and 10, Denmark Street
 - 42. Ambassadors Theatre
 - 43. 55, Neal Street
 - 44. 53-59 Monmouth Street
 - 45. 21, 23, and 25 and 27 Mercer Street
 - 46. 61, and 63, Monmouth Street
 - 47. 13, Moor Street W1
 - 48. 24 and 24a, 25, 26, and 27, Litchfield Street WC2
 - 49. 80, Neal Street
 - 50. 78, 78a and 78b, Neal Street
 - 51. Cambridge Theatre
 - 52. 36, 38 and 40, Earham Street
 - 53. 26, Denmark Street
 - 54. 27, Denmark Street
 - 55. 65-71 Monmouth Street and attached Rear Drum Forming The Southern Point of Ching Court
 - 56. St Martins Theatre
 - 57. 20, Denmark Street
 - 58. 64, Neal Street
 - 59. 11 and 13 Shelton Street
 - 60. North Wing, and Guild House (South Wing)
 - 61. 15, 17 and 19 Shelton Street
 - 62. 59, St Giles High Street
 - 63. Welsh Presbyterian Church Manse
 - 64. 19 Mercer Street and 21 Shelton Street
 - 65. 20, and 21, Greek Street W1
 - 66. 16 and 17, Manette Street W1
 - 67. 34, Romilly Street W1
 - 68. 27, 29, 31, 33, 35, and 37, Neal Street
 - 69. Former Welsh Presbyterian Church
 - 70. 17, Greek Street W1
 - 71. Coach and Horses
 - 72. 14, Greek Street W1
 - 73. Swiss Protestant Church
 - 74. 14, Manette Street W1
 - 75. Seven Dials Warehouse
 - 76. St Mungo's Housing
 - 77. 81, Endell Street
 - 78. The Spirit of Electricity
 - 79. 63-69, Endell Street
 - 80. 40b, Greek Street W1
 - 81. Latchfords Timber Yard including attached Timber Sheds
 - 82. 13-17, Old Compton Street W1
 - 83. 48, Greek Street W1
 - 84. 8, Greek Street W1
 - 85. 50, Greek Street W1
 - 86. 51-59, Endell Street
 - 87. 24 and 26, Shelton Street WC2
 - 88. 4, Romilly Street W1
 - 89. Kettner's Restaurant
 - 90. 6, Greek Street W1
 - 91. 3, Greek Street W1
 - 92. 7 and 8, Langley Street WC2
 - 93. 58, Greek Street W1
 - 94. Drinking Fountain At Junction with Shaftesbury Avenue
 - 95. 34, Shelton Street WC2
 - 96. 16, Frith Street W1, and Nos 17 and 18 including Upper Storeys of No 18 and Access Thereto, Labelled 19
 - 97. 22, Frith Street W1
 - 98. 3 and 5, Mercer Street WC2
 - 99. Cross Keys Public House
 - 100. 26, Frith Street W1
 - 101. 6 and 8, Mercer Street WC2
 - 102. 17 and 19, Neal Street WC2
 - 103. Centre Point
 - 104. 233, Shaftesbury Avenue
 - 105. 6, Langley Street WC2
 - 106. No 22 and attached Railings
 - 107. 5, Great Newport Street WC2
 - 108. 44-48, Frith Street W1
 - 109. The Frigate Public House
 - 110. 39 and 40, Frith Street W1
 - 111. 5, Frith Street W1
 - 112. 49, Frith Street W1
 - 113. Bloomsbury Central Baptist Church
 - 114. 37 and 38, Frith Street W1
 - 115. St Patrick's Presbytery
 - 116. 2, Gerrard Place W1
 - 117. Shaftesbury Theatre
 - 118. 18, 19, 20 and 20a, , 21-24, 25, and 26, Newport Court WC2
 - 119. 3, Gerrard Street W1
 - 120. The Dog and Duck Public House
- Non-designated Heritage Asset
 - 121. The Phoenix Gardens

LOCATION:
135 Shaftesbury Avenue

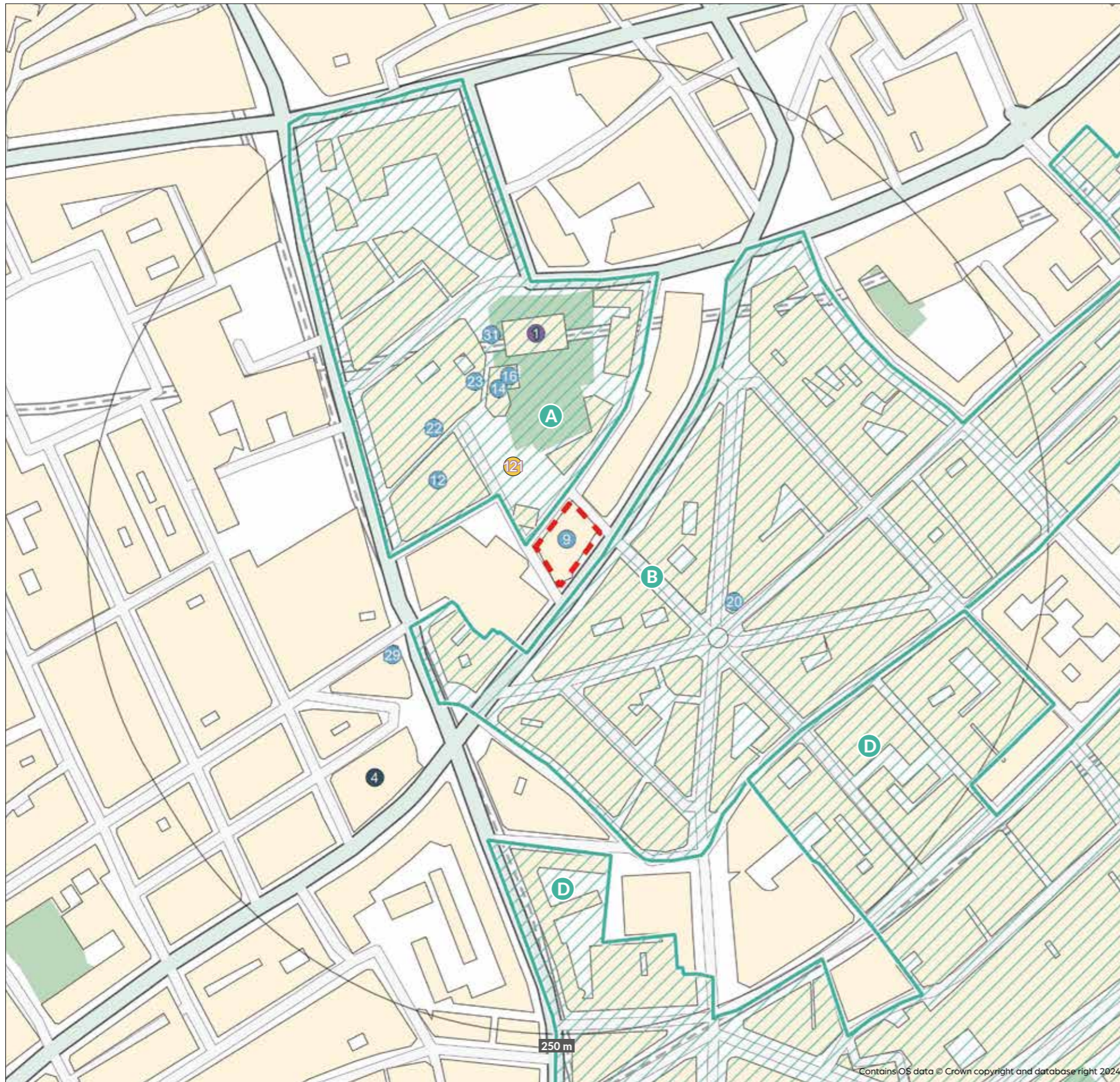
DATE:
February 2024

SCALE:
1:2,500 @ A3

FIGURE 2.1 Heritage Assets in the Study Area Overlaid with ZTV of the Proposed Development



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SCOPED IN HERITAGE ASSET PLAN

- Application Site
- Conservation Areas
 - A. Soho CA
 - B. Covent Garden CA
 - D. Chinatown CA
- Listed Buildings
 - Grade I
 - 1. Church of St Giles in The Fields
 - Grade II*
 - 4. Palace Theatre
 - Grade II
 - 9. Former Saville Theatre
 - 12. Phoenix Theatre
 - 14. Elms Lester Painting Rooms
 - 16. St Giles Vestry Rooms and attached Wall with Lamp South West of Church
 - 20. Crown Public House
 - 22. 12, Flitcroft Street
 - 23. 6, Flitcroft Street
 - 29. 99a, Charing Cross Road
 - 31. Lych Gate to The West of Church of St Giles in The Fields
- Non-designated Heritage Asset
 - 121. The Phoenix Gardens

LOCATION:
135 Shaftesbury Avenue

DATE:
February 2024

SCALE:
1:2,500 @ A3

FIGURE 2.2 Heritage Assets Scoped In for Assessment

▲ NORTH



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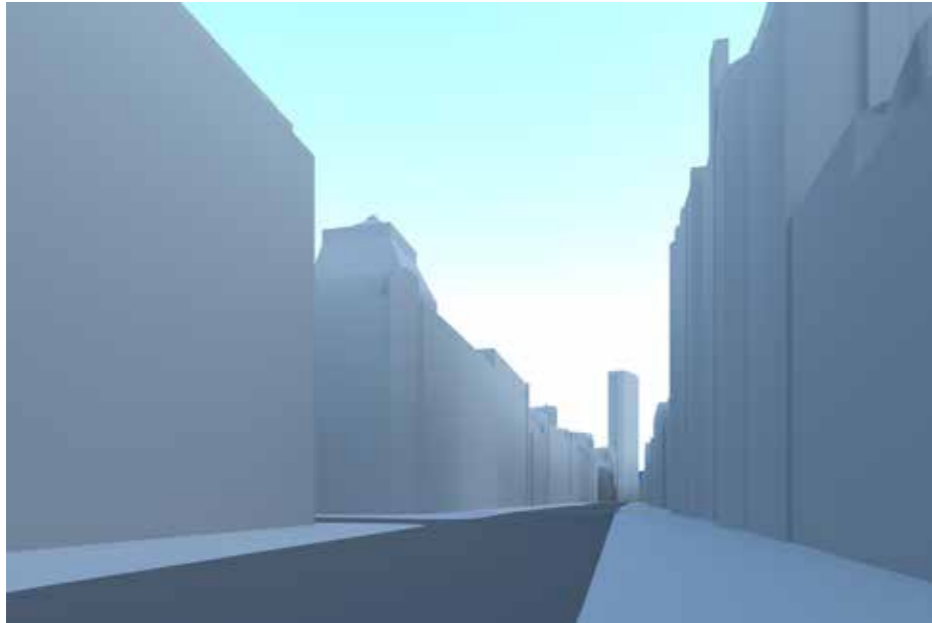


Figure 2.3 Model view of the Proposed Development from Goodge Street station.

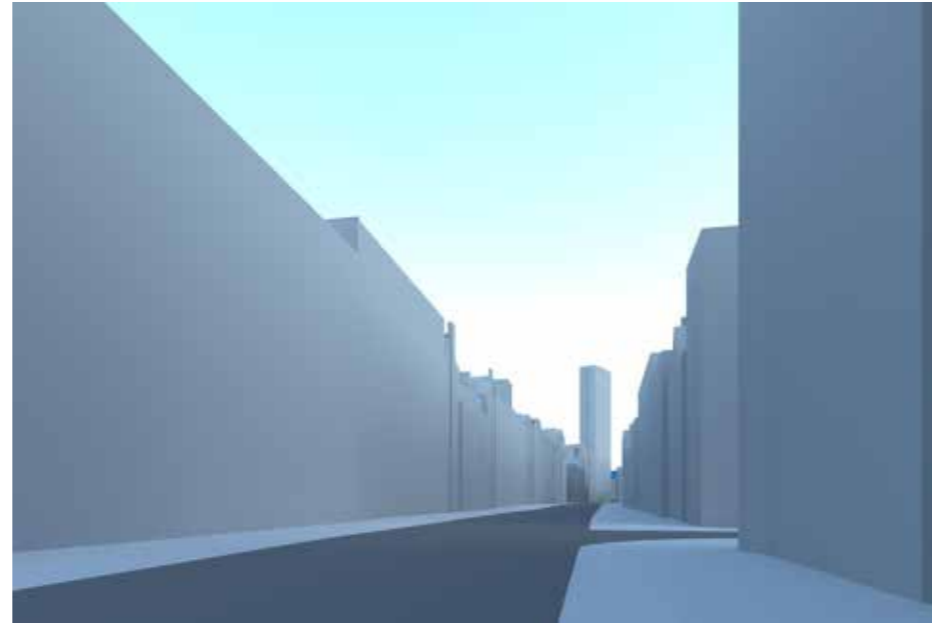


Figure 2.5 Model view of the Proposed Development from near the junction of Tottenham Court Road and Percy Street.

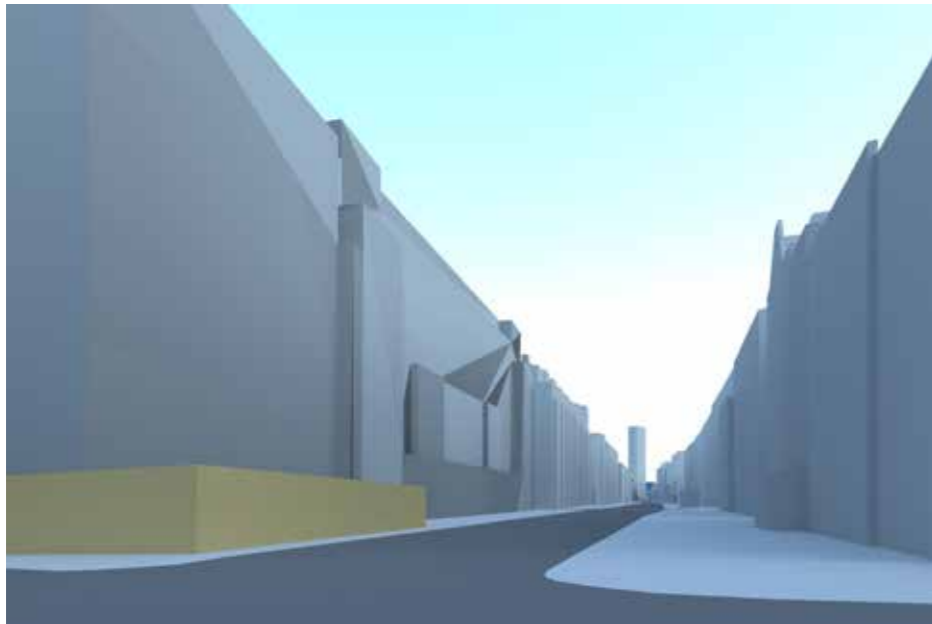


Figure 2.4 Model view of the Proposed Development from the junction between Tottenham Court Road and Grafton Way.

TOWNSCAPE AND VISUAL IMPACT ASSESSMENT

- 2.23 The framework for assessment of townscape and visual impact has been prepared and undertaken according to the following guidance:
- *Guidelines for Landscape and Visual Impact Assessment Third Edition* (Landscape Institute and IEMA, 2013) ('GLVIA3'); and
 - *TGN 06/19 Visual Representation of development proposals* (Landscape Institute, 2019);
- 2.24 The two components of townscape and visual assessment are:
1. The assessment of townscape effects: assessing effects on the townscape as a resource in its own right; and
 2. The assessment of visual effects: assessing effects on the general visual amenity experienced by people. Specific views are also assessed where they form strategic views designated in the development plan, or where agreed with the competent authority.

TOWNSCAPE AND VISUAL VALUE

TOWNSCAPE VALUE

- 2.25 The townscape baseline assessment describes character areas/types and their characteristics. It defines the distinct and recognisable patterns of elements, or characteristics that make one area different from another, rather than better or worse. Areas are defined and mapped with boundaries that suggest a sharp change from one townscape area to another; however, on site, changes can be more subtle and practically, this often represents a zone of transition. Criteria to assess townscape character areas and apportion value is contained in **Table 2.1**.
- 2.26 Assessment is informed by an understanding of how an area has evolved, the use of aerial photography and field survey, along with desk-based research as appropriate and to a level commensurate with the sensitivity of the receptor and its susceptibility to change. Important published sources will normally comprise formal character assessments prepared, for example, as part of local plan making or agencies or county authorities.

TABLE 2.1 TOWNSCAPE RECEPTOR VALUE			
Value	Importance	Typical Criteria	Typical Features / Characteristics
Very High	International / National	Unique or outstanding townscape with clearly distinctive characteristics, features and elements; Widespread use of quality materials; Very strong urban structure, characteristic patterns and balanced combination of built form and open space; Appropriate management for land use; No, or very limited, detracting features.	International or national designation, and/or designated heritage receptors of significant importance
High	National / Regional / Local	Distinctive or unusual townscape with notable features and elements; Evident use of quality materials; Strong urban structure, characteristic patterns and balanced combination of built form and open space; Appropriate management for land use with limited scope to improve; Limited detracting features.	National or regional designation, and/or designated heritage receptors
Medium	Regional / Local	Attractive townscape with occasional distinctive features; Recognisable urban structure, characteristic patterns and combinations of built form and open space; Scope to improve management for land use; Some detracting features.	Regional or local recognition, including local plan designations, with value possibly expressed through literature and cultural associations.
Low	Local	Commonplace or ordinary townscape with limited variety or distinctiveness; Distinguishable urban structure, characteristic patterns and combinations of built form and open space, although often fragmented; Scope to improve management or land use; Potentially some dominant detracting features and areas of very low value.	Some positive townscape features but largely degraded and may benefit from regeneration, restoration or enhancement.
Very Low	Local	Very common townscape, often in decline; Weak or degraded urban structure, characteristic patterns and combination of built form and open space; Lack of management has resulted in degradation; Frequent dominant detracting features; Disturbed or derelict land requires treatment.	Heavily degraded townscape and/or identified for change.

2.27 The objective of identifying the existing context is to provide an understanding of the townscape in the area that may be affected – its constituent elements, its character and the way this varies spatially, its geographic extent, its history, its condition, the way the townscape is experienced and the value attached to it. This assessment cannot practically and objectively capture what local people in an area feel about their area (unless of course this has been subject to a specific study which is produced in an objective or reflective manner). Thus, this value analysis reflects professional judgment.

VISUAL AMENITY VALUE

2.28 The visual baseline assessment established the area in which the development may be visible, the different groups of people who may experience views of the development, the places where they will be affected and the nature of the views and visual amenity at those points.

2.29 The baseline study identifies individuals and/or defined groups of people within the area who will be affected by changes in the views, ‘visual receptors’. The following visual receptors are identified by GLVIA3 as being likely to be the most susceptible to change:

- Residents and other frequent users of the area;
- People, whether residents or visitors, who are engaged in outdoor recreation, including use of public rights of way, attractions or those whose attention or interest is likely to be focused on the landscape and on particular views; and
- Communities where views contribute to the landscape setting enjoyed by residents in the area.

2.30 Representative viewpoints are identified based on a comprehensive review of the surrounding area, including the following criteria:

- Heritage assets (designated and non-designated);
- Townscape character;
- Where the development may be prominent;
- Be visible from concentrations of residential areas;
- Open spaces (parkland, publicly accessible space);
- Potentially sensitive receptors (e.g. schools);
- Accessibility to the public;
- The viewing direction, distance and elevation;
- Townscape and transport nodes.

2.31 The identification of viewpoints also considers any strategic or local viewpoints identified by the local planning authorities or other relevant bodies.

2.32 The visual amenity value of locations is assessed using the criteria contained in **Table 2.2**. Amenity is a broad concept in planning, and the Planning Portal [online] defines it as “A positive element or elements that contribute to the overall character or enjoyment of an area. For example, open land, trees, historic buildings and the inter-relationship between them, or less tangible factors such as tranquillity.” Changes in amenity are typically assessed through changes to what people see and perceive, and the shorthand for this are ‘views’ and ‘visual impact’.

2.33 The places at which or in which these individuals will experience a change will always be a publicly accessible place, in line with best practice. The visual assessment is therefore separate to a ‘residential amenity assessment’, which considers private viewpoints from residential properties (refer to GLVIA3, paragraph 6.17). In some instances, the visual impact assessment will address impacts from private land, but that is only where this topic has been scoped with the decision maker and a specific methodology agreed. Such private land amenity assessments often rely on other concepts in town planning/measures such as privacy and enclosure or overbearing.

TABLE 2.2 VISUAL AMENITY VALUE

Value	Criteria / Examples
Very High	Areas of national or international importance and/or identified strategic views of national or international importance. Very enjoyable area with multiple positive elements and/or Very High townscape value.
High	Areas of national or regional importance, or particular local importance and/or static view identified in the development plan. Enjoyable area with several positive elements and/or High townscape value.
Medium	Areas of regional or local importance and/or static view identified in planning guidance, including conservation area appraisals. Pleasant area with some positive elements and/or Medium townscape value.
Low	Commonplace areas with limited positive elements and/or Low townscape value, often with detracting elements.
Very Low	Area of Very Low townscape value (e.g. industrial areas/busy main roads) that has very few positive characteristics, usually with significant detracting elements.

TOWNSCAPE AND VISUAL SUSCEPTIBILITY

2.34 The first stage in the assessment of the Proposed Development on a townscape or visual receptor is to identify its sensitivity to the Proposed Development. Sensitivity is identified by calibrating the baseline value of the receptor with its susceptibility, defined as the ability to accommodate the particular type and/or nature of development without undue consequences for the maintenance of the baseline situation and/or the achievement of planning policies and strategies. The criteria for determining townscape susceptibility is described at **Table 2.3** and visual susceptibility at **Table 2.4**.

TOWNSCAPE SUSCEPTIBILITY

2.35 GLVIA3 explains landscape susceptibility at pages 88–89. There is no specific definition of townscape susceptibility. Professional judgement is applied based on the understanding of landscape susceptibility to reach judgements on townscape susceptibility.

2.36 GLVIA3 describes susceptibility to change of landscape receptors as “the ability of the landscape receptor (whether it be the overall character or quality/condition of a particular landscape type or area, or an individual element and/or feature, or a particular aesthetic and perceptual aspect) to accommodate the proposed development without undue consequences for the maintenance of the baseline situation and/or the achievement of landscape planning policies and strategies.”

2.37 Susceptibility is relative to the general type of development proposed e.g. a receptor may be more or less susceptible to a proposal for an industrial facility as opposed to a residential building depending on the receiving environment. Equally, a receptor may be more or less susceptible to a tall building than a low-rise development depending on the receiving environment.

2.38 Effects are particular to the specific landscape / townscape in question, which includes reference to aspects such as the quality, nature and condition of the receptor, or, existing scale and grain e.g. if the existing townscape is of a similar scale and / or grain as the proposed development, it may have a greater ability to accommodate the proposed development and thus a lower susceptibility to change, subject to those existing characteristics not undermining or undue consequence arising

from that baseline condition or anticipated achievement of relevant townscape / landscape planning policies, which includes site allocations or anticipated development identified in the statutory development plan.

TABLE 2.3 TOWNSCAPE SUSCEPTIBILITY TO CHANGE CRITERIA

High	The receptor has a low ability to accommodate the specific proposed change e.g. the existing townscape / landscape comprises very limited or no similar types of development to that proposed and/or the townscape / landscape policies do not anticipate this type of development.
Medium	The receptor has a moderate ability to accommodate the specific proposed change e.g. the existing townscape / landscape comprises some similar types of development to that proposed and/or the townscape / landscape policies anticipate some of this type of development.
Low	The receptor has a high ability to accommodate the specific proposed change e.g. the existing townscape / landscape comprises several similar types of development to that proposed and/or the townscape / landscape policies anticipate this type of development.

VISUAL SUSCEPTIBILITY

2.39 GLVIA3 explains visual susceptibility at pages 113–114. Page 113 sets out that susceptibility of different visual receptors to changes in views and visual amenity is mainly a function of:

- The occupation or activity of people experiencing the view at particular locations;
- The extent to which their attention or interest may therefore be focused on the views and the visual amenity they experience at particular locations.

2.40 Visual receptors who are more likely to have a high susceptibility to change include residents at home, people who are engaged in activities that involve an appreciation of the surrounding landscape or townscape, and visitors to heritage assets or other attractions. This is the advice of GLVIA3; however, the guidance also makes it clear that this will not be true in all cases since susceptibility to change is to some extent, as noted, a function of context.

2.41 Again, and subject to that qualification, visual receptors who are more likely to have a low susceptibility to change include users of amenity space that does not depend on or involve an appreciation of the surrounding landscape / townscape such as people engaged in sports activities. GLVIA3 states that “each project needs to consider the nature of the groups of people who will be affected and the extent to which their attention is likely to be focused on views and visual amenity”.

TOWNSCAPE AND VISUAL SENSITIVITY

2.42 The baseline value of the receptor and its susceptibility are calibrated using the matrix at **Table 2.5**. Sensitivity is recorded in a verbal scale (high, medium or low), supported by the clear narrative linked to evidence from the baseline study and an assessment of susceptibility.

TOWNSCAPE AND VISUAL MAGNITUDE

2.43 The magnitude of impact is a qualitative judgement supported by the narrative text within the assessment. The professional judgement is quantified using criteria at **Table 2.6**. The judgement of magnitude considers the size or scale, geographical extent or duration and reversibility of the impact.

TABLE 2.4 VISUAL SUSCEPTIBILITY TO CHANGE CRITERIA	
High	The receptor has a low ability to accommodate the specific proposed change e.g. the visual receptor is likely to be heavily engaged on the view/visual amenity and/or the type of development is incongruent to the baseline condition or would undermine the enjoyment of the visual receptor.
Medium	The receptor has a moderate ability to accommodate the specific proposed change e.g. the visual receptor is likely to be partially engaged on the view / visual amenity and/or the type of development is congruent to aspects of the baseline condition or would undermine some aspects of the enjoyment of the visual receptor.
Low	The receptor has a high ability to accommodate the specific proposed change e.g. the visual receptor is likely to be not engaged on the view / visual amenity and/or the type of development is congruent to the baseline condition or would not undermine the enjoyment of the visual receptor.

TABLE 2.5 TOWNSCAPE AND VISUAL SENSITIVITY			
Receptor Value	Susceptibility of Receptor to Change		
	Low	Medium	High
Very Low	Low	Low	Low/Medium
Low	Low	Low/Medium	Medium
Medium	Low/Medium	Medium	Medium/High
High	Medium	Medium/High	High
Very High	Medium/High	High	High

TABLE 2.6 TOWNSCAPE AND VISUAL MAGNITUDE OF IMPACT	
High	Major change to the value of the townscape receptor or visual amenity. The proposals would be very noticeable, comprising a notable change over an extensive area or an intensive change over a more limited area. May comprise major alteration to key elements/features/characteristics of the receptor. The duration of this impact may be permanent and non-reversible.
Medium	Moderate change to the value of the townscape receptor or visual amenity. The proposals would be noticeable, comprising a recognisable change over a large area or a moderate change over a more limited area. May comprise alteration to one or more key elements/features/characteristics of the receptor. The duration of this impact may be semi-permanent and partially reversible.
Low	Minor change to the value of the townscape receptor or visual amenity. The proposals would be noticeable, although comprising a small change over a limited area or similar to a main component of the receptor. May comprise minor alteration to one or more key elements/features/ characteristics of the receptor. The duration of this impact may be temporary and reversible.
Very Low	Barely discernible change to the value of the townscape receptor or visual amenity. The proposals would not be noticeable, although comprising a very small change over a very limited area or very similar to the main components of the receptor. May comprise very minor alteration to one or more key elements/features/characteristics of the receptor. The duration of this impact may be temporary and reversible.
Nil	No change to the value of the townscape receptor or visual amenity.

TOWNSCAPE AND VISUAL LIKELY EFFECTS

- 2.44 Likely effects are determined by combining the judgements of sensitivity and the magnitude of impact using a common matrix shared across all topic areas (Table 2.7). It is generally considered that moderate to major effects are considered 'significant'. Criteria defining the scale of effect is provided at Table 2.8.
- 2.45 Professional judgement is required to determine the nature of the likely effects. Criteria defining the nature of effect is provided at Table 2.9. For example, there will be cases where a high magnitude of impact produces a major scale of effect, on the basis that the component is prominent or noticeable, but notwithstanding that the quality of effect is beneficial as a consequence of design quality or other benefits. This approach arises most often as a consequence of major developments in areas positively identified for transformational change. Often, such impacts will have varied effects such that a hard and fast categorisation of an effects quality is finely balanced as between beneficial or harmful. In many instances, therefore, the final identification of impact and effect will turn on discursive analysis. This makes a necessary professional adjustment to the tabular analysis format which can produce inaccurate reporting.
- 2.46 The assessment of nature of effect also requires a qualitative discussion to describe and elucidate this judgement to the reader. This is necessary because townscape and visual assessment is not a strict quantitative process and some of these considerations will depend on expert judgements. Accordingly, there is an emphasis on qualitative text throughout the assessment to describe the receptors and the judgements in regard to the significance of the identified effects.

TABLE 2.7 TOWNSCAPE AND VISUAL LIKELY EFFECT ON RECEPTOR			
Magnitude	Sensitivity		
	Low	Medium	High
Nil	None	None	None
Very Low	Negligible	Negligible	Negligible / Minor
Low	Minor	Minor / Moderate	Moderate
Medium	Minor / Moderate	Moderate	Moderate / Major
High	Moderate	Moderate / Major	Major

TABLE 2.8 TOWNSCAPE AND VISUAL SCALE OF AN EFFECT	
Major	The change resulting from the impact of the Proposed Development upon the receptor would give rise to a very significant effect.
Moderate	The change resulting from the impact of the Proposed Development upon the receptor would give rise to a significant effect.
Minor	The change resulting from the impact of the Proposed Development upon the receptor would give rise to an effect, but this would not be significant.
Negligible	The change resulting from the impact of the Proposed Development upon the receptor would give rise to a barely discernible effect. This would not be significant
None	The change resulting from the impact of the Proposed Development upon the receptor would have no effect.

TABLE 2.9 TOWNSCAPE AND VISUAL NATURE OF AN EFFECT	
Beneficial	An advantageous effect to a receptor
Neutral	An effect that on balance is neither beneficial nor adverse to a receptor.
Adverse	A detrimental effect to a receptor

3.0

LEGISLATION AND PLANNING POLICY

FORMER SAVILLE THEATRE

LEGISLATION AND PLANNING POLICY

3.1 This section sets out the legislation, planning policy and guidance which is relevant to the HTVIA and the Proposed Development.

LEGISLATION

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS ACT) 1990

3.2 The Planning (Listed Buildings and Conservation Areas) Act 1990 (hereafter 'the 1990 Act') sets out the statutory duties of the decision-maker for development proposals which affect listed buildings and conservation areas.

3.3 The Site contains the Grade II listed former Saville Theatre. It also falls within the setting of listed buildings in the surrounding area. The Site is not located within a conservation area.

3.4 With respect to this application, the applicable statutory provisions are:

- **Section 16(2)** when considering whether to grant Listed Building Consent, the decision-maker is to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- **Section 66(1)** when considering whether to grant planning permission for development which affects a listed building or its setting, the decision-maker is to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

3.5 In preparing this assessment we have been mindful of the great weight attached to designated heritage assets which has been confirmed in court judgements, including *Barnwell*³.

3.6 The relevant case law is discussed later in this section. In short, we understand the importance of this body of case law to endorse the approach in the National Planning Policy Framework (2023) ('NPPF') which we follow in our analysis.

DEVELOPMENT PLAN

3.7 Section 38(6) of the Planning and Compulsory Purchase Act 2004 stipulates that, where in making any determination under the Planning Acts, regard is to be had to the development plan, and the determination must be made in accordance with that plan unless material considerations indicate otherwise.

3.8 The following documents comprise the statutory development plan in this case, and the policies relevant to the HTVIA are identified at **Table 3.1**.

- London Plan (2021);
- Camden Local Plan (2017); and
- Camden Interactive Policies Map (2017 as amended).

3.9 A discussion of the planning policy considerations is provided later in this section.

DEVELOPMENT PLAN POLICY	KEY PROVISIONS
London Plan (2021)	<p>Policy D1 London's form, character and capacity for growth</p> <p>Policy D3 Optimising site capacity through the design-led approach</p> <p>Policy D4 Delivering good design</p> <p>Policy D5 Inclusive design</p> <p>Policy D8 Public realm</p> <p>Policy D9 Tall buildings</p> <p>Policy D10 Basement development</p> <p>Policy HC1 Heritage conservation and growth</p> <p>Policy HC3 Strategic and Local Views</p>
Camden Local Plan (2017)	<p>Policy C3 Cultural and leisure facilities</p> <p>Policy A2 Open Space</p> <p>Policy A5 Basements</p> <p>Policy D1 Design</p> <p>Policy D2 Heritage</p>

Table 3.1 Development Plan Policy Relevant to the HTVIA

NATIONAL POLICY

3.10 The NPPF sets out policies on design and heritage at Chapters 12 and 16 respectively. The main policies to this assessment are identified in **Table 3.2** below.

NATIONAL POLICY	KEY PROVISIONS
National Planning Policy Framework (December 2023)	<p>Chapter 12 (Achieving well-designed places)</p> <ul style="list-style-type: none"> • Paragraph 135 • Paragraph 137 • Paragraph 138 • Paragraph 139 <p>Chapter 16 (Conserving and enhancing the historic environment)</p> <ul style="list-style-type: none"> • Paragraph 200 • Paragraph 201 • Paragraph 203 • Paragraph 205-208 • Paragraph 209 • Paragraph 212

Table 3.2 NPPF Policies Relevant to the HTVIA

³ *Barnwell v East Northamptonshire District Council* [2014] EWCA Civ 137

CASE LAW

THE WEIGHT GIVEN TO THE CONSERVATION OF LISTED BUILDINGS

- 3.11 In preparing our analysis we are mindful of the considerable weight attached to the preservation or enhancement of the setting of heritage assets, which was clarified by the Court of Appeal judgement in *Barnwell*¹.
- 3.12 The Court held that, in enacting Section 66(1) of the 1990 Act, Parliament intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm but should be given “considerable importance and weight” when the decision-maker carries out the balancing exercise.
- 3.13 The *Mordue*⁴ decision confirmed that a decision-maker who works through the relevant NPPF policies on heritage will generally have discharged the relevant statutory duties.

THE LEVEL OF HARM (SUBSTANTIAL AND LESS THAN SUBSTANTIAL)

- 3.14 The *Bedford* judgement⁵ clarified how the decision-maker should consider whether a development would lead to ‘substantial’ or ‘less than substantial harm’. Of particular relevance to the approach to determining this application are the below paragraphs:
25. Plainly in the context of physical harm, this would apply in the case of demolition or destruction, being a case of total loss. It would also apply to a case of serious damage to the structure of the building. In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced.
- 3.15 Thus, the courts have made clear that substantial harm is a very high test, such that the significance of an asset would have to be vitiated all together or very much reduced.
- 3.16 This analysis concludes that any harm to the significance of the designated and non-designated heritage assets is less than substantial and the degree of that is explained in the heritage analysis.

CLEAR AND CONVINCING JUSTIFICATION

- 3.17 Paragraph 200 of the NPPF allows that the strong presumption against harm can be rebutted on the basis of a ‘clear and convincing justification’. This phrase is sometimes taken to signal the requirement for an options analysis or explanation based in viability.
- 3.18 Paragraph 29 of the *Bedford*² judgement confirms there is no freestanding test relating to clear and convincing justification. To the extent there is a test, it is to be found in what was paragraph 134 of the NPPF, and now paragraph 208.
- 3.19 The judgment in *Pugh*⁶ has clarified that the clear and convincing justification is no more than the tests set out in paragraphs 133 and 134 (now 207 and 208) of the NPPF, thus effectively the balance of benefits.
- 3.20 It is only in cases of substantial harm that one needs to show works are necessary to deliver public benefits.

HERITAGE BALANCE

- 3.21 The recent Court of Appeal judgement known as *Bramshill*⁷ found that the *Palmer*⁸ judgment does not lead to an ‘internal heritage balance’ as a matter of course (paragraph 71). There are different ways that a decision maker can apply the balance of harm versus benefits (paragraph 74), and some of these are summarised in the judgment (paragraph 78).
- 3.22 Another, and the most recent case that considered this issue of the approach to the balancing act is the Whitechapel Bell Foundry⁹ case in Tower Hamlets. That decision confirmed that the *Palmer* approach of an ‘internal heritage balance’ is a legitimate one to follow in undertaking the balancing act, confirmed by both the Inspector reporting on the case and the Secretary of State. As long as the great weight provision is applied, either approach is valid. We take that approach in our analysis, and we provide that justification in the facts of this case.

MATERIAL CONSIDERATION

- 3.23 In addition to legislation and policy, the assessment will consider relevant planning guidance and any material considerations, including:
- Planning Practice Guidance (online);
 - *National design guide* (Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities and Local Government, 2019);
 - *Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment* (Historic England, 2015)
 - *Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets* (Historic England, 2017);
 - *Tall Buildings: Historic England Advice Note 4* (Historic England, 2022);
 - *Camden Planning Guidance: Design* (LBC, January 2021);
 - *Camden Planning Guidance: Public Open Space* (LBC, January 2021);
 - *Seven Dials Conservation Area Appraisal and Management Strategy* (LBC, 1998);
 - *Denmark Street Conservation Area Appraisal and Management Strategy* (LBC, 2010);
 - The 2018 Scheme, Council planning application refs: 2017/7051/P and 2018/0037/L; and PINS ref. APP/X5210/W/19/3243781 and APP/X5210/Y/19/3243782; and
 - *LB Camden Building Heights Study* (Urban Initiatives Studio on behalf of LBC, January 2024) – evidence base for the new Local Plan.

⁴ *Jones v Mordue* [2015] EWCA Civ 1243; [2016] 1 WLR 2682

⁵ *Bedford Borough Council vs Secretary of State for Communities and Local Government and another* [2013] EWHC 2847

⁶ *Pugh v SSCLG* [2015] EWHC 3

⁷ *Bramshill v SSHCLG* [2021] EWCA Civ 320

⁸ *Palmer v Herefordshire Council & ANOR* [2016] EWCA Civ 1061

⁹ PINS references APP/E5900/W/20/3245430 and APP/E5900/W/20/3245432

EMERGING POLICY
NEW CAMDEN LOCAL PLAN

3.24 LBC published the Regulation 18 Consultation Version of the new Camden Local Plan in January 2024. The consultation will close on 13 March 2024. The policies that are relevant to this assessment are at Chapter 12, Design and Heritage:

- Policy D1 Achieving Design Excellence;
- Policy D2 Tall Buildings;
- Policy D4 Extensions and Alterations;
- Policy D5 Heritage; and
- Policy D6 Basements.

3.25 The draft policies are broadly consistent with the current development plan and national policy. It is noted, however, that the draft new Local Plan has a specific policy for tall buildings, Policy D2. At part A it states that:

The Council defines tall buildings as buildings that are over 40 metres in height in the Central Activities Zone and over 30 metres elsewhere in the borough, when measured from the lowest point on the ground to the uppermost part of any rooftop structures (including plant and lift overruns), as shown on Map 13.

3.26 The Proposed Development seeks a building of 62.741m AOD in the Central Activities Zone ('CAZ') and would therefore be considered as a tall building under the emerging Local Plan.

3.27 It is noted that the existing building is 40.305m AOD to the parapet, and the increase in height is therefore c.22m.

3.28 Part B of the policy states that locations that may be appropriate for tall buildings, subject to meeting other requirements, are identified on Map 13. The map is reproduced at **Figure 3.1** and the Site is not in an area identified as an appropriate location for a tall building.

3.29 The draft Local Plan carries limited weight at this stage. Furthermore, we draw attention to the existing context on Shaftesbury Avenue which includes buildings of a similar scale to the Proposed Development, and likewise the limited visual impact of the Proposed Development demonstrated by the ZTV.

3.30 Looking at the further policy provisions at part C of draft Policy D2, the main consideration for the Proposed Development and the HTVIA is part vii, "the historic context of the building's surroundings".

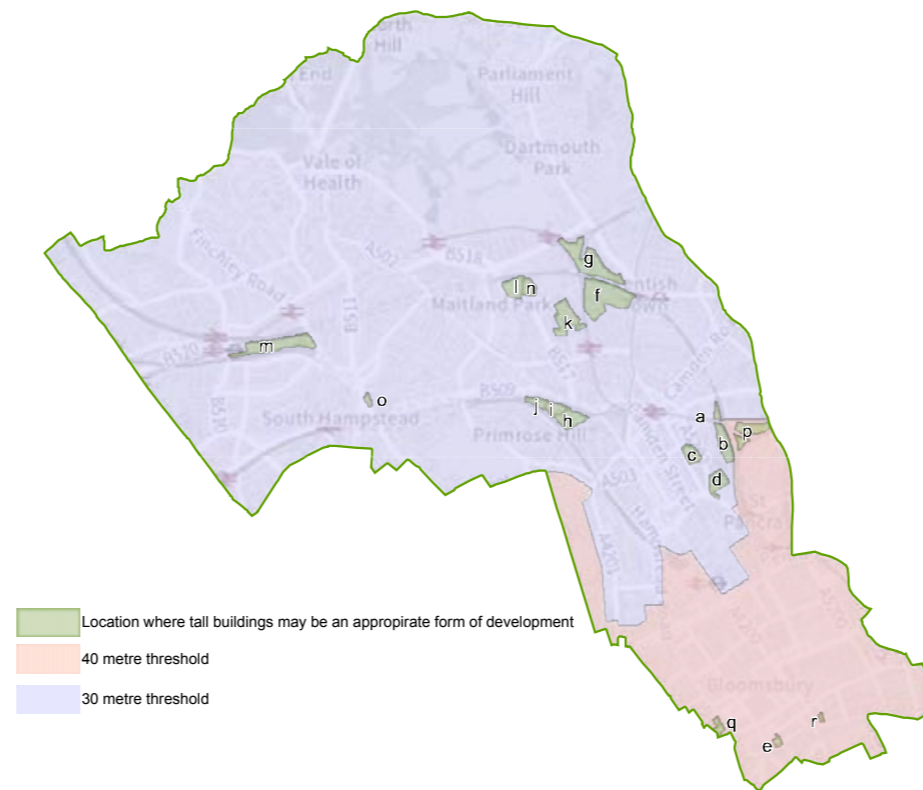


Figure 3.1 Map 13 from the Regulation 18 Consultation Version of the New Camden Local Plan

POLICY DISCUSSION
RELEVANT POLICY DESIGNATIONS

- 3.31 The relevant policy designations are as follows:
- The Site is located in the CAZ in Camden;
 - The Site is not subject to any site allocation;
 - The Site contains a Grade II listed building, and it is in the setting of a number of other designated heritage assets and a non-designated heritage asset; and
 - The Site is not in a conservation area.

3.32 It is also recognised that Phoenix Gardens to the rear of the Site comprises land which is identified as 'Public Open Land' on the LBC Policies Map. Camden Local Plan Policy A2 sets out the Council's intention to minimise the impact of development proposals on areas identified as public open space, and townscape and visual impacts are components of this.

HERITAGE POLICIES

3.33 As above, the 1990 Act requires a decision-maker to have a special regard to the desirability of preserving the special interest of listed buildings and their settings. In this context, 'preserve' means 'to do no harm' (see *Bedford*).

3.34 The statutory provision is reflected in London Plan Policy HC1 and Camden Local Plan Policy D2, and Policy D2 adopts the approach set out at paragraphs 207 and 208 of the NPPF on substantial harm and less than substantial harm.

3.35 The Policy states that:
The Council will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and Listed Buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a. the nature of the heritage asset prevents all reasonable uses of the site;*
- b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation;*
- c. conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- d. the harm or loss is outweighed by the benefit of bringing the site back into use.*

3.36 Substantial harm is a very high test in policy, as explained earlier in this section.

3.37 Less than substantial harm is used to describe an adverse impact which can be very limited or so serious to fall just below the threshold of substantial harm. A professional judgement is required to identify the level of harm, as set out in the PPG (see Paragraph: 018 Reference ID: 18a-018-20190723).

- 3.38 In cases of less than substantial harm, Policy D2 sets out the same test as NPPF paragraph 208 and requires a balance of benefits:
The Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.
- 3.39 The heritage and design policies in the development plan promote high quality and appropriate contextual design and support the appropriate reuse and conservation of assets. Conservation has been defined as 'managing change' (see *Conservation Principles* by Historic England, 2008) and not maintaining the *status quo* for its own sake.
- 3.40 There are further specific policy provisions for listed buildings at parts i-j of Policy D2 which state that Camden will:
i. resist the total or substantial demolition of a listed building;
j. resist proposals for a change of use or alterations and extensions to a listed building where this would cause harm to the special architectural and historic interest of the building; and
k. resist development that would cause harm to significance of a listed building through an effect on its setting.
- 3.41 We have also had regard to Policy A5 on basement development because the Proposed Development would create four levels of basement. The policy states that the Council will only permit basement development "where it is demonstrated to its satisfaction" that the proposals would not cause harm to:
c. the character and amenity of the area;
d. the architectural character of the building; and
e. the significance of heritage assets.

TOWNSCAPE AND VISUAL DESIGN POLICIES

- 3.42 London Plan Policy D3 states that "All development must make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations".
- 3.43 Policy D3 sets out a number of provisions which relate to the design and integration of a development into the area: form and layout; experiences;

and quality and character. We have had regard to the policy in the TVIA assessment.

- 3.44 The relevant policies in the Camden Local Plan are Policy A2 and Policy D1.
- 3.45 Policy D1 has regard to 'Design' and requires development to achieve a high standard of amenity for users and adjacent users. The relevant provisions to this assessment are as follows:
a. respects local context and character;
b. preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;
 [...]
 e. comprises details and materials that are of high quality and complement the local character;
f. integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;
g. is inclusive and accessible for all;
 [...]
 k. incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping,
 [...]
 m. preserves strategic and local views;
 [...]

3.46 In relation to Phoenix Gardens as Public Open Space, Policy A2 states the Council will "Resist development which would be detrimental to the setting of designated open spaces" and part e of Policy A2 states that the Council will "protect non-designated spaces with nature conservation, townscape and amenity value, including gardens, where possible".

3.47 Part f of Policy A2 states that the Council will "conserve and enhance the heritage value of designated open spaces and other elements of open space which make a significant contribution to the character and appearance of conservation areas or to the setting of heritage assets".

VIEWS

- 3.48 Regarding views, part m of Camden Local Plan Policy D1 states that new development should preserve both strategic and local views.
- 3.49 The Site does not fall within the viewing corridor of any strategic view identified in the London View Management Framework (2012) ('LVMF') and so the policies in the London Plan do not apply.
- 3.50 The Camden Local Plan identifies locally important views at paragraph 7.29. The visual impact assessment and heritage assessment will consider views into and from conservation areas near the Site. The supporting text also identifies views of Centrepoint which we have considered at **Section 2.0**.

TALL BUILDINGS

- 3.51 Paragraph 7.35 of the supporting text in Camden's Local Plan for Policy D1 defines tall buildings as those "which are substantially taller than their neighbours or which significantly change the skyline".
- 3.52 As before, the Site is contained by mid-rise and taller buildings and the existing building is c.40m AOD. The Proposed Development is c.67m AOD and considered a tall building, however it is necessary to consider its context in the round.
- 3.53 London Plan Policy D9 provides criteria at part C for assessing whether or not a tall building is acceptable, and we have regard to these consideration in this assessment.
- 3.54 Camden's Local Plan Policy D1 states that the siting and design of tall buildings "should be carefully considered in order not to detract from the nature of surrounding places and the quality of life for living and working around them". Policy D1 goes on to identify specific criteria for assessing the design quality of buildings which are considered tall:
p. how the building relates to its surroundings, both in terms of how the base of the building fits in with the streetscape and how the top of a tall building affects the skyline;
q. the historic context of the building's surroundings;
r. the relationship between the building and hills and views;
s. the degree to which the building overshadows public spaces, especially open spaces and watercourses; and
t. the contribution a building makes to pedestrian permeability and improved public accessibility.

4.0
HISTORICAL DEVELOPMENT
FORMER SAVILLE THEATRE

HISTORICAL DEVELOPMENT

- 4.1 This section provides a description of the historical development of the Site and the surrounding area.
- 4.2 The section and **Section 5.0** have been informed by secondary sources, including:
- Historic maps including Ordnance Survey ('OS') and the Bomb Damage Map published by London County Council in 1947;
 - Aerial photographs from Britain from Above, available at: <https://www.britainfromabove.org.uk/> [accessed 25 January 2024];
 - Records in the London Metropolitan Archives;
 - Records in the Camden Archives;
 - Sheppard, F. W. (1963) 'Shaftesbury Avenue', pp.68–84 in *Survey of London: Volumes 31 and 32, St James Westminster, Part 2*. Available online at <https://www.british-history.ac.uk/survey-london/vols31-2/pt2/pp68-84> [accessed 23 February 2022];
 - London Borough of Camden (1998) *Seven Dials Conservation Area Appraisal and Management Strategy*;
 - London Borough of Camden (2010) *Denmark Street Conservation Area Appraisal and Management Strategy*;
 - Ackroyd, P. (2000) *London: A Biography*;
 - Pevsner, N. and Bridget, C. (1998) *The Buildings of England: London 4: North*;
 - Walford, E. (1897) *Old and New London*;
 - TP Bennett (2021) 'Saville Theatre'. Online. Available at: <https://tpbennett.com/insights/saville-theatre/> [accessed 30 January 2024];
 - British Library (n.d.) Rocque's Map of London 1746. Available online.
 - Charles Booth's Poverty Maps of London. Available at: <https://booth.lse.ac.uk/learn-more/download-maps>
 - A London Inheritance (2019) 'St Giles in the Fields'. Online. Available at: <https://alondoninheritance.com/london-churches/st-giles-in-the-fields/> [accessed 23 February 2022];
 - Grundy, I., Melnick, R., Roe, K. (2020) 'Odeon London Covent Garden'. Available at: <https://cinematresures.org/theaters/911>

- List entry description for the Former Saville Theatre, Historic England ref. 1271631. Available at <https://historicengland.org.uk/listing/the-list/list-entry/1271631> [accessed 25 January 2024]; and
- 2018 Appeal (PINS refs: APP/X5210/W/19/3243781 & APP/X5210/Y/19/3243782) – Proof of Evidence of Laurie Handcock; Proof of Evidence of Colette Hatton; Proof of Evidence of David Wilmore (Theatre Architecture); and Proof of Evidence of Tom Clarke on behalf of Theatres Trust.

HISTORY OF SHAFTESBURY AVENUE

- 4.3 The history of Shaftesbury Avenue is important to the understanding of the former Saville Theatre within its current context as well as the heritage interest of heritage assets in the surrounding area. This section begins in the pre-18th century when the Church of St Giles was built.

PRE-18TH CENTURY

- 4.4 The area around the Site forms the southern part of the parish of St Giles. On the current site of Seven Dials, the leper hospital of St Giles was recorded in 1117 with a monastery and a chapel founded by Queen Matilda, wife of Henry I. The location for the leper hospital was chosen for its surrounding fields and marshes which isolated the infected patients from the City of London.
- 4.5 The hospital was administered by the City of London until 1299 and remained in use as a hospital for the poor, even after leprosy had abated.
- 4.6 The monastery was dissolved during the Reformation and its associated chapel became a parish church. Henry VIII seized the monastery's land which was subsequently let on a series of leases.

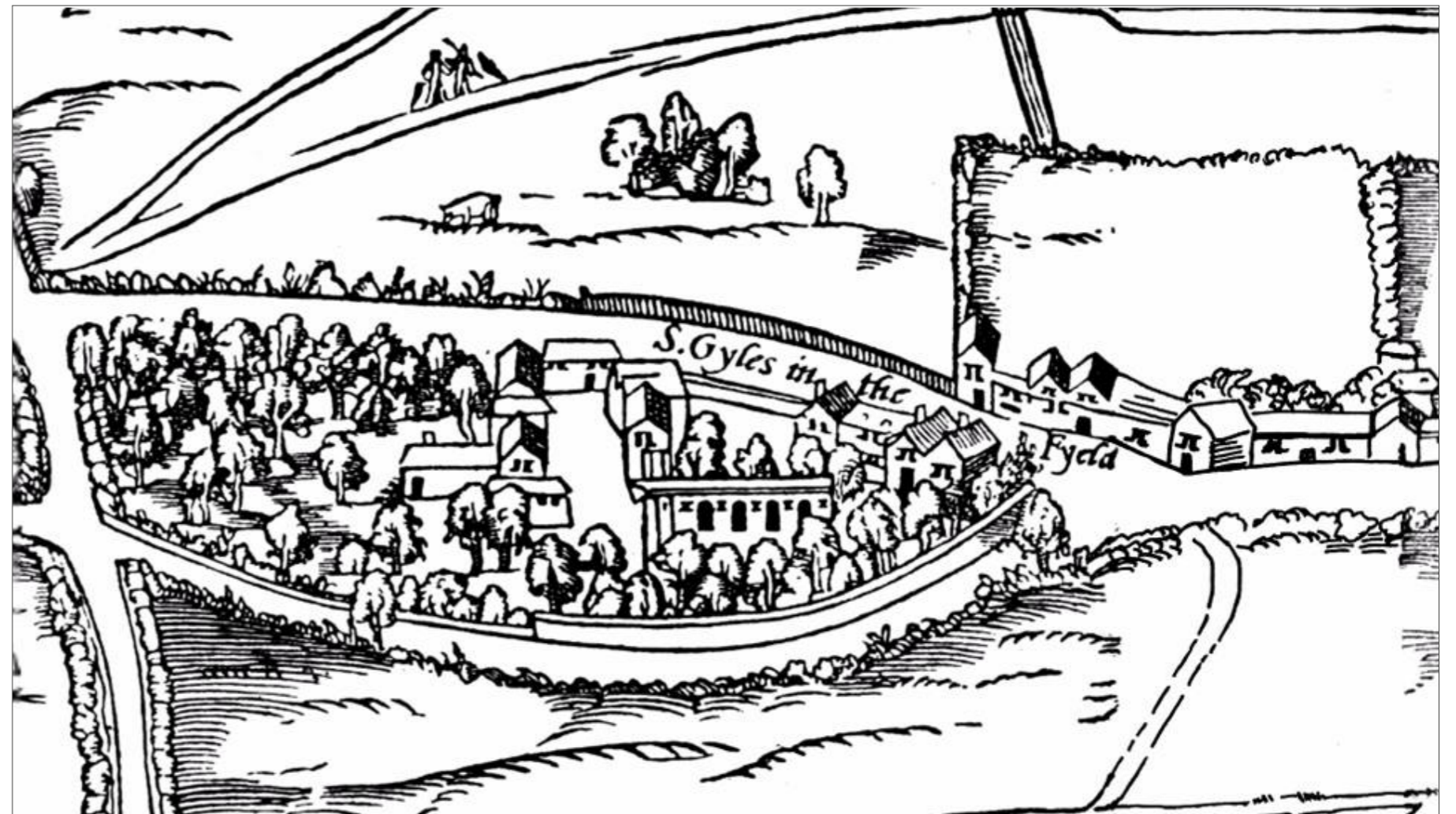


Figure 4.1 Early map showing the leper hospital and parish of 'St Giles in the Fyeld'.

17TH AND 18TH CENTURY

- 4.7 In the 17th century the chapel was replaced by a new church. In *Old and New London* (1897), Edward Walford describes the church as a “red brick structure, commissioned by Laud, whilst Bishop of London in 1623” (Figure 4.2).
- 4.8 The church’s condition deteriorated over the course of 100 years, owing to the high number of plague victims buried in and around the church; the likely cause of significant damp problems. It was subsequently demolished to make way for the present St Giles Church, built between 1730 and 1734 by Henry Filcroft in the Palladian architectural style (Figure 4.3).
- 4.9 The southern area around the parish, which is the present day Shaftesbury Avenue, was a wasteland named ‘Cock and Pye Fields’ after the Cock and Pye Inn which stood nearby. The area had a reputation for public nuisance. Houses were not built on this area of land until after the Great Fire of London in 1666.
- 4.10 The urbanisation of the area was driven by the establishment of Covent Garden in the 1630s. The Covent Garden Piazza was first developed by the Earl of Bedford who realised the potential for speculative building. Subsequently, the area around Covent Garden became increasingly attractive to developers during the 17th century to provide accommodation near to Westminster.
- 4.11 Rocque’s Map of 1746 shows that by this time the area around the Site was significantly developed and Seven Dials can be seen on the map (Figure 4.5).
- 4.12 The unique layout of the Seven Dials was designed by Thomas Neale, a speculator at the end of the 17th century. In contrast to the typical grid layout of 17th and 18th century streets, the Seven Dials comprised a plan of streets formed around a small central polygonal circus with a Doric column in the centre (later removed).
- 4.13 Much of the surrounding area was developed during the 17th century and Neale developed domestic terraced buildings which established a uniform plot width, depth and height that is still apparent today. This was aided by the Act for the rebuilding of the City of London which passed in 1667, introducing comprehensive strict building regulations on heights, and materials.

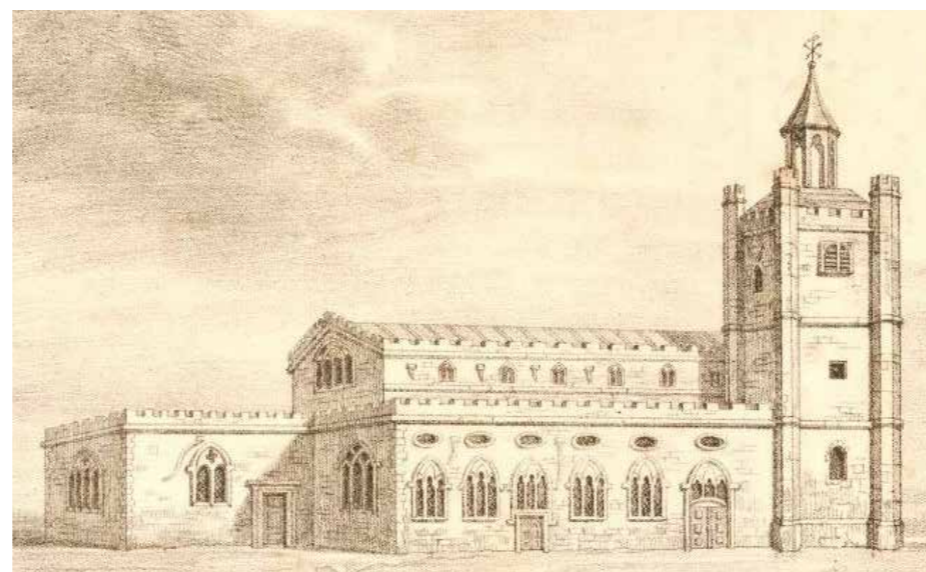


Figure 4.2 The Old Church of St Giles in the Fields as it appeared in the year 1718.

- 4.14 Shaftesbury Avenue, however, does not appear at the time of Rocque’s Map. The area is instead formed of two parallel streets, Steed well Street and Monmouth Street, which terminate at the present-day High Holborn Road (then called Broad St Giles).
- 4.15 By the 18th century commercial development was beginning to expand into the area. In particular, the brewery industry which included the Woodyard Brewery, established in 1740 on a site between Long Acre and Shelton Street. The brewery industry was concentrated in this area and continued to evolve over the course of the next century.



Figure 4.3 Illustration of St Giles in the Field Church, 1732.



Figure 4.4 William Hogarth's Noon from Four Times of the Day, a 1738 engraving showing the newly constructed church in 1738.



Figure 4.5 Rocque's 1746 Map of London. Source: British Library

19TH CENTURY

- 4.16 On Crutchley's Pocket Plan of London produced in 1848, Seven Dials remains, however, Monmouth Street has been replaced by Dudley Street (Figure 4.6).
- 4.17 Figure 4.7 reflects the same street layout as the mid-19th century, with Shaftesbury Avenue still not having been constructed by this time.

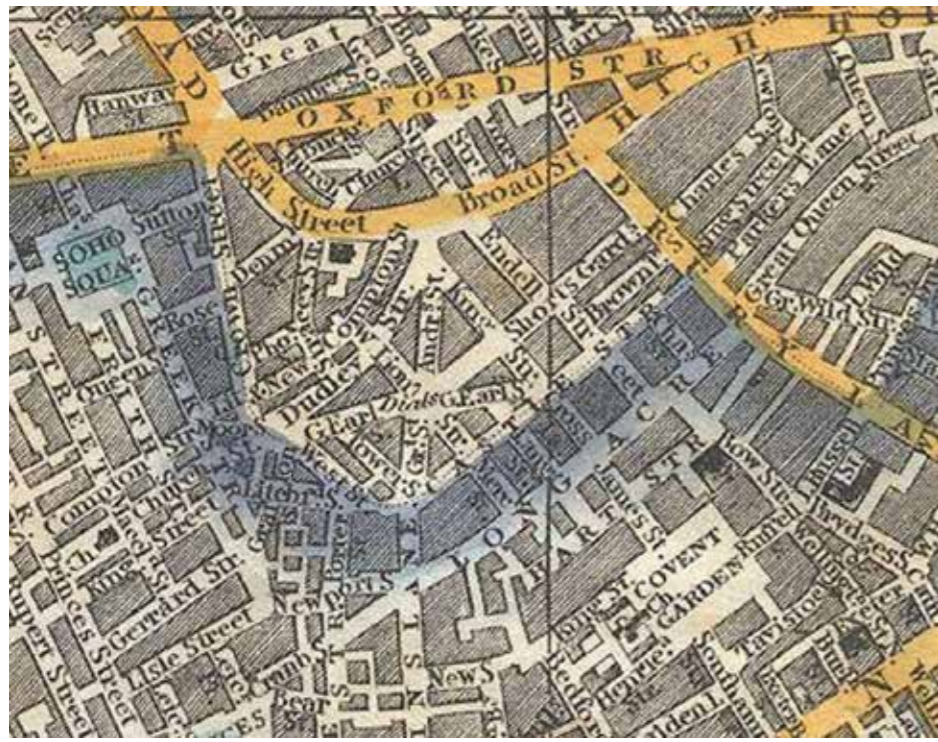


Figure 4.6 Crutchley's Pocket Plan of London. Source: British Library

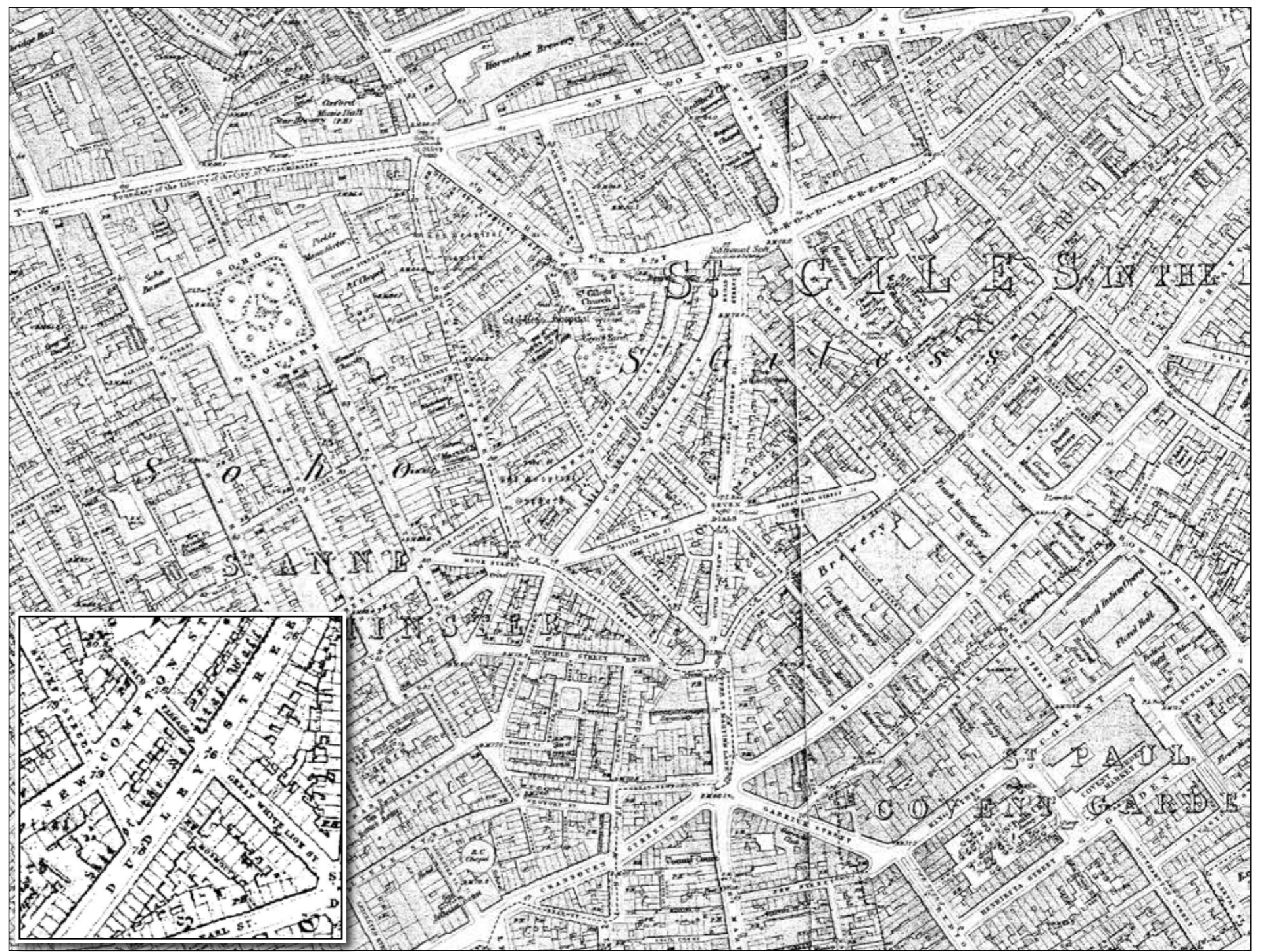


Figure 4.7 1875-1877 OS Map of the Site. Source: Promap

- 4.18 Shaftesbury Avenue was built between 1877 and 1886 by architect George Vulliamy and engineer Sir Joseph Bazalgette to provide a main thoroughfare travelling on a north-south axis through St Giles and Soho. This was part of wider slum clearance measures, driving poorer, impoverished residents out of the City centre. The other intention was to create better permeability between Piccadilly Circus, Charing Cross and Oxford Street.
- 4.19 The creation of the new thoroughfare involved the widening of the eastern side of Dudley Street.
- 4.20 The street was named after the 7th Earl of Shaftesbury, a politician and social reformer who campaigned for better working conditions, improvement to lunacy laws, education and limitation of child labour.
- 4.21 The 1896 OS map of London shows the newly created Shaftesbury Avenue, linking St Giles High Street in the northeast to Cambridge Circus in the southwest.
- 4.22 Shaftesbury Avenue became a key central London route, with a distinctive building scale and use of materials, dominated by red brick and terracotta.
- 4.23 Towards the end of the 19th century, the Seven Dials area was increasingly associated with crime and high rates of poverty however.
- 4.24 Charles Booth's Poverty Map of 1889 shows that along Shaftesbury Avenue, domestic development is predominantly associated with 'middle class/well to do' and 'fairly comfortable/good ordinary earnings'. Around Seven Dials, domestic development is much more mixed, comprising areas of 'lowest class/vicious, semi criminal' and 'very poor/chronic want' (Figure 4.9).



Figure 4.8 1896 OS Map of the Site. Source: Promap

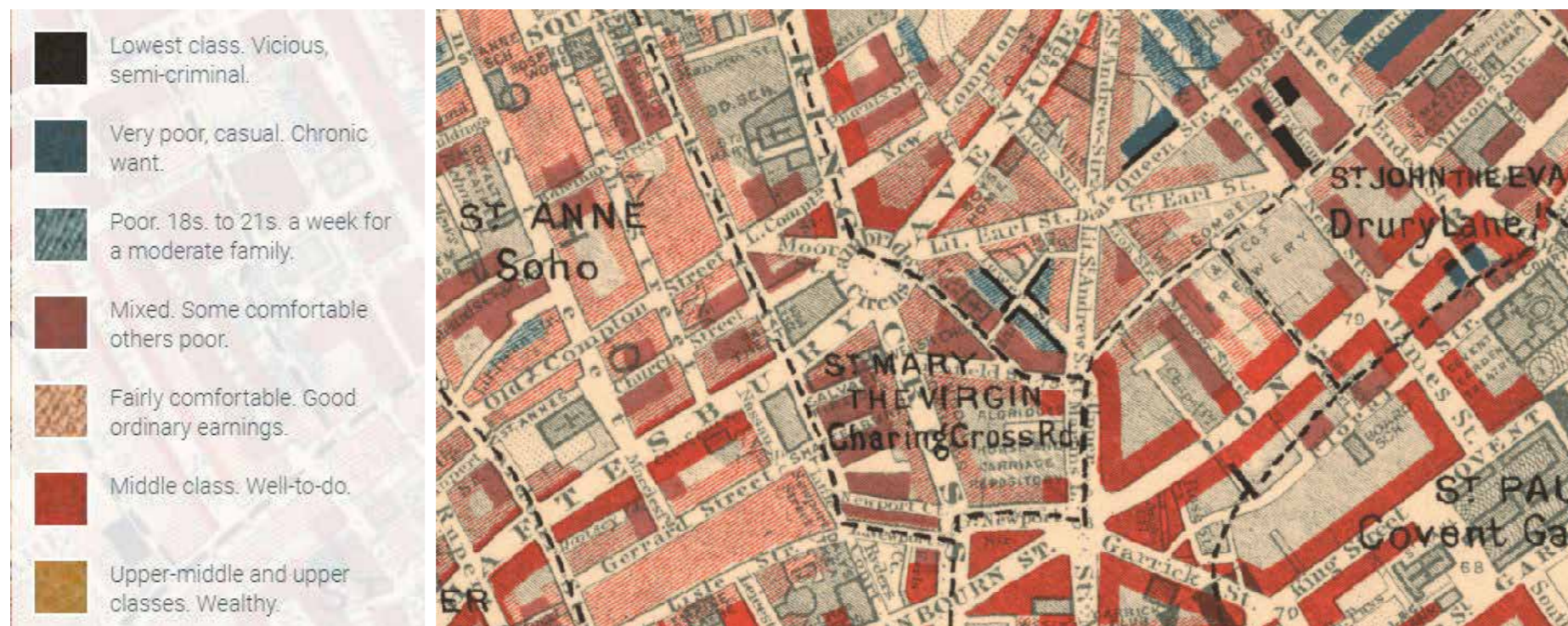


Figure 4.9 Charles Booth's Poverty Map of 1889

20TH CENTURY

- 4.25 The area underwent significant change as a result of a number of factors in the 20th century.
- 4.26 In the early 20th century, several theatres were constructed around St Martin's Lane and Shaftesbury Avenue. These included the Ambassador Theatre in West Street in 1913, the Cambridge Theatre at Seven Dials in 1930, and the Saville Theatre on Shaftesbury Avenue in 1931.
- 4.27 The area was bombed during the Blitz and an extract of the Bomb Damage Map published by the London County Council in 1947 is reproduced at **Figure 4.10**. This shows that the historic terraces towards the eastern end of Shaftesbury Avenue were marked for clearance. Those located on Stacey Street underwent either 'total destruction' or 'damage beyond repair'. To the south, the damage to Seven Dials was less severe with buildings mostly suffering 'general blast damage – non structural' or minor blast damage.
- 4.28 The decision was taken by the Covent Garden Market Authority to close London's main fruit and vegetable market which had operated in the

area since the 17th century. The market officially stopped trading on 8th November 1974 and was relocated to Nine Elms.

- 4.29 Surrounding warehouses were used for storage and merchants occupied office space. This significantly changed the character of the area, and the Covent Garden Action Area Plan of 1978 redeveloped the area with the Greater London Council ('GLC') being responsible for the introduction of many mixed-use schemes.
- 4.30 There is now a significant residential community within Covent Garden, which has met the aims of the action plan to preserve and double the existing residential population. A number of developments have helped enforce this: Matthews Yard; Earlham House; Comyn Ching; and Seven Dials Court. This has also introduced greater diversity in terms of architectural styles and eras.
- 4.31 Phoenix Gardens to the rear of the Site were established in 1984. The Gardens replaced a former carpark created when the previous buildings on the site were destroyed by bombing in the Second World War. The garden operates as a local community garden, run by a committee of volunteers made up of local residents and workers.



Figure 4.10 Extract from the LCC Bomb Damage Map (1947). Source: British Library

- 4.32 Given the extent of bomb damage during World War Two and areas of clearance along Shaftesbury Avenue and Stacey Street, this gave way for the construction of modern commercial and residential development. In 1982, 125 Shaftesbury Avenue, a 10-storey office block was constructed immediately adjacent to the Site. Further development followed throughout the mid-20th and early 21st centuries, including the office building of 151 Shaftesbury Avenue to the immediate east of the Site.