



20 Endell Street

London, EC2H 9BD

Heritage Appeal Statement

December 2024

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Client: The 10 Cases

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Contents

Section	Page
Executive Summary	iii
1.0 Introduction	1
1.1 Background to this Appeal	1
1.2 Aims, Objectives and Scope	2
1.3 Author's Professional Background and Experience	3
2.0 Planning and the Historic Environment	4
2.1 The Law	4
2.2 National Planning Policy Framework	4
2.3 The Development Plan	5
2.4 Supplementary Planning Guidance	7
3.0 The Evidence	9
3.1 Historical Development	9
3.2 The Condition of the Building prior to the Alleged Works	15
4.0 Heritage Impact Assessment	20
4.1 Identified Heritage Assets	20
4.2 Impact Assessment in respect to the Listed Buildings	20
4.3 Impact Assessment in respect to the Seven Dials Conservation Area	22
4.4 Conclusion	25
Appendices	
1. National Heritage List Entries	
2. Google Streetscene screen shots with dates	
3. Photographs of Shopfronts and Shop Windows in the conservation area	

Executive Summary

This appeal against the serving of an Enforcement Notice by the London Borough of Camden should succeed for the following reasons (*references to paragraphs within this statement*):

1. The Council chose to pursue enforcement action rather than to seek to negotiate resolution of their concerns. The preceding Planning Application provided only one opportunity to discuss the works (1.1.2).
2. The Council has failed to explain why the notice has been served, how the works demonstrably contravene planning policy and why it is in the public interest to pursue this matter (1.1.5).
3. There is nothing within the policies that the Council rely upon that would automatically mean the works were unacceptable: there is no 'in principle' policy objection to the works. The policies require professional judgements to be made, which the Council has failed to explain and rationalise. It is likely that the Council made its decision based on insufficient investigation and evidence (2.2.7).
4. The conclusion of this assessment of the historical development of the area is that the existing building dates no earlier than the mid-19th century; it was in an area of active commercial area, with commercial uses neighbouring it in Betterton Street, and its joinery and shopfront is likely to be post WWII, because of bomb damage. The shopfront is not therefore of historic interest (as confirmed in the Seven Dials Conservation Statement)(3.1.16).
5. It is clear that prior to the alleged works being undertaken, the shopfront at No.20 Endle Street was in a poor condition. It had almost no architectural interest and it was disfigured by security blind boxes and poor-quality finishes. That situation lasted in excess of 15 years. The Council, for some bizarre reason, chose to take enforcement action after the Appellant had undertaken the enhancement works, as set out in the respective application (3.2.7).
6. The Council has not explained anywhere what the significance of the identified listed buildings is and how the appeal site contributes to that significance. Which listed buildings the Council has concerns with is not clear as they have referred to a building that is not listed (no.22 Betterton Street) and omitted any reference to a listed building which lies closer to the appeal site than others that are identified. The assessment undertaken within this statement demonstrate that the works have not resulted in any harm to the following listed buildings: 24 Betterton Street, 33 Betterton Street, 22 Endell Street and 31 Endell Street. (4.2.18).
7. The Council has chosen to ignore the considerable enhancements that the Appellant has carried out to the frontage of 20 Endell Street, which resulted in a significant improvement in the attractiveness of the property and to the streetscene. Those improvements are likely to have resulted in more people enjoying

the local environment, returning to the locality, which in turn has helped support other businesses in the area.

8. The Council requires four items of work to be undertaken in order to address their concerns. However, those concerns are not based on any logical evaluation of the situation. The works that have been carried out have enhanced the appearance of the conservation area; they have not resulted in any harm to it (4.3.17).
9. The Council has failed to provide any clear justification for the issuing of the enforcement notice. The Council has not demonstrated that it has undertaken an appropriate assessment of the impact of the works on the identified heritage assets, that accords with the NPPF definition of significance and relevant Historic England guidance. The assessment undertaken within this statement have shown that the works have not caused any material harm to the identified designed heritage assets. Rather, the works have enhanced the appearance of the shopfront to No.22, which has resulted in an enhancement to the appearance of the townhouse and the terrace and, has improved the contribution that the property makes to the character and appearance of the conservation area. (4.4.1).
10. The lack of any clear demonstration by the Council means that it has failed in its duties, as set out at Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Furthermore, by proceeding with enforcement action without carrying out an appropriate level of investigation and analysis, the Council has acted in a cavalier manner, which is not in the public interest and is also potentially damaging to businesses.



1.0 Introduction

1.1 Background to this Appeal

1.1.1 Vitruvius Heritage have been instructed by the 10 Cases (the 'Appellant') to provide independent heritage advice in respect to alterations to the shopfront at 20 Endell Street, London, EC2H 9BD (the 'site'). This practice was initially instructed to assist with a retrospective planning application (2023/3310/P) to which a heritage appraisal was submitted to the London Borough of Camden ('the Council'). That application was refused on 28 October 2024, following which an Enforcement Notice (the 'notice') was issued on 13 November 2024 by the Council in respect to the same works.

1.1.2 There was only one opportunity to discuss the works with the Council during the course of the planning application, which involved a site visit and the airing of points. The process did not involve an actual discussion of the issues involved in a forum that would allow balanced consideration of the matter. Instead, the Council chose to refuse the application, did not offer to engage with the Appellant to seek resolution of the matters, but decided to proceed directly with the serving of a notice, which is a disappointing failure by the Council to take responsibility for resolution of planning matters that lie within its jurisdiction: knowing that recipients of notices must appeal the notice if they don't accept the Council's position.

1.1.3 The breach of planning control that is alleged in the notice comprises the following:

- removal of historic metal railings on Betterton Street at ground floor level
- installation of 'non-heritage' sliding windows on the Endell Street elevation
- removal of a historic blind window on Betterton Street at ground floor level
- installation of a serving hatch on Betterton Street

1.1.4 The reasons given for the serving of the notice are:

- a) the development has occurred within the last 10 years.*
- b) the shopfront alterations, by reasons of their design, materials, form, loss of historic and architectural features, result in an incongruous shopfront which causes harm to the character and appearance of the host property and conservation area, and harm to the setting of the adjacent listed buildings, contrary to policies D1 (Design), D2 (Heritage) and D3 (Shopfronts) of the Camden Local Plan (2017).*

1.1.5 The notice does not identify the listed buildings which are referred to. The officers report to 2023/3310/P refers to 33 Betterton Street, 22 Betterton Street and 31 Endell Street. 22 Betterton Street is not a listed building; it is likely to be a typo and was meant to refer to 24 Betterton Street. The location of these is shown on **Figure 1**.

1.1.6 The reason given for serving the notice is very vague; it refers to descriptive qualities but has not provided any evidence to demonstrate their position.

1.1.7 The notice requires the following to be undertaken within 6 months of the notice taking effect:

- 1) Reinststate metal railings to replicate the design, materials and proportions of those removed from Betterton Street at ground floor level.
- 2) Completely remove the large sliding windows on the Endell Street elevation at ground floor level and replace with timber, fixed-closed windows to replicate those removed.

- 3) Reinststate the blind window to replicate the design, materials and proportions of that removed on Betterton Street at ground floor level.
- 4) Remove the serving hatch on Betterton Street at ground floor level and replace with a timber door



Fig.1: Location of Listed Buildings and Conservation Area

Key:	 Listed Building	 Listed Building named in Officer report
	 Conservation Area	 Site

1.2 Aims, Objectives and Scope

1.2.1 The Town and Country Planning System in England uses the concept of significance to identify the importance of a particular building or other man-made structure or landscape, that is considered of sufficient architectural and historic interest to warrant consideration in the planning process. The impact that a development proposal has upon the historic environment is measured by the effect that it will have upon the significance of that heritage asset. The effect can be negative, neutral or beneficial.

- 1.2.2 The aim of this statement is to explore the validity of the Council’s reasons for refusing planning permission and for serving the notice. It does this by first exploring what the planning policy requirements are and then, secondly, what evidence there is to show whether the proposal is contrary to those policies or not.
- 1.2.3 The principal reason for the Council’s actions is their concern that the works have resulted in harm to the significance of identified heritage assets. Therefore, as part of testing the evidence, the significance of these heritage assets will be identified and then the works assessed to see whether they have caused any harm or not. The Council also allege harm to the host property, but this can only be in the context of the contribution it makes to the significance of the heritage assets, or in terms of quality and appropriateness of design.
- 1.2.4 In the assessment of harm, the base line used will be the character and appearance of the host property before the works were undertaken. In undertaking the heritage assessment, the statement conforms with the requirements of National Planning Policy Framework (the ‘NPPF’) and adheres to the guidance issued by Historic England, in respect to the identification of significance and assessment of impact. Professional expert opinion has been used to assess significance, based on archaeological, architectural, artistic and historic interest. In line with the NPPF, the level of detail in this report is proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

1.3 Author’s Professional Background and Experience

- 1.3.1 Vitruvius Heritage has been chosen to represent the Appellant because of the strength of experience that the practice holds on matters of planning and the historic built environment. Its founder and Executive Director, Jason Clemons, holds a first degree (Bachelor of Arts(Honours)) in Planning Studies, a postgraduate diploma and a postgraduate degree (Master of Arts) in Urban Design from Oxford Polytechnic, and a postgraduate degree (Master of Science) in Historic Building Conservation from Oxford Brookes University.
- 1.3.2 He has over thirty years of professional experience in the field of planning and conservation gained in both the public and private sectors, and has appeared as an expert witness at numerous public inquiries. He has spoken at various conferences, including those held by the Historic Towns Forum, the Chartered Institute of Building and the RTPI London Branch/New London Architecture, and given lectures on heritage planning at Oxford Brookes University.
- 1.3.3 Jason has been a Full Member of the Royal Town Planning Institute since May 1994 and a founding and Full Member of the Institute of Historic Building Conservation since 1997, having formerly been an active member of the Association of Conservation Officers. He became a Fellow of the Royal Society of Arts in December 2022.

2.0 Planning and the Historic Environment

2.1 The Law

2.1.1 The current planning system relies upon several pieces of legislation in exercising its day-to-day function of managing new development within the historic environment. In the case of this enforcement notice, it is the Planning (Listed Buildings and Conservation Areas) Act 1990 that provides the legal framework, provisions and duties for considering the acceptability of the works undertaken.

2.1.2 As the proposals concern works to within the setting of a listed building the general duty contained within Section 66 of the Act is relevant. This requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural and historic interest which it possesses. The courts have interpreted this duty as creating a strong presumption against causing harm to a listed building and that the preservation of listed buildings should be given considerable importance and weight in the planning system. The courts have laid down that if the decision maker applies the relevant set of policies relating to designated heritage assets in the NPPF, then they would have met the statutory duty requirements. The site also lies within a designated conservation area, which means that Section 72 of the same Act applies, which contains a similar duty of protecting the character and appearance of conservation areas.

2.2 National Planning Policy Framework

2.2.1 The NPPF introduced a holistic approach to the historic built environment and created two categories of conservation interests: designated heritage assets and non-designated heritage assets. The statutory provision prescribed for listed buildings extends to all heritage interests that are classified as designated heritage assets. The NPPF confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). It also makes clear that any harm to a designated heritage asset requires clear and convincing justification and sets out certain assets in respect of which harm should be exceptional/wholly exceptional.

2.2.2 The value and importance of a heritage asset is dependent upon how much significance it contains. The NPPF defines significance as *'the value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting'*.

2.2.3 The Planning Practice Guidance expands upon the NPPF definition, in respect to the areas of interest:

- **archaeological interest:** As defined in the Glossary to the National Planning Policy Framework, there will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.
- **architectural and artistic interest:** These are interests in the design and general aesthetics of a place. They can arise from conscious design or fortuitously from the way the heritage asset has evolved. More specifically, architectural interest is an interest in the art or science of the design, construction, craftsmanship and

decoration of buildings and structures of all types. Artistic interest is an interest in other human creative skill, like sculpture.

- **historical interest:** An interest in past lives and events (including pre-historic). Heritage assets can illustrate or be associated with them. Heritage assets with historic interest not only provide a material record of our nation's history, but can also provide meaning for communities derived from their collective experience of a place and can symbolise wider values such as faith and cultural identity.

2.2.4 In legislation and designation criteria, the terms 'special architectural or historic interest' of a listed building and the 'national importance' of a scheduled monument are used to describe all or part of what, in planning terms, is referred to as the identified heritage asset's significance.

2.2.5 Notwithstanding the presumption against causing harm to designated heritage assets, the NPPF provides a policy approach, that enables harmful development to be considered in a structured way, with potential for its approval. It does this with two different policy approaches, depending on whether the harm to the designated heritage asset is considered to be substantial or less than substantial. The NPPF does not provide a definition of what 'substantial' means, but the Planning Practice Guidance does provide some elaboration, which has been interpreted by the courts:

'In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.'

*While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later additions to historic buildings where those additions are inappropriate and harm the buildings' significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm, depending on the nature of their impact on the asset and its setting.'*¹

2.2.6 In practice, the vast majority of cases that result in harm fall within the spectrum of 'less-than-substantial harm'. In such cases, the relevant policy approach is set out at paragraph 215, which says that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Public benefits include heritage benefits, such as enhancing the asset's significance or improving the ability to appreciate its significance.

2.3 The Development Plan

2.3.1 The Development Plan comprises the London Plan 2021 and the Camden Local Plan 2017. The notice only refers to the Camden Plan, and to three policies contained within it: Policy D1(Design), Policy D2 (Heritage) and Policy D3(Shopfronts).

¹ Planning Practice Guidance, Paragraph: 018 Reference ID: 18a-018-20190723

- 2.3.2 Policy D1: Design, seeks to secure high quality design and contains 15 requirements, all of which are subjective in nature and do not provide any clear way of determining how these are met. Not all of these requirements are relevant to all development. Those that could be applicable in this case are:
- a. respects local context and character;*
 - b. preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;*
 - c. is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;*
 - d. is of sustainable and durable construction and adaptable to different activities and land uses;*
 - e. comprises details and materials that are of high quality and complement the local character.*
- 2.3.3 None of these criteria would automatically prevent the works undertaken from being acceptable. Each one of the five requirements requires a judgement to be made. These are explored further in Section 4.
- 2.3.3 Policy D2: Heritage, generally accords with the policy approach to heritage as set out in the NPPF, although the wording and weighting differ. It has four requirements for development that may affect a conservation area, and only one of these is relevant to this case:
- e. require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area*
- 2.3.4 Again, there is nothing within this policy, taking criteria (e) as the test, that is prescriptive as to what particular works would not be acceptable. It requires a judgement as to whether the works have failed to preserve or enhance the character and appearance of the area. On that basis, it is **without doubt** the answer that **the works have enhanced the character and appearance of the area** (See. Section 4).
- 2.3.5 The Council has two sets of documents which describe the character and appearance of areas to assist in the preparation of development proposals. For land within conservation areas there is a set of conservation area appraisals and the relevant one in this case is the Seven Dials (Covent Garden) Conservation Area Statement, which was published in 1998.
- 2.3.6 Policy D3: Shopfronts, seeks a high standard of design in new and altered shopfronts. It refers to six considerations, all of which are subjective in nature. It is important to note that these are ‘considerations’ not minimum standards or requirements. It states that where an original shopfront of architectural or historic value survives, in whole or in substantial part, there will be a presumption in favour of its retention. It should be noted that the existing shopfront at the site is not one of architectural or historic interest. Of the six considerations listed, four of them could apply in this case:
- a. design of the shopfront or feature, including its details and materials;*
 - b. existing character, architectural and historic merit and design of the building and its shopfront;*
 - c. relationship between the shopfront and the upper floors of the building and surrounding properties, including the relationship between the shopfront and any forecourt or lightwell;*
 - d. general characteristics of shopfronts in the area.*

- 2.3.7 There is nothing within the above policies that would automatically mean the works were unacceptable: there is no 'in principle' policy objection to the works. They all require professional judgements to be made. In order to carry weight, those judgements must be explained and rationalised, otherwise decisions could be made that completely randomly, on a whim, or simply not made on the basis of sufficient investigation and evidence. It is my view that the latter applies to the Council's decisions as none of the notice, the decision letter or officers report provides a rational explanation of the judgements made.
- 2.3.8 The acceptability of the works carried out is assessed below, where it is demonstrated that the works comply with the policies of the Development Plan.

2.4 Supplementary Planning Guidance

Seven Dials (Covent Garden) Conservation Area Statement

- 2.4.1 The Council published the Seven Dials (Covent Garden) Conservation Area Statement in 1998. This was 12 years before the first NPPF was published, and therefore it approaches conservation in a less holistic and more binary way, in terms of what is acceptable and what isn't. This document is the primary tool for assessing the acceptability of development proposals. But it cannot be overemphasised that this document is guidance only. Conservation Areas, such as this one, are far too complex, architecturally and historically, for their attributes to be completely defined and recorded in such a document. But that is not its purpose, which is to identify the key elements of its character and appearance which should be conserved. This doesn't mean that no development is permitted unless it accords with that identified in the document, to do so would conflict with the presumption in favour of sustainable development, which is the core principle of the NPPF.
- 2.4.2 This document is explored further below when it comes to identifying the significance of the conservation area. It is important to highlight here that the appeal property is not identified as a building that makes a positive contribution to the character and appearance of the conservation area. Neither is its shopfront identified as being a shopfront of merit.
- 2.4.3 The final section of the appraisal document sets out guidelines for new development, in respect to shopfronts it states the following:

SD17 The installation of a new shopfront and most alterations to the existing shopfront will need planning permission. The installation of external security shutters also requires planning permission. SPG contains more detailed advice on the design of shopfronts and signage.

SD18 There are many historic shopfronts dating from the late 18th and 19th century and a number of well designed modern shopfronts. Proposals for new shopfronts will be expected to preserve or enhance the visual character and appearance of the shopping streets, through respect for the proportions, rhythm and form of the original frontages. Any shopfront of historic interest or architectural quality should be retained and if necessary repaired and the loss of those shopfronts identified under Shopfronts of Merit and any other historic/original shopfront will be strongly resisted. The restoration of wide shopfront entablatures will be welcomed as these can provide planting. Shopfronts that are considered to be out of character with the building or the area generally should be replaced with new shopfronts that are appropriate to the building and enhance the appearance of the Conservation Area.

SD19 Similarly shop signage should be appropriate for the Conservation Area, respecting the proportions of the shop frontages, and maintaining the division between units and reflect the plot widths of buildings. Internally illuminated box signs are unacceptable and generally signage should be non-illuminated or externally illuminated. Signage will usually consist of one fascia sign and one projecting sign. Shop signs should not normally be above ground floor level.

2.4.4 The appeal works do not amount to a new shopfront. They were intended by the Appellant to be works of enhancement to the existing shopfront. The existing shopfront cannot be classified as an historic shopfront given the limited extent of early fabric and the extent of modern alteration. This is reflected in the adopted appraisal document which does not identify the shopfront as one of merit.

3.0 The Evidence

3.1 Historical Development

3.1.1 20 Endell Street is situated on the corner of Endell Street and Betterton Street and is the northernmost of a short terrace of 4 no. four-storey former townhouses, all of which have had their ground floors converted to shops or restaurants at some point in the late 19th or early 20th century. It is evident from the facing brickwork and roof construction, that the four townhouses were either built individually, but in a terrace form, or the original terrace, constructed as one building, has undergone major alterations and re-building. This is an important consideration when determining the archaeological and architectural value of the site, the terrace, and the contribution that it makes to the setting of the identified listed buildings and character and appearance of the conservation area. This in turn assists in determining the value of any pre-existing shop front and the effect of the works undertaken.

3.1.2 An examination of early cartography for the area of Seven Dials is informative as to the extent to which the area has changed over time, including the layout of streets and the form of its buildings. The first map of note is by Hollar in 1658 of the neighbourhood of St. Giles-in-the-Fields (Fig.2).

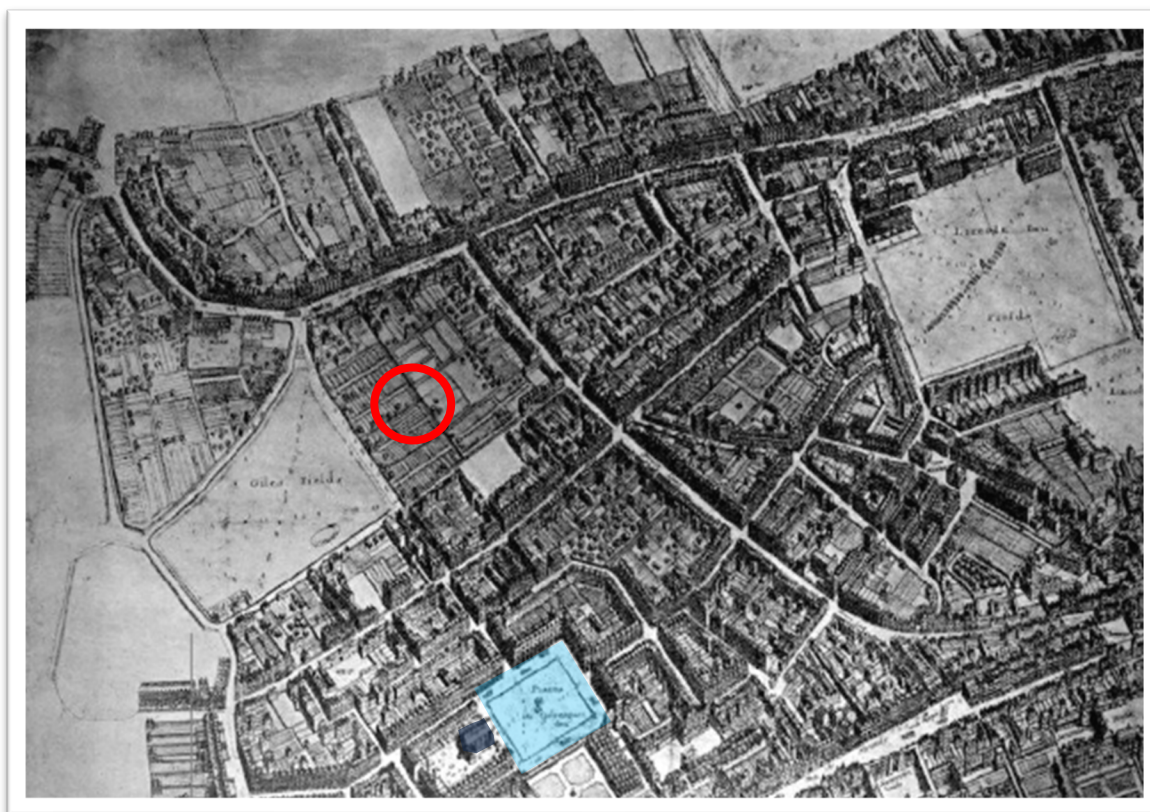


Fig.2: Hollar Map of 1658

3.1.3 Hollar's map shows the rectangle of the piazza of Covent Garden (highlighted in light blue), with Inigo Jone's St. Paul's Church (dark blue) located on its western side. From the centre of the northern side of the piazza King Street runs northwards to meet St. Giles High Street. About half way along that street the built form of London stops, with the land then being open, comprising St. Giles Fields and market gardens, until the buildings on the St. Giles High Street are reached.

- 3.1.4 By the time of William Morgan's map of 1682, much of this open land has been developed with streets and buildings. The extract provided (**Fig.3**), identifies the church of St. Giles, which today lies opposite the Central Saint Giles development. This church gives the parish, in which the site is located, its name. High Holborn, as it is called today, was called St. Giles, and Shaftsbury Avenue was called Monmouth Street.



Fig.3: William Morgan Map of London - 1682

- 3.1.5 The star shaped layout of roads that characterises Seven Dials, did not exist at this time. Instead, that space was largely open and was known as 'the close' or Cock & Pye Fields. On the close were a small number of buildings, including the Cock and Pye Inn, a brick building of two storeys and a garret, standing on ground 117 feet from north to south, with a breadth of 48 feet at the north end². This is probably the building shown on Hollar's Plan of 1658 (**Fig.2**). Endell Street did not exist at that time either, although its northern section is identifiable as Bowl Yard, between St. Giles High Street and Shorts Garden.
- 3.1.6 In 1693 Thomas Neale proclaimed that he intended to improve the area between St. Giles High Street and Long Acre. Neale's plan was one which excited considerable notice at the time. Neale was responsible for a large number of developments across London, and the rest of the country, between 1670 and 1700.
- 3.1.7 The 1700 map by Morden & Lea, shows the recognisable layout of the Seven Dials which formed a major part of Neale's redevelopment plans (**Fig.4**). It also shows the development of the Shorts Gardens and its subdivision into two blocks, with the formation of Brownlow Street (area highlighted in blue). It was at this time that Brownlow House was built. It is one of the few buildings to survive from this period in the area, which is recognised by its Grade II* listed status. The appeal site is still not identifiable at this time.

² Survey of London. Vol.XXXVI, 1914

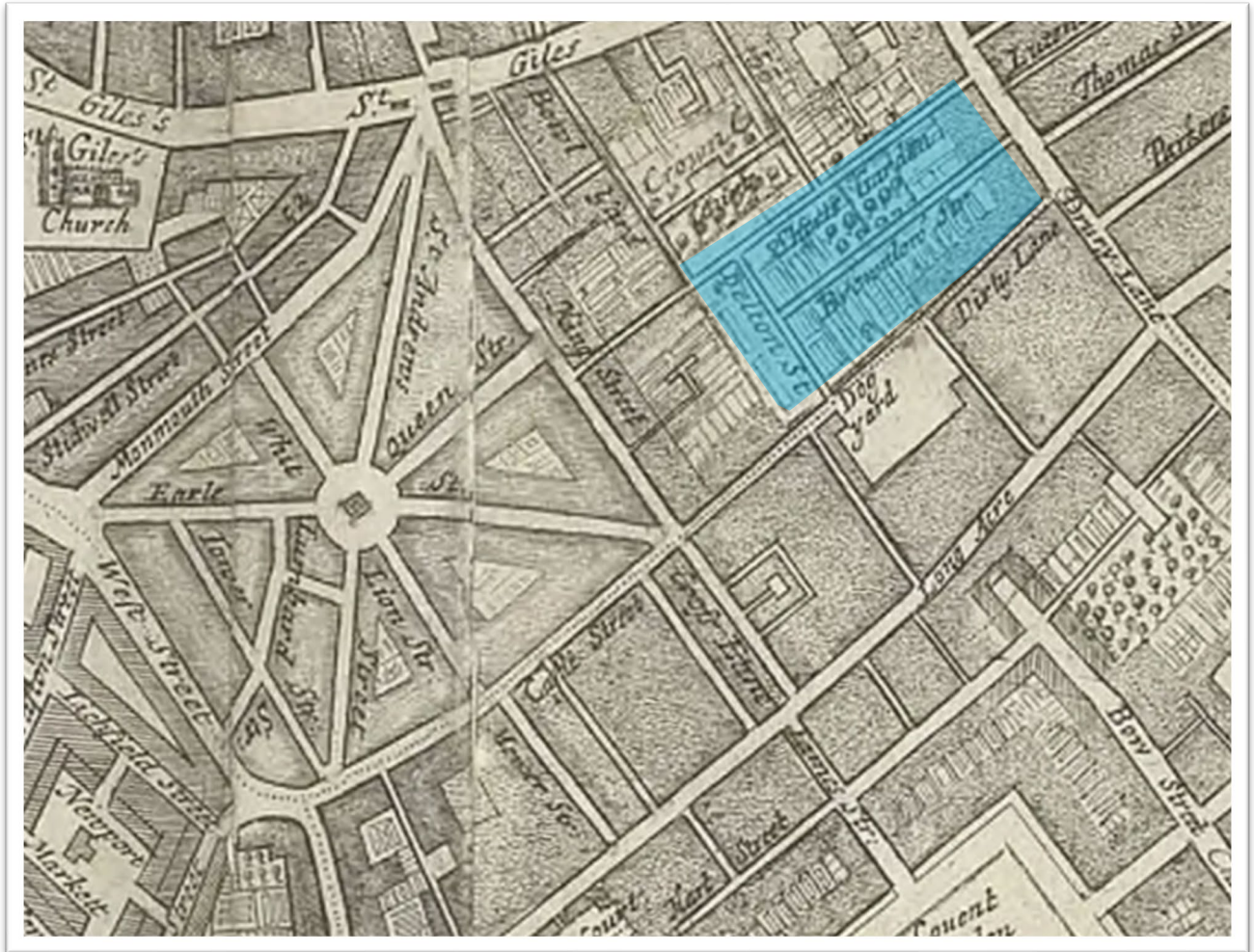
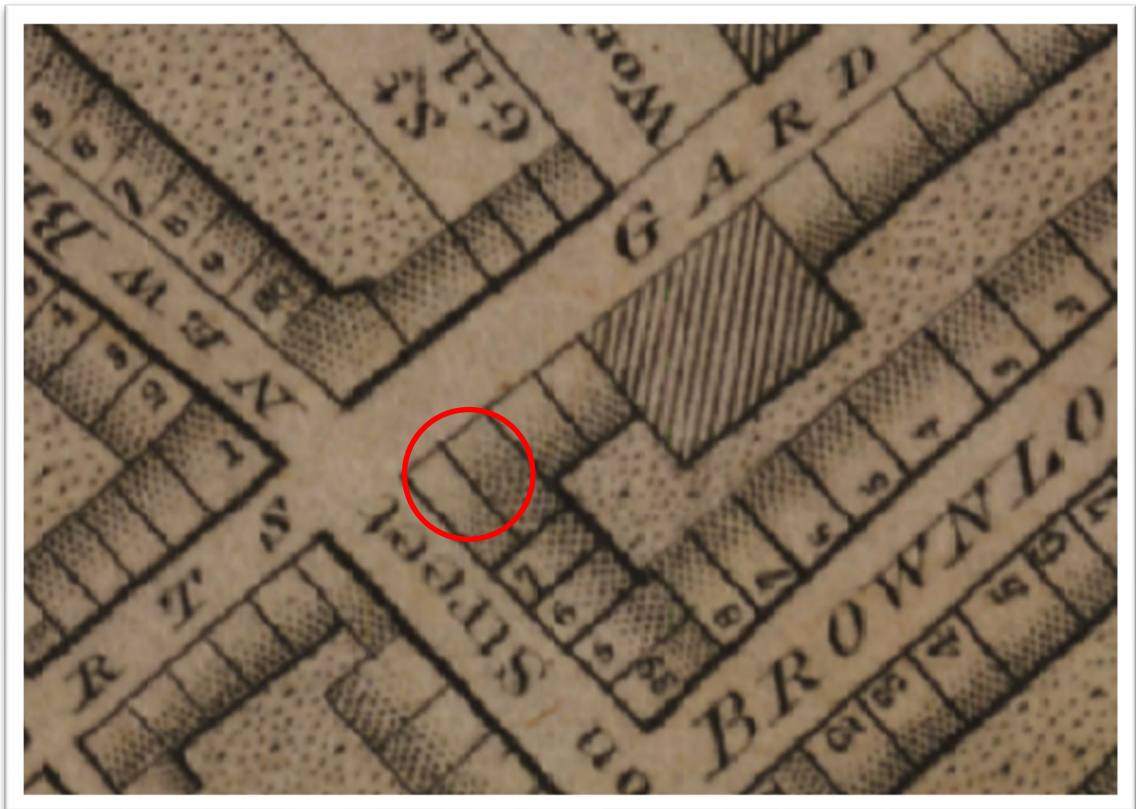


Fig.4: Morden & Lea Map of London - 1700

- 3.1.8 The Horwood map of 1799 (**Fig.5**) shows the street pattern that is largely recognisable today, with individual properties clearly marked. The principal difference to today, apart from the post war development, is the name of the streets. From the zoomed-in extract provided, it is possible to see that Endell Street is called New Belton Street north of Shorts Gardens and Old Belton Street to its south.
- 3.1.9 The terrace of buildings which the appeal site forms part comprised five properties at that time, which suggests that the current buildings were erected sometime after this date. Shelton Street was then called Castle Street. The only other matters of interest are the existence of a workhouse on the northern side of Shorts Gardens and the small size of the individual properties in the area.
- 3.1.10 The street was constructed in its present form in 1846, as part of plans drawn up by James Pennethorne titled *“Plan proposed for a New Street from Cranbourne Street to Bedford Street, Covent Garden”*. As a result, it is wider than most Seven Dials streets with a number of mid-Victorian, medium scale commercial buildings. Number 22 Endell Street, on the opposite corner of Betterton Street to the site, dates from 1859 and was built for Lavers and Barraud, who made stained glass. The pair were joined by Nathaniel Westlake in 1868 and the company became one of the leading producers of Gothic Revival stained glass in 19th century.



Fig.5: Richard Horwood Map of London – 1799 – Above: St. Giles Area, Below: Enlarged to show Site



3.1.11 Charles Booth's maps (Fig.6) contained within his "Inquiry into Life and Labour in London" (1886-1903) show the income and social class of London's inhabitants. The colour notation on his plans indicate that inhabitants of the terrace were 'fairly comfortable' and 'receiving good ordinary earnings'.



Fig.6: Charles Booth Poverty Map of London – 1886 – 1903

Key		Very poor, casual, chronic want		Fairly comfortable, good ordinary earnings
		Mixed, some comfortable, others poor		

3.1.12 The Goad Map of 1887 (Fig.7) was originally produced to aid insurance companies in assessing fire risks. This detailed plan of London was published by Charles E. Goad Ltd. in 1887. The building footprints, their use (commercial, residential, educational, etc.), the number of floors and the height of the building, as well as construction materials (and thus risk of burning) and special fire hazards (chemicals, kilns, ovens) were documented in order to estimate premiums. The notation of 'H.W.' means a hardware shop, 'S' is a shop and 'O' is an office. The pink colourwash indicates that the building was masonry. The Goad map shows the layout of the terrace of four properties as it is today.

3.1.13 Understanding the uses that exist in the area as the end of the 19th century is important, in order to understand what is likely to have been the character of the area, not just in terms of the appearance of buildings, but also the activities taking place. The Council oppose the sales and service counter on the Betterton Street elevation of No.20 because they consider that the side of the building should not be commercial in nature. The Goad map shows that Betterton Street was not a quiet residential street, but one with a high number of commercial uses, which would have generated a significant amount of activity.



Fig.7: Charles Goad Map 1887

3.1.14 The final historic map (**Fig.8**) is an extract of the 1:2500 Ordnance Survey sheet from 1916 which was updated by the Architects' Department of London County Council to 1940, and then annotated, including a colour coding system, to record cumulative damage to buildings caused by air raids and V-weapons, during the Second World War.

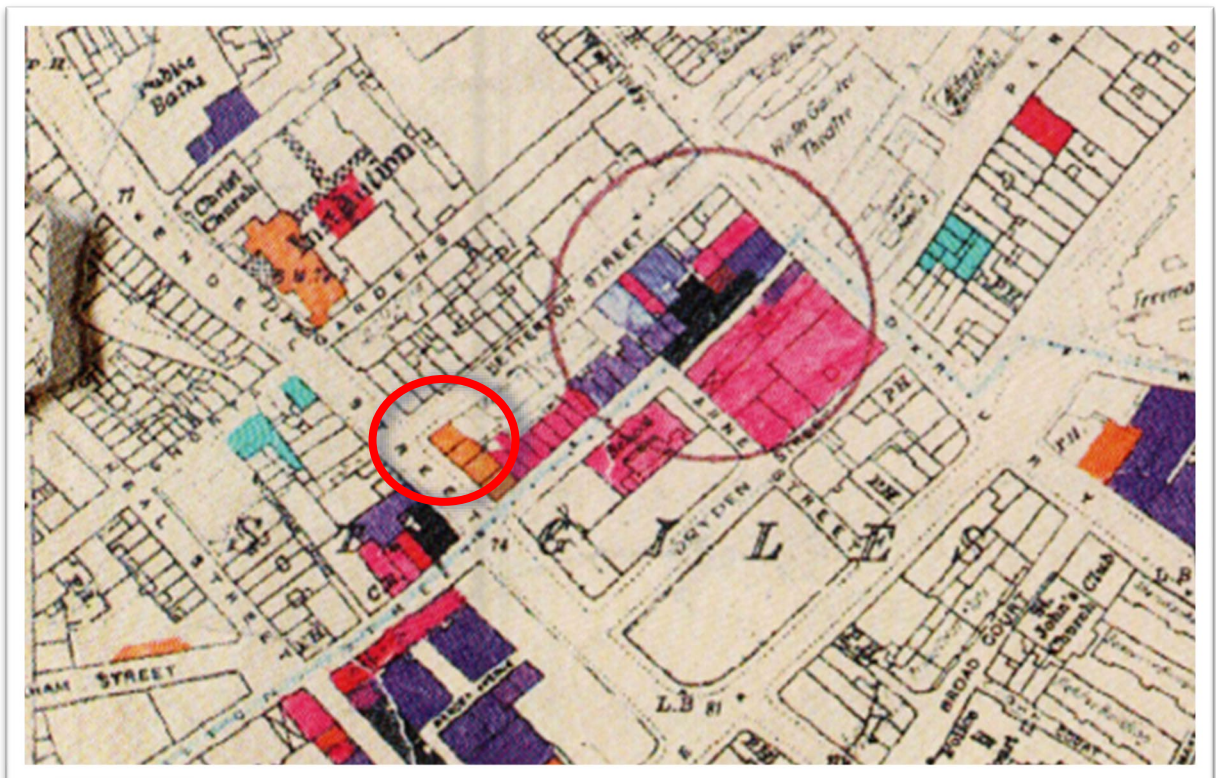


Fig.8: LCC Bomb Damage Maps 1939-1945

3.1.15 The annotated map shows that the terrace suffered significant bomb damage during the war. The colour notation indicates that the terrace was not destroyed but suffered more than just smashed windows. The facing brickwork provides evidence of the damage caused, with a high level of indentations and replacements. There is no visible evidence of fire damage, but given the force of the bomb blast that damaged the brickwork, it is likely that all of the external joinery on the terrace was damaged and then subsequently replaced. This is an important piece of evidence regarding the evidential value of the previous shopfront, as it means that it is likely to have been post war.

3.1.16 **The conclusion of this assessment of the historical development of the area is that the existing building dates no earlier than 1846; it was in an area of commercial activity, with commercial uses neighbouring it in Betterton Street; and its joinery and shopfront is likely to be post-WWII, because of bomb damage. The shopfront is not therefore of historic interest (as confirmed in the Seven Dials Conservation Statement),**

3.2 The Condition of the Building prior to the Alleged Works

3.2.1 The photographs below provide a degree of insight into the appearance of the shopfront prior to the works.



*Fig.9: Archive photographs of 20 Endell Street: 1980 (left) and 2006(right) 1887
[London Picture Archive & Historic England Archives]*

- 3.2.2 In the picture from 1980 the flank elevation of the ground floor is painted white, up to the first-floor window cill level. The frontage onto Endell Street has a dark coloured shop window which appears to have a transom approximately 500mm down from the head of the window, and the window has at least two mullions. The fascia appears vertical with an architrave above. The picture is too dark and not clear enough to see any more detail than that.
- 3.2.3 The picture from 2006 is clearer. The architrave and fascia appear the same as currently exists, but simply a different colour. The mouldings to the capital of the pilasters are visible, as they are today. There appears to be a closed blind fixed to the lower section of the fascia. The shop window is four panes wide with a high transom. It has a deep stall riser approximately 900 in height.
- 3.2.4 **Figures 10 & 11** show the shopfront prior to the most recent works being undertaken: before the works which are being enforced were carried out. The shopfront was in a very poor condition. It had security grill boxes fixed above the main shop window, the side window and the front door. The fascia was plain, with a board crudely fixed to it, and it did not display any writing as to the purpose of the shop. It had utilitarian floodlighting above the main shopfront window. The stall riser was a simple painted board, with no articulation. Lastly, it had crude and gaudy, advertising on its Betterton Street elevation which would have been a distraction in the streetscene. The images in **Figure 12** are taken from Google Maps Streetview and show the shopfront over time, from 2009 to 2023.



Fig.10 :Streetview image prior to alleged works (Google)



Fig.11: Analysis of shopfront before works undertaken



Fig.12: Earlier Streetview Images (Google)

- 3.2.5 It is not known exactly how long this shopfront looked the way it did in **Figures 10 and 11** although the Google Streetscene shows it to be at least from July 2019 to April 2023. The images in **Figure 12** show the same shopfront as existed prior to the alleged works from at least August 2009: the visible change being a different paint colour.
- 3.2.6 It is clear that prior to the alleged works being undertaken, the shopfront at No.20 Endle Street was in a poor condition. It had little architectural interest, and was vulgarised by security screen boxes and poor-quality detailing and finishes. That situation lasted in excess of 15 years. The Council only chose to take enforcement action after the Appellant had undertaken the enhancement works as set out in the respective application.



Fig.1.13: Current Shopfront (above, Endell Street; below, Betterton Street)



4.0 Heritage Impact Assessment

4.1 Identified Heritage Assets

- 4.1.1 The Council allege that the works to the shopfront at 20 Endell Street have resulted in harm to the significance of four heritage assets. They comprise 3 listed buildings and Seven Dials (Covent Garden) Conservation Area.
- 4.1.2 The notice doesn't identify which listed buildings are harmed and the officers report identifies the following:
- 33 Betterton Street (Grade II)
 - 31 Endell Street (Grade II)(Cross Keys Public House)
 - 22 Betterton Street (Grade II)
- 4.1.3 This list raises two doubts:
- i) 22 Betterton Street is not listed. But 24 Betterton Street is listed (Grade II*); and
 - ii) 22 Endell Street (Grade II) is closer to the site than 24 Betterton Street, but is not identified by the Council.
- 4.1.4 On the basis that there is confusion within the officers' report, all four of the listed buildings identified above will be examined: Nos. 22 and 31 Endell Street, and Nos.24 and 33 Betterton Street.

4.2 Impact Assessment in respect to Listed Buildings

- 4.2.1 In respect to the above listed buildings, the works cannot have caused any direct harm given that no works have been undertaken directly to them. The significance that needs to be identified is the contribution that the site makes to their significance by virtue of being within their settings.
- 4.2.2 Three of the listed buildings have a high level of significance by virtue of their Grade II designation and the fourth, Brownlow House (24 Betterton Street) has a very high level of significance due to its Grade II* designation. The majority of that significance is contained within the buildings themselves: in their building fabric, floor plans, interior decoration, external architectural interest and any known historical associations with people and events. In respect to the individual buildings that significance includes the following.
- Brownlow House (24 Betterton Street) and attached railings***
- 4.2.3 This is a Grade II* house with a later shop. Its high listing is likely to be due, at least in part, to it being an early example of a house in the area, being late 17th or early 18th century. That date would make it one of the first houses to be built in the area before general urbanisation took place in the later 18th century. But the principal reason is likely to be intact early interior, with panelled rooms and staircase. The very high level of archaeological and architectural interest resulting from this are contained primarily within the building. In order to appreciate this significance it is necessary to be inside the building, where it is unlikely that No.20 Endell Street will have any visual presence.
- 4.2.4 There is no known historic or architectural connection between the appeal site and this listed building. Whilst the railings are of interest, their significance is not dependent upon the appeal site in any way.

4.2.5 This appeal site does not make any material contribution to the significance of this listed building.

33 Betterton Street

4.2.6 This is the closest listed building to the appeal site, given that it adjoins it on the street. It is an early 19th century building that was re-faced in the early 19th century. The listing description states:

“...has good early C18 staircase to top of house with closed, moulded string, square newels and twisted balusters. Moulded dado and some original doorcases. Hall with arched opening, some panelling and boxed out cornice. Included for interior.”

4.2.7 The front elevation is heavily altered and has modern elements to it, including a 20th century shopfront. It is clear from the listing description that it is the interior of the building that is the reason why it is listed. Whilst this doesn't mean its exterior has no interest, there is no historic or architectural connection with the appeal site: the two buildings were not built to serve a unified design objective, or known to have been designed or built by the same person. The provision of more glazing on the Betterton Street façade of the appeal site helps to assimilate the shopfront of No.33 into the streetscene, but there is no other connection.

4.2.8 The appeal site does not make any material contribution to the significance of this listed building.

22 Endell Street

4.2.9 This building has not been specifically referred to by the Council, but given its proximity to the appeal site it is prudent to assess any potential impact, in any event.

4.2.10 This building was erected in 1859 as a stained glass studio, by R J Withers. It has an elaborate Gothic exterior, with complex use of polychromatic brickwork, eaves detailing, and ornate window and door arches. It has a high level of historical interest because it was built for Lavers and Barrauld as their studio. This company was one of the most respected stained-glass manufacturers in the country during the 19th century. The building also gains a high level of significance from its architectural and artistic interest, which is contained within its external elevations and its interior.

4.2.11 There is no known historic or architectural connection between the appeal site and this listed building. Whilst the external appearance of the building and railings are of interest, they are of a completely different style to the appeal site and its interest is not dependent upon the appeal site in any way.

4.2.12 This appeal site does not make any material contribution to the significance of this listed building.

31 Endell Street

4.2.13 This building is the Cross Keys Public House. It was built purposely for that use in 1848-49. Its front elevation has a high level of architectural interest. It has an elaborate ground floor facade of 3 bays with arcaded treatment, above which is a centre piece, with flanking scrolls and swags with putti, in relief, holding crossed keys. It has recessed casement windows in enriched stucco architraves, with first floor console-bracketed dentil cornices, cambered arches with keystones on the second floor, and the round-headed windows with keystones on the third floor. The interior includes a bar with original dado, panelling, ceiling and most bar fittings.

- 4.2.14 The significance of this buildings rests primarily within the architectural and artistic interest of its front elevation and the archaeological and historical interest of its interior.
- 4.2.15 As with No.22 Endell Street, there is no known historic or architectural connection between the appeal site and this listed building, and whilst the external appearance of the building is of interest, it is of a completely different style to the appeal site and its interest is not dependent upon the appeal site in any way.
- 4.2.16 This appeal site does not make any material contribution to the significance of this listed building.

Impact on the Significance of Listed Buildings

- 4.2.17 The appeal site does not make any contribution to the setting and significance of these four listed buildings. Development of the appeal site as set out in the notice cannot therefore result in any loss of significance for these listed buildings. The only potential for any harm would be if the works created sufficient visual distraction to the listed buildings so that the ability to appreciate their architectural interest were reduced. It is very difficult to see how that could happen with the existing appearance. Whereas, a much more gaudy colour scheme, such as that existed previously may possibly have caused some distraction, but unlikely.
- 4.2.18 **The Council has not explained anywhere what the significance of these listed buildings is, how the appeal site contributes to that significance and how any harm results. It is very clear that the Council has not considered the works undertaken in a manner consistent with the NPPF and Historic England guidance. There is absolutely no case for this appeal works to be refused on the grounds of their effect on a listed building.**

4.3 Impact Assessment in respect to the Seven Dials (Covent Garden) Conservation Area

- 4.3.1 The Council's Conservation Area Statement states:

*"The special character of the Conservation Area is found in the range and mix of building types and uses and the street layout. The character is **not** dominated by one particular period or style of building but rather it is their combination that is of special interest.*

Most buildings appear to spring from the footway without physical front boundaries or basement areas. In this tightly contained streetscape, changes of road width, building form and land-use give dramatic character variation, narrow alleys and hidden yards provide unforeseen interest and the few open spaces provide relief and a chance to pause and take stock of one's surroundings. Apart from Seven Dials there are no formal open spaces but some significant informal spaces occur in the form of yards and street junctions.

Planting on the front of buildings was a traditional means of providing vegetation that is still popular and provides a welcome foil to the hard materials of this densely developed area."

- 4.3.2 The site lies within Sub Area One. It says about Endell Street:

"Endell Street has an interesting architectural diversity, with many distinctive buildings. The street was constructed in its present form in 1846 as part of plans drawn up by Pennethorne (successor to Nash) for improvements to London. As a result, it is wider than most Seven Dials streets with a number of mid-Victorian medium scale commercial buildings: the former St Giles National School built in 1859 and designed by E.M. Barry

- the words National School are still on the brickwork. This gothic revival building has polychrome brick and stone dressings; next to the Hostel are two buildings designed by George Vulliamy, No.81 (1854) Italianate four storey building with stucco frontage and rusticated quoins and No.79 (1854) the London Swiss Church, another Italianate building with a symmetrical facade of three bays in rusticated stucco. No.61 is a listed building that was in use as a timber yard for the last 100 years, in red brick with stucco dressings. A new housing development has been built at the rear of the building on the site of the former yard that contained the timber shed. On the west side are good examples of late 18th century 4(altered mid-19th century) four storey and basement houses with a regular rhythm and plot width (Nos.51-59). These buildings are in stucco with first floor pedimented windows and a stone cornice at third floor level. The shops have wooden shopfronts with pilasters carrying a fascia entablature surmounted by dentil cornice. A mixed-use development proposal for St Paul's Hospital on the corner with Betterton Street has been agreed. (April 2000)"

4.3.3 The appeal site is not mentioned in the conservation statement. Neither is it identified as a positive contributor to the character and appearance of the conservation area or that its shopfront is of any merit or historical interest. Given the architectural diversity of the conservation area, with a wide range and number of post-war buildings intermixed with earlier ones, it is difficult to see how the shopfront prior to the works being undertaken made any significant contribution to the character of the area and how the works have caused any harm. In truth, the answer to that is that the shopfront has the architectural outline of a late 19th century frame, which has been rebuilt and then significantly modified in the 20th century, resulting in an architecturally confused appearance.

4.3.4 The four specific requirements of the notice should help to explain why the Council served the notice.

i) Reinstate metal railings to replicate the design, materials and proportions of those removed from Betterton Street at ground floor level.

4.3.5 It can be seen from the photographs above, that the railings that were removed were not of any architectural or historic interest. They were modern, simple square section bars, without any historically correct finial or other detailing. The railing that exists today is of no greater or lesser interest to that which it replaced. As such, these particular works have caused no harm to the significance of the conservation area. If the Council seeks a more historically authentic design of railings, then it must seek to negotiate such an enhancement with the Appellant, it has no authority to insist on an enhancement

ii) Completely remove the large sliding windows on the Endell Street elevation at ground floor level and replace with fixed-closed timber windows to relocate those removed.

4.3.6 It is evident from the photographs of the previous shop front, that its windows are not of a design that makes any meaningful contribution to the character and appearance of the conservation area. The sections were overly narrow, the cill and surround lacked any profile and the stall riser was indecently plane. Provided at Appendix 3 are photographs of a selection of shopfronts and shop windows that exist in the conservation area and form part of its character and appearance.

4.3.7 There is a wide range of different types of windows in the area. It is fair to say that there is not one type of shop front that dominates the area. There is a wide range of shopfronts and a variety of how any windows open. They include:

- Fixed multiple panes of glass

- Fixed single panes of glass
- Vertically sliding windows
- Side hung opening casement windows
- Some with stall risers, some without any
- Mixture of timber and metal windows & shop fronts

4.3.8 This is a conservation area with a huge variety in the appearance of its shopfronts. It is not somewhere that has any consistent or dominant shopfront design, as would be expected in the centre of Bath or Cheltenham. The Council doesn't appear to understand how diverse the character of the conservation area is. Furthermore, there is no reason why a window of a different style to others in the area cannot be allowed. The appeal site is located in one of the more café orientated locations in the area, where there is space to sit outside. A sliding window is an ideal solution for such a location, allowing the inside of the café and the street to connect, thereby making it a more vibrant and enjoyable.

4.3.9 There is nothing within the conservation area statement that prevents new types of shopfront, and even if it did, the statement is guidance, which is meant to inform decision making where appropriate, not to dictate it.

4.3.10 The diversity of shopfronts is such that the shopfront at the appeal site does not look out of place or jar with the character of the area. There is no planning policy that prevents such a design. Notwithstanding this, the current shopfront is a significant enhancement on the previous one, which the Council chooses to ignore, but bizarrely it requires the Appellant to take a backward step and return the shopfront to its previously poor design and condition.

iii) ***Reinstate the blind window to replicate the design, materials and proportions of that removed on Betterton Street at ground floor level.***

4.3.11 The Council has provided no evidence as to how the blind window contributes to the significance of the conservation area, over and above a glazed window. Blind windows were historically used to provide a balanced fenestration, consistent with classical principals of architecture, without prejudicing how the space inside the building could be used. These are commonly found on the two outside elevations of an end of terrace property, where two adjoining elevations, perpendicular to each other, both front onto a public space or street.

4.3.12 James Steven Curl explains in his book on Georgian architecture: "*...often blank windows were introduced for decorative effect or so not to interrupt the repetition of a window range*"³.

4.3.13 The importance of a blind window is the contribution that its surrounds make to the overall architectural composition. Given that they were an architectural device to maintain balance in the fenestration, it is the pattern of window openings or surrounds that is important, not the 'filler' of that surround. Based on the classical principles that created this device, there would be no effect caused to the balance and appearance of the building if a blind window were to be replaced by glazing. This is a basic architectural principle which makes the misunderstanding of it by the Council incredulous and merely reinforces the poor approach and lack of detailed consideration that the Council has taken with this whole matter.

³ Curl, J.S., *Georgian Architecture*, 1993, David & Charles Book, Newton Abbott

4.3.14 In this case, the other end of the terrace, in Shelton Street, also has a balanced arrangement of window openings, some of which are glazed and some blind (**Fig.14**). There is no architectural justification to require the window opening to be returned back to a blind window. The pattern of the window openings will remain unaffected: it is the reason why blind windows were used. In this case, the opening up of the window provides more light into the café area, thereby enhancing the internal environment, which in turn, helps to ensure the long-term viability of the unit.



Fig.14: A different arrangement of blind windows in Shelton Street

iv) Remove the servicing hatch on Betterton Street at ground floor level and replace with a timber door.

4.3.15 There are three principal reasons why the service hatch is acceptable on the Betterton Street elevation:

- Historically, Betterton Street has been a commercially active place, with people visiting the commercial premises that were historically located in the street, as shown by the Goade map; .
- Use of blind windows on the side elevation indicates that Betterton Street was important enough for no.20 Endell Street to present a fair façade to it, and not a blank building return or flank; and
- Such service hatches are a common feature of the conservation area. **Appendix 3** shows examples.

4.3.16 Again, there is no reasoned justification provided by the Council.

4.3.17 **The Council requires four items of work to be undertaken in order to address their concerns. However, those concerns are not based on any logical evaluation of the situation. The works that have been carried out have enhanced the appearance of the conservation area; they have not resulted in any harm to it.**

4.4 Conclusion

- 4.4.1 No reasoned justification has been provided by the Council in issuing the enforcement notice. The Council has served a notice without providing the Appellant the opportunity to discuss and resolve their concerns beforehand. The Council's concerns regarding impact are unfounded, they are not based upon any evidenced or recognisable assessment. The works undertaken have not caused any harm to the identified designed heritage assets; in fact, having regard to the condition and appearance of the shopfront before the works were carried out, the work undertaken has actually enhanced the character and appearance of the conservation area.

