

<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	<b>28/03/2018</b>
		N/A / attached	<b>Consultation Expiry Date:</b>	08/02/2019
<b>Officer</b>			<b>Application Numbers</b>	
Laura Hazelton			i) 2017/7051/P ii) 2018/0037/L	
<b>Application Address</b>			<b>Drawing Numbers</b>	
135-149 Shaftesbury Avenue London WC2H 8AH			Please refer to decision notices	
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>	
<b>Proposals</b>				
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				
<b>Recommendations:</b>		i) Refuse planning permission ii) Refuse listed building consent		
<b>Application Type:</b>		i) Full Planning Permission ii) Listed Building Consent		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notices					
Informatives:						
<b>Consultations</b>						
Adjoining Occupiers:			No. of responses	<b>07</b>	No. of objections	<b>07</b>
Summary of consultation responses:	<p>The application was advertised in the local press on 18/01/2018 and a site notice was displayed between 12/01/2018 and 08/02/2018.</p> <p>Objections were received from the owners/occupiers of Flats 6, 17 &amp; 25, Pendrell House, Flat 6 The Alcazar, Phoenix Street, Flat 17 45 New Compton Street, 10 Stacey Street (x2), summarised below.</p> <p>Amenity Impacts</p> <ul style="list-style-type: none"> <li>• There will be overlooking between the new hotel rooms and Pendrell House. The additional stories will limit the amount of light to Pendrell House.</li> <li>• The roof bar will result in noise and music disturbance.</li> <li>• Loss of light to Phoenix Garden which is used by local people, office workers and tourists.</li> <li>• Disturbance from refuse collection.</li> </ul> <p>Transport Impacts</p> <ul style="list-style-type: none"> <li>• Noise, disruption, dust and transport impacts arising from construction and servicing.</li> <li>• Increased traffic to an area already burdened with narrow roads.</li> <li>• New Compton Street cannot cope with any more traffic from construction. Emergency services would not be able to access it.</li> <li>• Loss of existing resident parking spaces.</li> </ul> <p>Design</p> <ul style="list-style-type: none"> <li>• The roof extension will increase density without a step back at the rear, making the area feel cramped. All the other buildings overlooking this valuable green space (Phoenix Garden) are stepped back.</li> <li>• The roof extension materials are unsympathetic to the brickwork of the main listed building.</li> <li>• This is a Grade II Art Deco building and to mix the existing stylish design with enormous architectural 'blocks' of glass and stone looks awful.</li> </ul> <p>Other issues</p> <ul style="list-style-type: none"> <li>• The basement excavations may damage the newly built structure in Phoenix Gardens.</li> <li>• Hotel guests will travel by taxi and cause more pollution, traffic and noise.</li> <li>• Drug use and thefts would increase.</li> <li>• Deliveries during school hours pose a risk to school children.</li> </ul>					

- Public exhibition was inadequate.
- During the redevelopment of Denmark Street, Roman remains of a village were found and these have been documented by the Museum of London however this has not been discussed nor referenced in the document nor the excavations that happened as part of the St Giles development.
- Impact of excavations on Portland Stone of new building in Phoenix Garden.

### Revisions

Following receipt of the above objections, revised drawings were received in March 2018 incorporating the following amendments:

- The materiality and design of the proposed roof extension have been altered, through the use of fritted glazing as the primary material.
- The introduction of a new feature picture window on the rear elevation in the location of the bomb-damaged section of the façade to encourage outlook over Phoenix Gardens and to the street.
- The introduction of new feature windows at ground floor level on the Stacey Street, New Compton Street and St Giles Passage frontages.
- The provision of a new dedicated cinema entrance along the Stacey Street frontage.
- The removal of the alcoves and door recesses along the New Compton Street of the façade to remove the potential for anti-social behaviour.
- Internal modifications, including:
  - The provision of an indicative restaurant layout, including the location of a kitchen and seating areas;
  - The introduction of an artwork/decorative features that will be inscribed on the inside of the front elevation to provide a historical reference to the former auditorium, reflecting its former volume in the new atrium space;
  - Rationalisation of back of house and toilet facilities, including the provision of accessible showering and change facilities, and a disabled toilet for the cinema use
  - Rationalisation of the staff cycle parking facilities at Basement Level 2, including the provision of an adaptable cycle parking space;
  - Revisions to the cinema layouts to provide wheelchair accessible spaces; and
  - The provision of further detail for the pool and spa area at Basement Level 2.

Re-consultation was not undertaken as there were no changes to the proposed building massing and the proposed amendments were considered to be of a minor nature.

**CAAC/Local groups  
comments:**

**The Bloomsbury Conservation Area Advisory Committee (CAAC)**

objected to the application, summarised below:

- The form, scale and particularly the materials of the proposed extra floors have nothing at all in common with their host building and appear totally incongruous. The theatre is a fine example of its type and is listed grade 2. As such the extension is completely unacceptable. For these reasons, the proposal is detrimental to the character of the Conservation Area.
- The bulk and height of the upward extension is damaging to the setting of Phoenix Park and the residential amenity of the properties behind Shaftesbury Avenue.

The **Covent Garden Community Association (CGCA)** objected to the application, summarised below:

Design, overlooking, massing

- These proposals fail to preserve or enhance the historic nature and unique character of the conservation area.
- The proposed size, bulk and massing greatly alter the building's appearance, which has an impact on the streetscape and on neighbouring properties, including residential flats.

Impact on open space

- The proposed development is directly adjacent to Phoenix Gardens, which is one of only a few public green spaces in Covent Garden and is designated a Site of Local Importance for Nature Conservation. Indeed, Covent Garden is designated as deficient in access to nature. As proposed, the increased massing and height would tower over Phoenix Gardens, resulting in overlooking, loss of day/sunlight and an overbearing, closed-in feeling. This would not only have an impact on amenity, but on biodiversity and habitat, as well.

Amenity impact

- Roof terraces can cause nuisance and harm to the amenity of neighbours, including local residents and office workers. This includes overlooking and loss of privacy, noise, light spillage and security.
- The CGCA is also concerned about noise resulting from the proposed uses, namely hotel (C1), restaurant (A3) and bar (A4).
- Cumulative noise impact from plant.

**Lindsay House Residents' Association (LHRA)** objected to the application, summarised below:

- New Compton Street is primarily a residential street with 69 flats/residencies in 5 blocks. This is not properly acknowledged in the application.
- 30 New Compton Street St is not even mentioned in the 'Statement of Community Involvement.
- The nature of the development won't help tackle anti-social behaviour – it will move it further down New Compton Street.
- The overall increase in traffic, particularly the removal of building

waste from construction, will be overwhelming to New Compton Street. Small street not suitable for the intended level of traffic, then constant deliveries.

- Phoenix Garden is a unique and treasured site and has just had a new building completed. The development would overshadow it and the homes in Pendrell House and Stacey Street.
- A roof terrace would generate noise and would be overlooking homes.
- The proposed development is unsympathetic, oversized and a mismatched design and not an enhancement to the area.

The **Trustees of the Phoenix Garden** objected to the application, summarised below:

#### Overshadowing

- With the proposed development increasing the height of the building by 10m and being located to the south, there are implications for Phoenix Garden due to overshadowing. The garden provides habitat for a range of urban wildlife, including a wide range of invertebrate species, these are likely to be negatively impacted by the increased overshadowing and loss of sunlight.
- From the sunlight modelling provided, it is clear from the March analysis that the proposed development would extend shaded cold conditions to a greatly increased area and to much later in the year. While for amenity purposes this may be acceptable, we believe this will detrimentally affect a number of species, particularly bee species.
- The recently constructed community building was designed to provide both rooftop propagation area and brown-roof habitat to increase biodiversity. With the present elevation of the Odeon these facilities receive adequate sunlight and have worked as planned. With the proposed increase of 10 metres in height the building will be completely overshadowed except for a brief window in high summer

#### Design and change of use

- There are elements of the design that are not in keeping with the locale.
- The proposed development brings no benefit to the local community. We feel the metal-screening glass proposed, by enabling hidden observation of community activities to be inappropriate overlooking a community garden, a children's play area and by enabling the direct observation of residents in their private homes.
- The proposed step back to the rear is minimal and the development will be a dominant monolith towering above the garden.
- Concern about rooftop bar and lack of details, including proposed management.

#### Construction impacts

- Construction phase will be extremely detrimental to the garden's activities and community events for the duration.
- Concerns about impact of excavation on new building in the garden.

**The Greater London Archaeological Advisory Service (GLAAS)** submitted the following comments:

- It is clear from the submitted Archaeological Desk Based Assessment (CgMs, December 2017) that the existing double basement will have completely removed any archaeological remains from within the site footprint. No further archaeological works are required.
- The proposals will however impact the former Saville Theatre which was constructed in the 1930s and is grade II listed. The Heritage and Townscape Assessment (Iceni Projects, December 2017) identifies that the significance of the building primarily lies in the building's facades and historic association with Brian Epstein, The Beatles, Jimi Hendrix. The significance of the internal structure appears to have been somewhat diminished as a result of various phases of alterations. The assessment does however identify isolated areas of survival of the historic fabric. Further proposals for alteration are being proposed and in light of the significance of the building, and if the borough is minded to grant consent, then a programme of Level 2 Historic Building Recording should be carried out both prior to and during the works in order to record any currently hidden surviving elements of the historic structure.

**Westminster City Council** confirmed they did not wish to comment on the proposals.

**The Twentieth Century Society** submitted the following comments:

- The Society welcomes the retention of the Shaftesbury Avenue façade, but considers that a more sensitive approach be taken to ensure that new insertions into the original facades are sympathetic to the listed building. Our main concerns are the style of the proposed glazing for the entrance arched window, and the design of the entrance canopy. We consider the current phase of refurbishment to be a key opportunity to reinstate a window resembling the original glazing pattern, for which photographic evidence is available. The proposed large pane glass with metal mesh would be an inappropriate insertion, and would be harmful to the building's historic interest. We similarly consider the proposed metal canopy to the front entrance to be ill-fitting for a listed building with a high level of original decorative detail to its exterior.
- We rarely call for the reinstatement of facsimile details to a historic building, however in this case we consider it appropriate for the original canopy, glazing to the entrance arch window and lamps to the main entrance to be replicated, as this will help to clearly distinguish the 1930-1 listed building from the proposed roof extension, and will enhance the building's historic interest without compromising the proposed internal plan. The Society considers the proposed roof extension to cause some harm to the listed building's historic interest, however, there is potential for this harm to be mitigated if the historic fabric of the building's exterior facades are treated carefully and sympathetically. Restoration where necessary to exterior features, particularly the Gilbert Bayes frieze, coupled with a sensitive approach to new additions, will enhance the historic interest of the Grade II listed former Saville Theatre, and will help to provide a clear distinction between the listed building and later phases of development.

**The Theatre's Trust** objected to the application, summarised below:

- Although not a theatre, cinema still constitutes a cultural use for the building and contributes to cultural well-being. Paragraph 92 of the NPPF (2018) seeks decisions to plan positively for such facilities and to guard against unnecessary loss.
- As this proposal would result in significant alteration to the building's cultural function and external appearance, we would consider it to constitute substantial harm for which there should be thorough and robust justification. Policy D2 of the Camden Local Plan (2017) does not permit such harm to a heritage asset unless it can be demonstrated it is necessary to achieve substantial public benefits. We do not consider that test to have been met. A number of defects and required works are cited, and that approximately £26 million would need to be spent which is unviable in the context of the site being worth approximately £5 million. However, we would contend that this should not and cannot be used as a justification for significant redevelopment of the nature proposed. As a statutorily listed building, as indeed with any building, it is the ultimate responsibility of the owner to have ensured it has been adequately maintained so as to avoid the accumulation of defects and costly repairs now required. We would suggest that some further detail ought to be submitted which substantiates the £26 million figure as it is somewhat higher than might be expected.
- The need for renewal report' asserts the site has a negative and detrimental impact on the public realm and local pedestrian permeability. This is a spurious claim as the site is bounded on either side by pedestrian and vehicle access approximately 40 metres apart both leading to/from the Phoenix Garden to the rear and elsewhere via St-Giles-in-the-Fields and New Crompton Street. Thus it is more permeable than any of its surrounding neighbours.
- Paragraph 3.3 then goes on to claim there is "no visual interest at street level", which we find a perplexing argument as the building's visual interest which merited statutory listing is at street level.
- Paragraph 3.5 follows stating it is, "dark, unattractive and does not allow for natural surveillance" and "does not invite pedestrian exploration" or encourage "one to walk towards and around the site". Again we would disagree, whilst the current Odeon canopy, signage and doors may lack welcome, historical images of the front entrance with its taller openings, slender canopy and focused lighting have an elegance and entice public entry. The historical lighting scheme also serves to highlight the magnificent external frieze.
- The applicant also states that "the existing accommodation is unable to meet the needs and demands of commercial occupiers". Again, we would challenge this as we are aware of at least one operator seeking accommodation in the West End of the scale offered at the site. As this is stated without basis and with no apparent marketing evidence, it is contrary to Policies C3 and D2 of the Camden Local Plan.
- The draft London Plan (2017) also recognises the "enormous contribution" of the West End theatres and cinemas to London's cultural heritage, acting as "key visitor hubs for Londoners and domestic and international tourists" which should be "protected and promoted". We recommend that a marketing exercise is undertaken, on appropriate rent and terms, to demonstrate that a cultural use within the existing space cannot be viable.

- By virtue of the proposed materials to the upper floors we consider the appearance and form of the proposed upwards extension to be unsympathetic to the appearance and character of the building, especially when viewed from Phoenix Gardens. We do however appreciate that the development is stepped back along the Shaftesbury Avenue elevation, and that the historic decorative features will be restored.

The following supplementary comments were submitted in March 2019:

- Since that time a number of further credible operators have come forward with specific interest. This site represents the last and only opportunity in the West End to provide a large scale cultural venue such as a theatre with a fly tower, as it still has the volume and footprint to provide one. It has the potential to offer an auditorium seating up to around 1,400 seats.
- We consider it critical that this application is either not determined or refused, and certainly not permitted, until such time as a proper marketing exercise has been undertaken. If potential operators have expressed their interest to us without prompt, we find it inconceivable that a formal and appropriate marketing exercise by the applicant would have drawn no interest.
- We would also like to further elaborate on previous critiques of figures contained within the applicant's supporting documents. The Condition Report prepared by Hallas & Co. estimates costs of £10 million to make good defects with the building. The majority of these are as a result of poor management and maintenance; we would have expected the property to have been let on a repairing lease meaning dilapidations are the responsibility of the former tenant or owner which may now have passed to the new owner. Furthermore, much of this would have been rectified in any case as part of the redevelopment proposed thus should not be used as a basis to demonstrate the supposed unviability of maintaining cultural use at the existing scale. On that basis, the £26 million figure would also seem to be inflated because that figure is inclusive of the £10 million.



## Site Description

The application site is located on the north side of Shaftesbury Avenue and comprises a standalone Grade II Listed building in use as a cinema (Class D2). Historically in use as the Saville Theatre (Class Sui Generis), the building fronts four streets, namely New Compton Street to the north, St Giles Passage to the east, Shaftesbury Avenue to the south, and Stacey Street to the west.

The rear of the site is the designated public open space of Phoenix Community Garden, which is also designated a local Site of Nature Conservation Importance.

The site is located within the Central Activities Zone (CAZ) and an Archaeological Priority Area.

The site is not within a conservation area but adjoins the Seven Dials (Covent Garden) Conservation Area which covers the south side of Shaftesbury Avenue, and Denmark Street Conservation Area, which covers the north side of New Compton Street.

The surrounding properties are a mix of uses, including commercial (Class B1) and residential (Class C3) to the rear of the site on New Compton Street as well as some retail (A1) and restaurant (A3) at ground floor level.

There are also a number of similar leisure uses in the area, namely the Phoenix Theatre (Listed Grade II) and Palace Theatre.

## Relevant History

### 135 - 149 Shaftesbury Avenue:

- LSX0005257: Alterations to form four screen cinema. Granted 20/02/2001.
- LS9904804: Internal alterations for refurbishment, including creation of new partitions and alterations to internal surfaces of walls including the provision of acoustic fabric to auditoria wall. Granted 26/10/1999.
- 9157: The alteration to the elevations of Saville Theatre, 135 Shaftesbury Avenue, Camden, in connection with use as twin cinemas. Granted 07/10/1970.

### Phoenix Community Garden (21 Stacey Street):

- 2014/7285/P: Erection of a single storey community and ecology centre building (Class D1) ancillary to community gardens, following demolition of three existing single-storey outbuildings at the junction of Stacey Street and New Compton Street. Granted 06/01/2015.

### Phoenix Gardens / New Compton Street (now known as Pendrell House):

- 9200226: The erection of a six storey residential building to provide 27 flats and maisonettes. Granted 02/07/1992.

### 125 Shaftesbury Avenue:

- 2016/5202/P: Remodelling, refurbishment and extension of existing office building (Class B1) at upper floor levels, roof level and within lightwells to provide 9,682sqm additional floorspace, including terraces, a new public route, a relocated office entrance (Charing Cross Road), rooftop plant and flexible retail uses (Classes A1/A3), along with associated highway, landscaping and public realm improvements. Granted 22/05/2018

## Relevant policies

### National Planning Policy Framework 2019

### The London Plan 2016

### Camden Local Plan 2017

#### Growth and spatial strategy

- Policy G1 Delivery and location of growth

#### Meeting Housing Needs

- Policy H1 Maximising housing supply
- Policy H2 Maximising the supply of self-contained housing from mixed-use schemes
- Policy H4 Maximising the supply of affordable housing
- Policy H6 Housing choice and mix

#### Community, health and wellbeing

- Policy C1 Health and wellbeing 130
- Policy C2 Community facilities 137
- Policy C3 Cultural and leisure facilities 145
- Policy C5 Safety and security 156
- Policy C6 Access for all

#### Economy and jobs

- Policy E3 Tourism

#### Protecting amenity

- Policy A1 Managing the impact of development
- Policy A2 Open space
- Policy A3 Biodiversity
- Policy A4 Noise and vibration
- Policy A5 Basements

#### Design and Heritage

- Policy D1 Design
- Policy D2 Heritage
- Policy D3 Shopfronts

#### Sustainability and climate change

- Policy CC1 Climate change mitigation
- Policy CC2 Adapting to climate change
- Policy CC3 Water and flooding
- Policy CC4 Air quality
- Policy CC5 Waste

#### Town centres and shops

- Policy TC1 Quantity and location of retail development
- Policy TC2 Camden's centres and other shopping areas
- Policy TC4 Town centres uses

#### Transport

- Policy T1 Prioritising walking, cycling and public transport
- Policy T2 Parking and car-free development

- Policy T3 Transport infrastructure
- Policy T4 Sustainable movement of goods and materials

#### Delivery and monitoring

- Policy DM1 Delivery and monitoring

### Supplementary Planning Policies

#### Camden Planning Guidance

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- CPG Access for all (2019)
- CPG Design (2019)
- CPG Developer contributions (2019)
- CPG Energy efficiency and adaptation (2019)
- CPG Interim housing (2019)
- CPG 2 Housing (May 2006 updated March 2019)
- CPG Transport (2019)
- CPG Water and flooding (2019)
- CPG Amenity (2018)
- CPG Biodiversity (2018)
- CPG Basements (2018)
- CPG Community uses, leisure facilities and pubs (2018)
- CPG Planning for health and wellbeing (2018)
- CPG Town Centres (2018)

### Assessment

The principal considerations material to the determination of this application are considered in the following sections of this report:

1	<p><b>Land use</b></p> <ul style="list-style-type: none"> <li>• Loss of leisure (D2) floorspace</li> <li>• Viability review</li> <li>• Provision of restaurant/bar (A3/A4) floorspace.</li> <li>• Creation of hotel (C1) use</li> <li>• Creation of spa (Sui Generis)</li> <li>• Mixed use policy and residential use</li> <li>• Viability and affordable housing</li> <li>• Conclusion</li> </ul>
2	<p><b>Conservation and design</b></p> <ul style="list-style-type: none"> <li>• Statutory framework and implications</li> <li>• Policy review</li> <li>• Designations</li> <li>• Significance of 135-149 Shaftesbury Avenue</li> <li>• Setting of Conservation Areas</li> <li>• Proposal</li> <li>• Design Review Panel</li> <li>• Height and form</li> <li>• Elevation alterations</li> <li>• Ground floor layout</li> <li>• Basement development</li> </ul>

	<ul style="list-style-type: none"> <li>• Internal alterations</li> <li>• Need for renewal</li> <li>• Heritage audit</li> <li>• Impact on significance of listed building</li> <li>• Impact on setting of conservation areas</li> <li>• Impact on Phoenix Theatre on Charing Cross Road</li> <li>• Impact on Phoenix Garden</li> <li>• Conclusion</li> </ul>	
3	<b>Neighbouring amenity</b> <ul style="list-style-type: none"> <li>• Policy review</li> <li>• Site context</li> <li>• Daylight and sunlight</li> <li>• Overlooking</li> <li>• Noise nuisance</li> <li>• Plant</li> <li>• Conclusion</li> </ul>	
4	<b>Basement</b> <ul style="list-style-type: none"> <li>• Policy review</li> <li>• Site</li> <li>• Basement Impact Assessment</li> <li>• Conclusion</li> </ul>	
5	<b>Transport</b> <ul style="list-style-type: none"> <li>• Policy review</li> <li>• Site</li> <li>• Trip Generation</li> <li>• Travel planning</li> <li>• Cycle parking</li> <li>• Car Parking</li> <li>• Coach Parking</li> <li>• Highway Works</li> <li>• Pedestrian, cycling, environmental and public realm improvements</li> <li>• Deliveries and other servicing activities</li> <li>• Managing and mitigating the impacts of construction</li> <li>• Basement Excavations Adjacent to the Public Highway</li> <li>• Entrance Canopy on Shaftesbury Avenue</li> <li>• External doors adjacent to the public highway</li> <li>• Conclusion</li> </ul>	
6	<b>Landscaping and trees</b> <ul style="list-style-type: none"> <li>• Policy review</li> <li>• Designations</li> <li>• Landscaping and Trees</li> <li>• Conclusion</li> </ul>	
7	<b>Sustainable design and construction</b> <ul style="list-style-type: none"> <li>• Policy review</li> <li>• The site and the proposal</li> <li>• Energy</li> <li>• Sustainability</li> </ul>	

8	<b>Flood risk and drainage</b>
9	<b>Nature conservation and biodiversity</b>
10	<b>Accessibility</b>
11	<b>Air quality</b>
12	<b>Safety and security</b>
13	<b>Refuse and recycling</b>
14	<b>Employment and training opportunities</b>
15	<b>Mayor of London's Crossrail CIL</b>
16	<b>Camden CIL</b>
17	<b>Conclusion</b>

## 1.0 Land use

### Loss of leisure (D2) floorspace

- 1.1 Policy C3 seeks to protect cultural and leisure facilities and states that where there is a proposal involving the loss of a cultural or leisure facility, it must be demonstrated to the Council's satisfaction that there is no longer a demand. The following considerations must be taken into account when considering such applications:
- Whether the premises are able to support alternative cultural and leisure uses which would make a positive contribution to the range of cultural and leisure facilities in the borough;
  - the size, layout and design of the existing facility;
  - proposals for re-provision elsewhere;
  - the impact of the proposal on the range of cultural and leisure facilities; and
  - the mix of uses in the area
- 1.2 Policy C3 goes on to note that exceptionally, it may be practicable for a cultural or leisure facility to be re-provided on-site through redevelopment; however, if a replacement facility is provided, it should be at the same or better standard than the facility which is lost and accessible to its existing users.
- 1.3 The existing building is in use by Odeon cinema, and provides 3,265sqm (GIA) cinema floorspace. The proposals would see the redevelopment of the building, and the creation of a new smaller four screen cinema at basement level of 1,401sqm (GIA), representing a loss of 1,864sqm, or 57% leisure floorspace.
- 1.4 Policy C3 acknowledges that demand for cultural and leisure uses varies over time and as a result, there may no longer be a demand for an existing facility. Where proposals would involve the loss of a cultural or leisure facility, the Council will expect the applicant to demonstrate to the Council's satisfaction that there had been a search for alternative cultural and leisure uses for the site through a marketing exercise. The marketing exercise should be undertaken over a period of not less than 12 months and be based on a realistic price/rent which is supported by the Council (paragraph 4.61).
- 1.5 The development would result in the loss of the existing cinema use and its replacement by a

much smaller cinema at basement level, forming a secondary use as part of a mixed use development of predominantly hotel use. As recognised by policy C3, once lost, cultural and leisure facilities cannot easily be replaced as land and construction costs make it challenging to provide new facilities. This has been demonstrated on other sites in the borough where previous approvals for cinema use have resulted in the cinema use not being delivered or significantly reduced in size, such as Hawley Wharf (2012/4628/P) in Camden Town and Marine Ices on Chalk Farm Road (2015/0487/P). As such, applicants are expected to successfully demonstrate that there is no demand for the existing, or alternative, cultural/leisure facilities.

- 1.6 The applicant's planning statement describes the overarching objective of the development proposals as being the delivery of the optimum solution to secure the long-term future of the existing Grade II listed building, including a four screen cinema at basement level providing 260 seats (as opposed to the existing 700 seat cinema). The cinema would be operated by the applicant and would be based on the second viewing cinema principles operated by Light Cinemas.
- 1.7 The planning statement describes how the existing building is in extremely poor condition and in need of substantial refurbishment to prevent the building declining into a state of disrepair. It is argued that the only financially viable means with which to deliver this is through the introduction of new commercially viable businesses following the comprehensive internal refurbishment of the building, the provision of a new roof extension and a basement level; and that the proposed floorspace quantum is the absolute minimum amount that can be delivered while still remaining viable.
- 1.8 The applicant has also provided a 'Need for Renewal Statement' and a Viability Assessment. The documents set out the case for the need for renewal, concluding that:
- The existing building is suffering from a number of key structural and other building conditions that jeopardise the long-term future of the listed building if refurbishment works are not carried out immediately.
  - These wider building issues are coupled with the existing cinema facilities that do not meet the needs of the modern cinema operator. Significant reinvestment is therefore needed in order to bring the premises back up to an adequate standard.
  - To refurbish the building to a modern cinema operator's requirement has been valued at circa £26 million, where the resultant value of the building would only total circa £5 million. As such, the costs of retaining, upgrading and refurbishing the building in order to provide a cinema of an adequate commercial standard are significant and therefore do not represent a viable development proposition.
  - Doing nothing is not an option. This would result in the ongoing and inevitable decline of the listed building into further state of disrepair.
  - The only way to achieve the optimal development solution that delivers a commercially viable development proposition is through the comprehensive refurbishment of the building, the introduction of a variety of additional commercial uses and through the addition of additional mass and floorspace to the building via a sympathetically designed roof extension and new basement level.
  - This development quantum is shown to be the minimum amount of floorspace that is needed in order to deliver a viable development proposition to save the listed building.

#### Viability Review

- 1.9 BPS Chartered Surveyors were instructed by the Council to undertake a viability review of the applicant's viability assessment prepared by Icenl which assesses the level of planning contributions the scheme can afford to deliver while still ensuring a competitive return is allowed for the landowner and developer. BPS also reviewed the following reports submitted by the applicant as part of their assessment: Building Condition report by Hallas & Co Chartered Surveyors, Feasibility Study by The Hotel Management Company, Independent Cinema Office

report, and Food & Beverage report on potential for additional revenues ancillary to the hotel.

- 1.10 The Icení appraisal is a detailed Argus appraisal which includes a cashflow for all the revenues and costs; it generates a negative profit of -£5.31m. This represents a -6.3% profit on Cost; and the total profit shortfall from the 17.5% profit on cost target, is £20.0m. Given that the Gross Development Value of the scheme is £64m, the appraisal concludes that this would mean that a major uplift in scheme performance would be required in order to overcome this shortfall.
- 1.11 The Condition Survey states that the building requires £10m of expenditure simply to rectify disrepair (which is less than the full cost of a refurbishment). The applicant submitted details of the lease with Odeon which confirms that Odeon has minimal repair liabilities under the terms of its lease (only to keep the building wind and watertight) and thus could not be made to fund any substantial portion of the overall cost of rectifying the building's disrepair.
- 1.12 The capital value of the existing building is estimated at £4.3m-£11.6m once refurbished – the difference being due to the range of revenues the refurbished cinema could make. The rental income estimate is £205,000-£550,000 and compares to the current rent of £138,000 which is considered to be an under-rented position. Given the extent of the required expenditure, the capital value is very likely to be less than the total cost of refurbishment; this means the site would have a negative residual land value and therefore a negative EUV, which strongly indicates that this option is unfeasible and that redevelopment is necessary in order to secure the continued, long-term use of the building.
- 1.13 A gross capital value of £7.6m is estimated by Independent Cinema Office for the building, following its refurbishment and an upgrade to provide an 'Everyman style' standard of cinema. So even with this upgrade in place, this would still generate a negative residual land value, given the extent of the expenditure required. The Icení report concludes that this shows that the proposed scheme is necessary as a form of 'enabling development' whereby the additional floorspace and new uses are necessary to generate the revenues to cross-subsidise the refurbishment and improvement works to the cinema. Therefore, it is argued, the hotel development and ancillary food and spa facilities are necessary in order to generate these revenues.
- 1.14 BPS concluded in their initial report dated March 2018 that they are in agreement with the overall conclusion that the proposed scheme falls far short of a 'break even' position and therefore no additional planning contributions (including affordable housing contributions – discussed further below) can viably be delivered.
- 1.15 Following receipt of the BPS viability review, the Council received correspondence and letters of objection from the Theatre's Trust, the National Advisory Public Body for Theatres in the United Kingdom. The Theatre's Trust questioned the applicant's argument that the existing accommodation is unable to meet the needs and demands of commercial occupiers, and objected on the basis that the proposal failed to evidence that continued cultural use at the current scale cannot be maintained. In their letter dated October 2018, the Theatre's Trust also mention that they are aware of at least one operator seeking accommodation in the West End of the scale offered at the site, and as such, they consider the applicant's argument to be without basis or marketing evidence.
- 1.16 Further correspondence was received from the Theatre's Trust in March 2019 stating that since October 2018, a number of further credible operators have come forward with specific interest, and that this site represents the last and only opportunity in the West End to provide a large scale cultural venue such as a theatre, as it still has the volume and footprint to provide one, potentially being able to offer an auditorium seating up to around 1,400 seats.
- 1.17 Although the applicant has put forward a robust argument that the proposed refurbishment and retention of the site in cultural/leisure is not viable, the assessments consider only the retention

of the existing cinema use. No marketing exercise has been undertaken to explore whether there is demand for the site by alternative cultural/leisure operators, which the feedback from the Theatre's Trust suggests there is.

- 1.18 Following the information put forward by the Theatre's Trust, informal telephone conversations between Senior Officers and three theatre operators expressing interest in the site, and recent sales of theatres in the area for significant sums; the Council queried with BPS whether their initial report accounted for the West End location of the application site and recent sales prices (such as The Ambassador's Theatre and Theatre Royal Haymarket), or rather, whether national sales figures had been used where theatres are generally loss-making. Given the level of interest in the site by theatre operators, it was unclear whether the use of the site as a theatre could be a more viable prospect than the cinema use explored by the applicant.
- 1.19 The Council also queried whether BPS had explored the figure put forward of £10m being required for repairs and refurbishment, which seemed very high with limited justification of what works this figure would cover.
- 1.20 A revised report was received from BPS in May 2019, which re-assessed the viability position in light of key sales nearby, including the Ambassadors Theatre, sold for £12m, which is a 444-seat theatre very close to the subject site, and the Theatre Royal which is an 888 seat theatre sold for £45m, which is superior property to No.135 (especially in the latter's current state). These compare to the subject site which has the potential to provide a 1,400 seat theatre, according to the some of the prospective operators.
- 1.21 In response to the Council's query on the repair costs, BPS carried out further discussions regarding the cost of repairing the building, and their cost consultant concluded that the repairs cost of £10m to be reasonable in view of the building's current condition.
- 1.22 The key issue therefore, is whether the scale of proposed development is necessary in order fund the repairs to the building, or whether instead a theatre use would be sufficiently valuable to subsidise these works, and allow for the building to be retained in a cultural/leisure use without the proposed loss of leisure floorspace or extent of development proposed. The applicant has previously made an 'enabling development' argument to justify the proposed scheme which involves adding floors to the building and losing D2 floorspace – i.e. that the proposed scheme is necessary to enable the building repairs. In their revised report, BPS conclude that the apparent strong potential for theatre use holds the prospect that theatre use would be valuable enough to cover the repair costs.
- 1.23 In the absence of any marketing information, the applicant has not successfully demonstrated to the Council's satisfaction that there has been a search for alternative cultural and leisure uses, or whether there is indeed demand from alternative cultural or leisure operators such as a theatre operator. In the absence of such information, the Council cannot fully assess whether alternative, less harmful proposals would be viable at the site. As such, the proposed loss of D2 floorspace would be contrary to policy C3, and this forms a reason for refusal of the application.

#### Provision of restaurant/bar (A3/A4) floorspace.

- 1.24 The site is located within the Central Activities Zone, in an area characterised by a mix of uses, including commercial (Class B1), residential (Class C3), retail (A1) and restaurant (A3) uses.
- 1.25 The proposals include the creation of a new restaurant and bar at ground floor level to complement the hotel and cinema uses, with an associated roof level bar. Policy TC4 seeks to ensure that food and drink uses do not cause harm to the character, function, vitality and viability of a centre, the local area, or the amenity of neighbours. In assessing new proposals for food and drink uses, the Council will consider the cumulative impact of such uses, taking into account the number and distribution of existing uses, and the effect on shopping provision.



1.26 The proposed restaurant and bar are located within a mixed use area, where there is not considered to be an over-provision of such uses. The introduction of new food and drink uses to the site is considered to contribute to the vitality of the Central Activities Zone. As such, the proposals are considered acceptable in this regard (subject to amenity considerations discussed in section 4), and would be in accordance with policy TC4.

#### Creation of hotel (C1 use)

1.27 Policy E3 sets out the Council's approach to supporting tourism and providing accommodation for those visiting the borough. It sets out how the council expects new large-scale tourism development and visitor accommodation to be located in Central London, particularly the growth areas of King's Cross, Euston, Tottenham Court Road and Holborn. New visitor accommodation must be easily reached by public transport; provide any necessary pickup and set down points for private hire cars and coaches and provide taxi ranks and coach parking where necessary; not harm the balance and mix of uses in the area, local character, residential amenity, services for the local community, the environment or transport systems; and not lead to the loss of permanent residential accommodation.

1.28 The proposals would provide a 94-bedroom hotel over the upper levels of the building, with a ground floor reception area. Although the proposals would not provide space for taxi/coach drop offs due to the existing site constraints, given the site's inclusion within the Central Activities Zone, and its PTAL rating of 6b (the highest), it is considered a location for the introduction of a new hotel use, in accordance with the requirements of policy E3.

#### Creation of Spa (Sui Generis)

1.29 The proposed spa would measure 257sqm (GIA) and would be located at basement level. It would be accessible by both hotel guests and the general public. The proposed spa would be relatively small in size, and is considered to be an acceptable use within the wider mix of uses proposed which would not impact the vitality of this part of the Central London Area.

#### Mixed use policy and residential use

1.30 Policy H2 (Maximising the supply of self-contained housing from mixed-use schemes) applies to all proposals for new build non-residential development and extensions involving a significant floorspace increase. Policy H2 specifically seeks provision of self-contained houses and flats (use class C3) in line with the priority land use of the Local Plan, as set out in Policy H1 (Maximising housing supply).

1.31 Policy H2 states that in the Central London Area, where development involves additional floorspace of more than 200sqm (GIA), the Council will require 50% of all additional floor space to be self-contained housing, including a proportion of affordable housing.

1.32 Where housing is required as part of a mix of uses, the Council will require self-contained housing to be provided on site, particularly when 1,000sqm (GIA) of additional floorspace or more is proposed.

1.33 Policy H2 provides a list of criteria (a – e), which the Council will take into account when considering whether self-contained housing is required as part of a mix of uses:

- a. the character of the development, the site and the area;
- b. site size, and any constraints on developing the site for a mix of uses;
- c. the priority the Local Plan gives to the jewellery sector in the Hatton Garden area;
- d. whether self-contained housing would be compatible with the character and operational requirements of the proposed non-residential use and other nearby uses; and

e. whether the development is publicly funded or serves a public purpose.

1.34 Policy H2 requires an initial decision to be made about whether housing is required on the basis of criteria (a) to (e). If housing is not required, then no further consideration of off-site housing provision or payments in lieu arises. The relevant criteria in this case are (a) relating to the character of the site, (b) relating to site size and any constraints on developing the site for a mix of uses, and (d) relating to whether self-contained housing would be compatible with other uses on the scheme and nearby.

1.35 In this case, the development would involve a total uplift of 3,387sqm (GIA), which triggers the requirement for 1693.5sqm residential floorspace to be provided on site. However, taking into account criteria (a), (b) and (d), it is not considered that housing should be required due to constraints on the site:

- The existing plan form and floorplate of the building limits the ability to provide an efficient layout of both market and affordable dwellings, which would result in the scheme not being able to maximise the quantum of development to be delivered;
- To provide housing on site would necessitate the need to provide new openings into the historic façade of the building, which could cause significant harm to the special interest of the listed building;
- The majority of units would be provided on the northern elevation of the building, resulting in low levels of daylight and sunlight and many units being single aspect;
- Residential flats would need to be internalised and would result in sub-optimal internal living conditions for residents, with units provided without any private amenity space;
- The provision of cores within the building would not be able to maximise the amount of units on each level due to the need to position to the core to the edge of the floorplate; and
- A number of other general inefficiencies associated with the mix of uses within the building, including separate cores and circulation space, which would not optimise development.
- The provision of residential accommodation alongside hotel and cinema accommodation would result in a number of land use conflicts, particularly at ground floor level.

1.36 In light of the above, it is not considered that the introduction of residential floorspace would make for the most practical use of the site in this instance, with potentially harmful impacts on the heritage significance of the building. As such, it is considered that a housing requirement should not apply here and thus policy H2 is complied with.

1.37 The applicant has stated that it is also not viable to provide the required residential floorspace off-site. Due to the significant intervention required to refurbish and the need to balance the special interest of the listed building alongside the need to provide a new commercially viable development, the result is that scheme now proposes the minimum amount of floorspace achievable to deliver a viable scheme. As such, the proposed development is at a level where it is close to being cost neutral and is not able to afford a significant amount of money to put towards the purchase and deliver of housing off site.

### Conclusion

1.38 Although the Council does not object to the principle of the creation of a new hotel, restaurant, bar and spa in this location, the proposed loss of leisure floor space is not considered acceptable. In the absence of any marketing information, the applicant has not successfully demonstrated to the Council's satisfaction that there has been a search for alternative cultural and leisure uses, or whether there is demand from alternative cultural or leisure operators such as a theatre operator. In the absence of such information, the Council cannot fully assess whether alternative, less harmful proposals would be viable at the site. As such, the proposed loss of leisure floorspace would be contrary to policy C3.

## **2.0 Conservation and Design**

2.1 The conservation and design considerations are as follows:

- Statutory framework and implications
- Policy review
- Designations
- Significance of 135-149 Shaftesbury Avenue
- Setting of Conservation Areas
- Proposal
- Design Review Panel
- Height and form
- Elevation alterations
- Ground floor layout
- Basement development
- Internal alterations
- Need for renewal
- Heritage audit
- Impact on significance of listed building
- Impact on setting of conservation areas
- Impact on Phoenix Theatre on Charing Cross Road
- Impact on Phoenix Garden
- Conclusion

#### Statutory Framework and Implications

- 2.2 Sections 16 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) are relevant.
- 2.3 Section 16(2) provides that in considering whether to grant listed building consent for any works to a Listed Building, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 2.4 Section 72(1) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area when considering applications relating to land or buildings within that Area.
- 2.5 The effect of these sections of the Listed Buildings Act is that there is a statutory presumption in favour of the preservation of the character and appearance of Conservation Areas and the preservation of Listed Buildings and their settings. Considerable importance and weight should be attached to their preservation. A proposal which would cause harm should only be permitted where there are strong countervailing planning considerations which are sufficiently powerful to outweigh the presumption. The NPPF provides guidance on the weight that should be accorded to harm to heritage assets and in what circumstances such harm might be justified (section 16).

#### Policy review

- 2.6 NPPF section 16 paras. 189 to 202 in particular, London Plan policies 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7 and 7.8, Camden Local Plan policies D1 and D2 and CPG (Design) are relevant with regards to conservation and design.

#### Designations

- 2.7 The application site, The Saville Theatre, was first listed at Grade II in 1998. The site is not located in a conservation area, but sits in between the Seven Dials Conservation Area (to the south of the site) and the Denmark Street Conservation Area (to the north of the site). There are also no listed buildings immediately adjoining the site, although there are a number of listed

buildings in the nearby area, including the grade II listed Phoenix Theatre at 110 Charing Cross Road, approximately 50m to the north west of the site. To the north of the site, is the public open space of Phoenix Community Garden, designated Local Site of Nature Conservation Importance.

#### Significance of 135-149 Shaftesbury Avenue

- 2.8 The former Saville Theatre is a Grade-II listed building, designed by Sir Thomas Bennett in 1929-30, with the theatre architect Bertie Crewe and incorporating work by the sculptor Gilbert Bayes, it is reputed to be Bennett's own favourite commission and his only theatre, but one of several important collaborations with Bayes.
- 2.9 The building has a strong rectangular form and a dominant presence on the street. It is a steel framed building clad in red-brown brick with an artificial stone plinth and frieze to the front. There is little fenestration to the Shaftesbury Avenue elevation apart from the large arched window above the entrance; detail and interest arise from the brick banding to the upper parts of the elevation and the decorative frieze. The arched window has been altered, originally the window had bronze framing but has since been tiled over.
- 2.10 The setting of the frieze, echoed in the elevation by stone and brick banding and by the cornice and strong flat parapet line above, is of critical significance to the listed building's special interest. The frieze, which is of particular historic and architectural significance, is by Gilbert Bayes and depicts Drama through the Ages. The list description notes that the frieze is 'one of the largest and most important works of public sculpture of its age'.
- 2.11 The former Saville Theatre is an extremely fine and characterful building of its era but wears its Classical inspiration very proudly. It is an idiosyncratic approach to the theatre typology in form and elevation, and it addresses Shaftesbury Avenue as if it were a grander boulevard at this point. Special interest is heavily invested in the front elevation, which is especially sensitive, but this is bound up with the simplicity and detailing of the returns, and the more pragmatic but considered arrangement of openings on the rear. Although the rear and side elevations are of less significance, they have architectural merit due to the quality of the brick work and the composition.
- 2.12 Internally, the building was once fairly grand and housed a theatre on three levels. The theatre made an interesting contribution to the music and theatre scene and in 1965 was bought by the Beatles manager, Brian Epstein. Notable musicians that played at the venue include Jimi Hendrix, The Beatles and Chuck Berry, contributing to the building's historic interest.
- 2.13 However in 1970 the building was converted into two cinemas. The majority of the interior was removed during the conversion and the volume of the auditorium lost due to the insertion of an additional floor. As a result, the internal parts of the building contribute little to its significance.
- 2.14 It is clear that the building is not in a state of good repair, an independent review commissioned by the Council, conducted by Listed Building Surveys Ltd concluded that only the minimum amount of repair and maintenance has taken place in the building for some time. The review also noted that there has been some water ingress that has damaged some parts of the building. Despite this review, an in-depth audit of the building has not taken place and it is not clear exactly what works need to take place in order for the building to be brought to a stable state of repair.

#### Setting of Conservation Areas

- 2.15 The Former Saville Theatre is located on the north east side of Shaftesbury Avenue which was constructed in 1880 to improve links between Piccadilly Circus, Charing Cross and Tottenham Court Road. Many slum buildings were cleared to construct the new street and it subsequently

became an important central London avenue. Many of the buildings constructed at the time survive, particularly on the south eastern stretch of the street. These are characterised as buildings of four to five storeys, built from red brick with stone dressings and detailing. The buildings have a solidity and grandeur typical of buildings of the time and suited to the importance of their central London location. There has been some modern development on the street, most evident in the far north eastern stretch. The development here is considered to be fairly unsuccessful as the buildings are uncharacteristically large, at seven and eight storeys, and the large amounts of glazing and use of unsympathetic materials erodes the established architectural language. The avenue has been influenced by the many theatres and entertainment venues that punctuate the street, as they create vibrancy and interest particularly around Cambridge Circus.

- 2.16 The south side of Shaftesbury Avenue forms part of the Seven Dials conservation area. The conservation area appraisals notes that *'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'*. As a result, the character on Shaftesbury Avenue with its large grand buildings, differs from the smaller scale buildings to the south that form Seven Dials. The area appraisal identifies the common characteristics of this part of the conservation area as having a *'distinctive scale of buildings and use of materials, dominated by red brick and the use of terracotta'*. Southern parts of the conservation area have a finer grain and a more domestic scale, and narrow alleys and hidden yards provide unforeseen interest. There are interesting views from the streets radiating from Seven Dials that open out on to the busier and larger streets within the conservation area such as Shaftesbury Avenue.
- 2.17 To the north of the site is the Denmark Street conservation area which lies within the parish of St Giles, an area that has been developed since at least 1117. The heart of the conservation area is the grade I listed St Giles church (1734). Significant urban development began in the 17<sup>th</sup> century however, the conservation area appraisal notes that there are *'seven centuries of history expressed in the street layout, the legacy of buildings, open spaces and mix of uses'*. As a result, there is a mixture of building types, however those to the south of the conservation area, closest to Shaftesbury Avenue are generally 17<sup>th</sup> century development of a domestic scale, constructed from London stock bricks with terracotta roofs. The rear of the buildings on the south side of Denmark Street are clearly visible from the theatre site from across Phoenix Gardens.
- 2.18 The site can be directly viewed looking both east and west along Shaftesbury Avenue, Stacey Street and St Giles Passage, when looking north from Mercer Street and South from Phoenix Gardens, the back of Denmark Street, Flitcroft Street and from St Giles. As a result, the building is considered to make a significant visual impact on surrounding streets and neighbouring conservation areas.

#### Proposal

- 2.19 The proposed development involves the comprehensive refurbishment of the existing building to provide a new 94 room hotel at the site, a new four screen cinema at basement level, a ground floor restaurant and bar, and a spa.
- 2.20 The proposals involve the demolition of the existing internal structures within the building, the retention of the existing facades, and the excavation of one new basement level. The proposed development would involve the construction of a new ten storey building, comprising three basement levels, five levels behind the retained façade, and a two storey roof extension with a smaller setback plant room/lift overrun storey at rooftop level with a bar and terrace area.

#### Design Review Panel

2.21 The development was presented to Camden's Design Review Panel for a Full Review in February 2018. A summary of their comments is provided below:

- The panel supports the principle of refurbishing the building as a hotel, on the clear proviso that an operational cinema can be retained. There is concern that the cinema function will not be viable unless it is fully embedded into the building's design. This should include careful thought about the location, size and relation of the proposed screening rooms to circulation and other public spaces, and to the external expression and celebration of the cinema use.
- The panel's discussion on height concluded by agreeing that the proposed two-storey roof extension is of an appropriate height. However, it requires a clearer architectural approach and more effective use of form. The current design appears confused, and is not adequately distinctive or refined.
- The panel supports a design that is distinct from the existing building, but feels the current form and combination of materials proposed is overly complicated, and does not relate well to the building below or to the proposed internal spaces. It is not convinced that copper mesh is an appropriate material. It suggests work is needed to create a more considered, refined design.
- The proportion of the roof extension to the existing building is important. The massing of the extension currently appears too dominant, particularly above the western section of the rear elevation where very large area of glass sits over a brick wall with only a few, small windows.
- More thinking is needed on how the building will operate internally, especially on the ground floor, and more generous, high quality void spaces can be created. Ground floor windows, including an opening on to St. Giles' Passage, would create better-lit routes and encourage activity around the building. The ground floor would benefit from a public use on the north-east side to support activation, with the former fly-tower space offering a potential location. The panel would like to see an architectural approach that reflects the entertainment history of the building and takes opportunities to introduce enjoyment and delight.

2.22 Following the Design Review, revised drawings were submitted in March 2018 incorporating the following amendments:

- The materiality and design of the proposed roof extension have been altered, through the use of fritted glazing as the primary material.
- The introduction of a new feature picture window on the rear elevation in the location of the bomb-damaged section of the façade to encourage outlook over Phoenix Gardens and to the street.
- The introduction of new feature windows at ground floor level on the Stacey Street, New Compton Street and St Giles Passage frontages.
- The provision of a new dedicated cinema entrance along the Stacey Street frontage.
- The removal of the alcoves and door recesses along the New Compton Street of the façade to remove the potential for anti-social behaviour.
- Internal modifications, including:
  - The provision of an indicative restaurant layout, including the location of a kitchen and seating areas;
  - The introduction of an artwork/decorative features that will be inscribed on the inside of the front elevation to provide a historical reference to the former auditorium, reflecting its former volume in the new atrium space;
  - Rationalisation of back of house and toilet facilities, including the provision of accessible showering and change facilities, and a disabled toilet for the cinema use
  - Rationalisation of the staff cycle parking facilities at Basement Level 2, including the provision of an adaptable cycle parking space;
  - Revisions to the cinema layouts to provide wheelchair accessible spaces; and
  - The provision of further detail for the pool and spa area at Basement Level 2.

2.23 These revised (and current) proposals were presented to the Design Review Panel for a Chair's Review meeting in April 2018 to review the revisions to the proposed materiality and form. The panel provide the following comments:

- The panel sees much to admire in the proposals, but feels more work is needed before it can offer its support for the application. More detail is required on the design of the additional upper storeys, to demonstrate how the external glass envelope for roof extension will appear and function - including the extent to which floorplates, curtains and people inside the building will be visible, both during the day and at night. The glass structure will be much more visible than the representations suggest. The detail of the way the glass box sits on or behind the brick parapet of the existing building also needs refinement.
- The panel continues to have concerns about the ground floor layout, and whether the kitchen space is sufficient for an operational restaurant. The panel also feels the dedicated cinema entrance on Stacey Street may undermine the primary function of the building. It is important that the main building entrance reads as the entrance to a cinema, as well as to the hotel.
- Support for the revised treatment of the arched window above the entrance, the use of poster boxes on the exterior, and the projection of the original auditorium outline on the inside of the front wall.

### Design Assessment

#### *Height and form*

2.24 The existing building is seven storeys in height, including a double storey basement and additional set back extensions at roof level to the east side. The proposed development would provide a new ten storey building with a smaller setback plant room/lift overrun storey at rooftop level with a bar and terrace area.

2.25 The new roof extensions would be set back from the front building line by 3m. To the rear, the extensions would project up in the same plane as the rear elevation, sitting just behind the existing cornice. The extension would be largely glazed, although the massing would be broken into separate 'boxes' with elements of clear glazing or fritted glazing. The applicant's Design and Access Statement describes how 'Articulated areas of clear glazing punctuate the more veiled materiality that form the majority of the extension'.

2.26 Whilst a roof extension of this form and height, if sympathetically executed could be incorporated without significant harm to the listed building, there is a duty for the Council to protect heritage assets from any degree of harm unless there are public benefits to outweigh such harm. The acceptability of any proposal at this site is considered to be dependent on an architectural intervention of exceptional quality being proposed, which responds to and enhances the building and its townscape. If any harm arises from such an extension, be that substantial harm or less than substantial harm, the Council would expect significant public benefits to be delivered to outweigh this harm, in line with the requirements of paragraphs 195 and 196 of the NPPF.

2.27 The currently proposed three storey roof extension is considered too large for the site. The height and the bulk detract from the host building and weaken its strong architectural rectangular form. The form is noted as being an important component of the building's significance and is recognised as contributing to the surrounding architectural context. Compromising this fundamental design component would cause some harm to the building's significance and the character of the adjacent conservation areas.

2.28 An attempt has been made to reduce the impact of the three storey extension by constructing it

from clear and fritted glass. However, a glazed extension whilst in theory mitigates the visual impact, will in fact be entirely visible as a result of reflection and activities carried out within the building. In addition, the glass has no relationship with the host building, which is almost entirely constructed from brick. The size of the extension makes this incongruous relationship more evident.

2.29 The quality of the glass construction is questioned, particularly in terms of the detailing and how the floor plates and partitions meet the glazed elevations. Visible floor plates and partitions would create clutter behind the glazing, compromising the clean simple lines that are envisaged and shown on the submitted drawings. It is not clear what the final appearance of the extension would be once these aspects are accounted for.

2.30 The use of the extension as a hotel would also impact the appearance of the glazed extension as there would be extensive associated paraphernalia in order for the hotel to function. Curtains and blinds would be required for privacy and blocking out light. Additional plant would also be required, details of which have not been provided, to ventilate the extension and control the internal temperature, which dynamic thermal modelling has demonstrated to be impacted by solar gain. As a result, it's clear that the simple design shown on the drawings is unlikely to be what would be constructed once all the constraints of building an extension such as this were accommodated.

#### *Elevation alterations*

2.31 To the rear elevation, the proposals include the rationalisation of the ground floor door openings to the west side so that they would be the same height, and the insertion of a new oversized picture window into the restaurant to the east side. Although large, the window is positioned so that its outer edges would align with the window openings to the floors above. The previously bomb-damaged part of the wall on the right of the elevation would be opened up with a picture window. To the north east elevation, two new double height window openings would be inserted and to the upper floors, and a large picture window would be created at ground floor level. To the south west elevation, new window openings would be punctured into the existing areas of decorative brickwork and another large picture window would be created at ground floor level.

2.32 The external elevations and brickwork would also be upgraded and repaired. The decorative frieze would be restored and repaired, and the arched window would be opened up and reinstated with a bronze frame to match the original historic design. These repair works and reinstatement of original features are recognised as being direct heritage benefits and are supported. It's not clear exactly what additional repair works are required to safeguard the building, but any appropriate and sensitive repair would be welcomed, subject to additional details and method statement of these works which would be secured by condition if the proposals were considered acceptable in all other regards. Despite the positive heritage benefits proposed, it is not considered that the harm arising from the proposed roof extension has been sufficiently mitigated in order to be outweighed by these benefits (refer to paragraph 2.54 for full assessment of impact on significance).

#### *Ground floor layout*

2.33 The original arch to the front elevation will act as the principal public entry point to the building, with a smaller secondary access door off Stacey Street to provide dedicated access to the cinema. The ground floor layout will be fairly open plan, divided into separate bar and restaurant spaces, with a large void opening up to the lower ground floor cinema foyer. The layout has been designed to channel cinema, hotel and leisure guests in different directions using visual cues. A feature stair will draw the majority of cinema guests down into the lower foyer, and a single lift will provide access for the disabled or those with pushchairs.

2.34 Behind the bar but visible upon entry will be the hotel check in area. Two lifts behind the desk



will deliver hotel guests to the upper floors. The main hotel stair is accessed to the left of the desk, and will act as a shared means of escape with the basement functions. A protected route to New Compton Street will provide a fire escape route. A second means of escape stair and the adjacent lift will be designated 'back of house', to be used ordinarily by staff and for transporting goods.

2.35 Only essential accommodation has been located at the ground floor, to maximise publicly accessible space and the sense of openness. Utilities access, storage and a small loading area have been incorporated to the rear of the building.

#### *Basement Development*

2.36 The proposed basement development comprises the excavation of an additional basement level which would be located beneath the existing two storey basement. It would be reduced in footprint compared to the existing basement, measuring 460sqm as opposed to 897sqm, with a depth of the existing building and measure approximately 5.6m deep.

2.37 Policy A5 requires the siting, location, scale and design of basements to have minimal impact on, and be subordinate to, the host building and property. It sets out a number of criteria which basement development should comply with (points f – m):

- f. not comprise of more than one storey;
- g. not be built under an existing basement;
- h. not exceed 50% of each garden within the property;
- i. be less than 1.5 times the footprint of the host building in area;
- j. extend into the garden no further than 50% of the depth of the host building measured from the principal rear elevation;
- k. not extend into or underneath the garden further than 50% of the depth of the garden;
- l. be set back from neighbouring property boundaries where it extends beyond the footprint of the host building; and
- m. avoid the loss of garden space or trees of townscape or amenity value.

2.38 The policy notes that exceptions to f. to k. may be made on large comprehensively planned sites.

2.39 The proposed basement level would comply with all criteria apart from points f and g, due to the location of the proposed basement underneath an existing two storey basement. However, given the scale and quantum of development proposed and the fact that the additional basement floor would be of the same footprint of the existing basement, an exception to these criteria is considered acceptable in this instance.

2.40 Given the existing basement, the limited surviving internal historic fabric, and the footprint of the proposed basement aligning with the existing, the proposed basement excavation is not considered to harm the significance of the listed building.

#### *Internal alterations*

2.41 The internal alterations result in the loss of all existing historic fabric, which includes three original staircases to the north, west and south corners of the building. This is regrettable; however, it is acknowledged that the majority of historic fabric of architectural and historical significance was removed during the renovation of the building in the 1970s.

2.42 The proposals introduce a grand ground floor to accommodate a bar and restaurant. A staircase then leads to the cinemas at basement level and two further staircases and lift shafts lead to the hotel facilities above. The proposed design has little relationship with the original historic interior as a result of the proposed new use, which is not ideal, however there are no fundamental

objections to this part of the proposals.

### Need for renewal

2.43 The applicant has submitted a Need for Renewal report prepared by Icenl and a Building Condition Report by Hallas and Co. Chartered Surveyors. The Building Condition Report was prepared following a visual inspection of the internal areas (offices/corridors/stairs) and external facades of the building, and reported on the current defects to these structures which include settlement, cracking and any obvious areas of deterioration of render, brickwork and concrete, and general condition of finishes. The report identified several areas of concern that require urgent attention, including:

- refurbishment of areas that have fallen into disrepair
- repair of damage to upper floors caused by major roof leaks and flooding in the basement
- replacement of all floor coverings to upper staircases
- renewal of roof coverings, which have historically been maintained with poor patch / piecemeal repairs
- renewal of windows, which are generally in poor condition throughout, with cracked glazing and poorly fitting openers
- repair damaged brickwork and the damaged front right corner of the frieze
- removal of all asbestos;
- upgrade of electrical services including all lighting and power sockets to current NIC EIC standards; and
- upgrade of plant.

2.44 The building report concludes that the existing building is in extremely poor condition and in need of repair and maintenance to prevent the building declining into a state of disrepair and that the cost of repair and improvement works would be in the region of £10 million.

2.45 In light of this, the applicant argues that the building requires substantial reinvestment to secure its long-term future, and a viable use to ensure its preservation in use. The applicant's view is that given the costs associated with the refurbishment works, the only financially viable means with which to deliver this is through the introduction of new commercially viable businesses. This would occur through the comprehensive internal refurbishment of the building, the provision of a new roof extension and through a new basement level. Their position is that the proposed floorspace quantum of the proposals is the absolute minimum amount that can be delivered while still remaining viable.

2.46 Cost reports have also been prepared which conclude that extensive, costly works would be required by other operators to convert it into a form that would meet their requirements. The applicant states that these costs would exceed the value of the building as completed.

### Heritage Audit

2.47 The position of the applicant is that there is a clear and demonstrable Conservation Deficit that exists in relation to the building. The current building cannot be refurbished or conserved in a viable manner, as the costs of repair, even without the additional cost of reconfiguration, would exceed the finished value of the building. In order to be satisfied that this is the case, Camden Council sought an independent review of the information provided in the application.

2.48 The Council considered it imperative that the existing condition, requirement/extent and cost of refurbishment be verified/appraised from a heritage position and therefore a surveyor/engineer with a conservation specialism/credentials and experience of refurbishment strategies was sought.

2.49 The Council appointed Listed Building Surveys Ltd to undertake a full review of the supporting

documents submitted with the application, including the Building Condition Report, Design and Access Statement and scheme drawings, Planning Statement, Need for Renewal Statement and the Heritage, Townscape and Visual Impact Assessment; to review and understand the viability assessment and audit; and to undertake a site visit to review the current site condition.

2.50 The brief required a report to be prepared, with reference to relevant national policy and guidance, including Planning Practice Guidance section 18a and Historic England's Good Practice Advice (HE GPA) Note 2, and an understanding of the building's significance, summarising their expert view on:

- Proposed works: To help verify the conservation deficit, distinguish among the proposed works those which are necessary for repair, maintenance and reasonable refurbishment of the building, and based on inspection of the building identify other remedial works necessary.
- Costs: Given their expert understanding of the building's condition, do the costings appear appropriate?
- Justification: Noting particularly the need to avoid, minimise and mitigate harm, identify any conflicts with conservation of the building's existing significance among the proposed works. Based on an understanding of the building's present condition and the costs and feasibility of intervention, do they consider a scheme which could avoid these conflicts and/or enhance significance likely to be viable?

2.51 The report provided the following conclusions:

- The current condition is consistent with a building that has been largely neglected and has received the absolute minimum of repair.
- It is very clear that the significance remains in the frieze on the front façade and the entrance arch with infill panels.
- The rear elevation and the two side elevations have less historic significance in terms of the building fabric.
- The proposals seek to retain the external elevations, and thus will conserve the significance of the heritage asset.
- I have read and understood the Building Condition Report by Hallas & Co. and I would broadly agree with the comments about the condition of the building.
- I have read and understood the Heritage and Townscape Assessment by Icení and I have no specific comments to make.
- I have read and understood the Planning Viability Report by Icení Projects and have no specific comments to make.
- I have read and understood the Independent Viability Review by BPS. The financial details provided are extensive and have already been considered and assessed. As far as my opinion on the impact of the project on the heritage asset is concerned, I have no specific comments to make. This document covers the issues that I would have expected it to and I have nothing else to add to it nor do I have any critical observations. The costs are broadly in line with what might be expected and at this early stage with so much potential variables then it is as detailed as could probably be expected.

2.52 Despite a request by Officers for a more detailed response, it was not considered that the report responded to the brief (as set out in paragraph 2.49). For example, the review does not address the question of the conservation deficit directly, by identifying necessary works, simply stating "I have read and understood the Building Condition Report by Hallas & Co. and I would broadly agree with the comments about the condition of the building".

2.53 Further to this, the review gives no direct answer to the question about the appraisal of the applicants' identified and suggested costs. The report refers to the logistical challenge of the surrounding roads contributing to costs, but in paragraph 8.0 notes that the front façade would require only "reasonably modest repairs".

## Impact on significance of building

- 2.54 As discussed above, the proposed roof extension is considered excessively large due its bulk; it would detract from the host building by weakening its strong architectural rectangular form which is an important component of the building's significance and is recognised as contributing to the surrounding architectural context. Compromising this fundamental design is considered to cause harm to the building's significance. Likewise, the proposed use of glazing is considered to further emphasise the inappropriate size and bulk and result in an incongruous relationship with the brick built listed building. In terms of detailed design, the proposed glazing is also considered an inappropriate choice, given the hotel use of the building and the potential visual clutter which would arise from day to day activities behind the glazing. As such, the proposed extension is considered unacceptable by reason of its height, mass, design and materials and this would also form a reason for refusal.
- 2.55 Although the applicant has demonstrated that the application building is in a poor condition and that it is not viable to simply repair and refurbish the building, this does not outweigh the Council's concerns regarding the extension's size and detrimental impact to the designated heritage asset.
- 2.56 Linked to this is the impact arising from the proposed loss of the existing cinema floorspace and re-location to basement level. The building's use and contribution to the music and entertainment scene contributes to the building's special interest, and the loss of leisure floor space and its removal from the building's principal floors is considered to cause harm to its special interest. Although a four screen cinema is proposed within the basement, the primary function of the building within the proposals is as a hotel, fundamentally altering the character of the listed building. Given the interest from theatre providers and the lack of marketing carried out by the applicant in to alternative leisure uses, it is not considered that the applicant has sufficiently explored the potential to re-use the building as theatre, or other leisure use. In the absence of this information, it is not considered the applicant has explored feasible alternative options which may secure the optimal viable use without causing such harm to the heritage asset in its current form
- 2.57 The NPPF states that in determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness (para.192). 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. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (para.193).
- 2.58 The proposals are considered to result in less than substantial harm to the designated heritage asset. Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Although it is acknowledged that there would heritage benefits arising from the repair and restoration of the decorate frieze and arched window, these are not considered to outweigh the harm identified. In this instance, retaining the building in its optimum viable use would also be considered a public benefit but this has not been sufficiently explored given there has been no marketing and there is evidence of interest by theatre operators, which would be a preferable use in terms of being more suited to the building's original purpose.
- 2.59 In conclusion, there are aspects of the proposed hotel use including the extension which are incompatible with the statutory requirement to preserve the heritage asset and the Council does

not consider that the level of harm has been outweighed by the public benefit afforded by the scheme in its current form. As such, this would form a reason for refusal of the application.

#### Impact on setting of conservation areas

2.60 In addition to the harm caused to the listed building, the extension would also impact the character of Shaftesbury Avenue and the setting of the adjacent conservation areas. As noted previously, Shaftesbury Avenue, particularly the part forming the Seven Dials conservation area, is characterised by large brick buildings with terracotta and stone detailing. The introduction of a large glazed element would weaken this architectural language and would be distinctly out of character. There are some examples of large glazed buildings on Shaftesbury Avenue, specifically the building adjacent to the Saville theatre, however this is recognised as being an unsuccessful development and as having a negative impact on the street. The Denmark Street conservation area to the north of the site has an eclectic mix of building types, however none exhibit large amounts of glazing, and solid materials such as brick dominate. A large glazed extension by virtue of its materiality would not support the existing character of both the adjacent conservation areas and would cause less than substantial harm to their setting. In the absence of sufficient public benefits outweighing this harm, this would also form a reason for refusal of the application.

#### Impact on Phoenix Theatre on Charing Cross Road

2.61 At present the setting of this building is comprised of close-knit buildings to either side along Phoenix Street and particularly the narrow Flitcroft Street, with the development along the wider but also densely developed Charing Cross Road also contributing to the urban environment in which the building is experienced externally. The proposed development is not considered to unduly change the dense urban environment in which the building is experienced given the distance and buildings between them, and therefore not considered to harm its setting.

2.62 Phoenix House (adjoining the theatre to the south) is taller than the theatre, as are other buildings to the north of Flitcroft Street and on the southern side of Phoenix Street. This existing change in height is not considered to harm the interest of the theatre building

#### Conclusion

2.63 In conclusion, the proposed change of use is considered to cause harm to the significance of the building, as ideally the building's primary use would be as a cinema or theatre, in order to preserve the special interest of the building. It is not considered that the retention of an alternative leisure use such as a theatre operator has been sufficiently explored by the applicant by way of an appropriate marketing exercise.

2.64 The proposed extension is considered too large for the site, compromising the form and integrity of the host building. The materiality of the extension does not support the existing architectural character of the host building, Shaftesbury Avenue or the Seven Dials and Denmark Street conservation areas. The proposed glazing is also not suited for the hotel use as it would result in additional paraphernalia behind the glazed screening, compromising the intended design. The change of use and the extension cause less than substantial harm to the building. Although it is acknowledged that there are direct heritage benefits within the proposals, these are not considered to outweigh the harm caused.

### **3.0 Neighbouring Amenity**

#### Policy review

3.1 Policies G1, A1, DM1 and CPG Amenity are relevant with regards to the impact on the amenity of residential properties in the area. Any impact from construction works is dealt with in the

transport section.

### Site Context

- 3.2 The majority of surrounding buildings are within office / commercial uses, including those adjacent at Nos.121-125 Shaftesbury Avenue and No.151 Shaftesbury Avenue (Shaftesbury House).
- 3.3 Residential accommodation (in purple on below map) in the nearby area includes Nos.166-170 and Nos.152-156 Shaftesbury Avenue on the east (opposite) side of Shaftesbury Avenue, facing the front of the application site (in red on below map) and Nos.1-25 New Compton Street (Pendrell House), 6-12 Flitcroft Street, 1a Phoenix Street and Nos.1-8 Stacey Street (The Alcazar) to the rear of the site.



### Daylight and Sunlight

- 3.4 In support of this application, a Daylight and Sunlight Report in accordance with the BRE guidelines has been submitted by the applicant. Detailed assessments have been carried out to identify residential properties that are considered to have a reasonable expectation of daylight and sunlight, Vertical Sky Component (VSC), the No-Sky Line (NSL), and where appropriate, Annual Probable Sunlight Hours (APSH). Detailed assessments have not been carried out to the surrounding commercial or non-habitable room windows as they are not considered to have a reasonable expectation of daylight or sunlight. The implementation of the adjacent development at No.125 Shaftesbury Avenue (Ref: 2016/5202/P) has also been accounted for as part of this assessment.
- 3.5 It is noted that the application site and its neighbours are located in a dense urban environment and the design and nature of some of the existing neighbouring buildings is such that there are some pre-existing shortfalls in daylighting relative to the normal BRE Standards. In some instances, windows of the surrounding buildings are located underneath terraces which, as well as making them already liable to fall short of BRE Standards also makes them dependent upon skylight from a lower angle and thus vulnerable to impact from relatively minor increases in building heights opposite. Given the nature of the site and surrounding buildings, it would be difficult to be develop the site without resulting in some transgressions in BRE guidance. The London Plan March 2016 Supplementary Planning Guidance – Housing states in para. 1.3.45, that ‘an appropriate degree of flexibility needs to be applied when using BRE guidelines to assess the daylight and sunlight impacts of new development on surrounding properties, as well as within new developments themselves. Guidelines should be applied sensitively to higher

density development'. This does not mean that BRE guidelines should be disregarded for assessment purposes, rather that the decision maker should apply the results flexibly and consider the circumstances of the site and the affected properties.

- 3.6 The VSC is calculated at the centre point of each affected window on the outside face of the wall in question. A window looking into an empty field will achieve a maximum value of 40%. BRE guidelines suggest that 27% VSC is a good level of daylight. If a window does not achieve 27% VSC as a result of the development, then it is assessed whether the reduction in value would be greater than 20% of the existing VSC – which is when the reduction in light would become noticeable to occupants. However, officers consider that VSC's lower than 27% are normal for urban areas, with 20% still considered acceptable.
- 3.7 Should VSC fail then the more technical No-Sky-Line (NSL) test can be employed. The NSL is the outline of the working plane of the area from which no sky can be seen. In residential properties – the working plane is taken as 0.85m high. Like the VSC, the NSL figure can be reduced by up to 20% before the daylight loss is materially noticeable. It should also be noted that although the guidelines set a good level of daylight at 27%, the guidelines are designed to be interpreted flexibly, and lighting levels of 20% or more are generally considered good levels of light for an urban setting.
- 3.8 The Daylight and Sunlight Report notes the following:
- **Nos.1-25 New Compton Street (Pendrell House)**  
This building is located to the north of the site. In total, 79 of the 84 windows tested would not experience a change in light exceeding the advisory levels set out by the BRE. Those that experience losses of >20-29% (2) and >40% (1) are located underneath terraces and currently receive a poor level of light (<2% VSC) and therefore any loss at all would result in a high percentage. The proposal including the implementation of No.125 Shaftesbury Avenue would be of no greater detriment than the above.
  - **166-170 Shaftesbury Avenue**  
This building is located to the east of the site, on the opposite side of Shaftesbury Avenue. It is a five storey building with commercial uses at ground floor and flats above. The proposal would ensure all 21 windows would not experience a change in light exceeding the advisory levels set out by the BRE. The proposal including the implementation of No.125 Shaftesbury Avenue would be of no greater detriment than the above.
  - **152-156 Shaftesbury Avenue**  
This building is located to the south of the site, on the opposite side of Shaftesbury Avenue. It is a five storey building (including a mansard storey) with commercial uses at ground floor and flats above. The proposal would ensure all 30 windows would not experience a change in light exceeding the advisory levels set out by the BRE. The proposal including the implementation of No.125 Shaftesbury Avenue would be of no greater detriment than the above.
  - **1a Phoenix Street**  
This building is located to the north-east of the application site, on the corner of Phoenix Street and Stacey Street. It is a six-storey block with flats. These properties are single-aspect south-facing. It is also acknowledged that these flats receive poorer levels of daylight due to the design of the building, with overhanging balconies having an impact on the lower flats. The BRE guidelines allow for such features to be taken into account when determining the impact of a new building. In total, 24 of the 40 windows tested would not experience a change in light exceeding the advisory levels set out by the BRE. Those that experience losses of >20-29% (16) are located underneath terraces and currently receive a poor level of light (<8% VSC) and therefore any loss would result in a high percentage. The proposal including the implementation of No.125 Shaftesbury Avenue would result in

losses of >20-29% (11) and >30-39.9% (6).

- 1-8 The Alcazar, 7-10 Stacey Street

This building is located to the north-east of the application site, on the corner of Phoenix Street and Stacey Street. It is a four-storey block with flats. The proposal would ensure all 30 windows would not experience a change in light exceeding the advisory levels set out by the BRE. The proposal including the implementation of No.125 Shaftesbury Avenue would ensure all 30 windows would not experience a change in light exceeding the advisory levels set out by the BRE.

3.9 The VSC method of assessment indicates that 184 out of 205 windows will not experience a change in light exceeding the advisory levels set out by the BRE. Where 18 windows experience reductions in their VSC levels outside the recommendations of the BRE, they currently have very low existing VSC values (less than 8%) and the absolute changes do not exceed 2% VSC.

3.10 The NSL method of assessment indicates 99 out of 117 windows surveyed (for all relevant properties as listed above) would not see the area of the existing room, which does receive direct sunlight reduced as a result of this proposal. A total of 18 rooms would experience losses of >20-29% (11), >30-39.9% (6) and >40% (1.) The proposal including the implementation of No.125 Shaftesbury Avenue would see similar outcomes.

3.11 The Annual Probable Sunlight Hours (APSH) method of assessment indicates all 79 windows which face the site and are within 90 degrees of due south would not experience reductions and would therefore be adherent to the BRE Guidelines. The proposal including the implementation of No.125 Shaftesbury Avenue would see similar outcomes.

3.12 Given the nature of the site, its proximity to surrounding residential buildings and their pre-existing shortfalls in daylighting relative to the normal BRE Standards, it would be difficult to develop the site without resulting in some transgressions in BRE guidance. Within this context, the transgressions noted above have a disproportionate impact on daylight that are further exacerbated by balconies overhanging the windows cutting sky visibility from above. The majority of the windows surveyed would meet the relevant BRE standards following completion of the proposed development and its neighbouring site of No.125 Shaftesbury Avenue. The impact of the proposal upon sunlight and daylight is therefore considered acceptable

3.13 The availability of sunlight to the designated open space of Phoenix Community Garden also forms part of the Daylight and Sunlight Report. The Daylight and Sunlight Report notes the following:

Area to receive 2 hours of direct sunlight, based on the March 21<sup>st</sup>:

- Existing: 89%
- Proposal: 69.4%
- The existing (including the implementation of No.125 Shaftesbury Avenue): 80%
- The proposal (including the implementation of No.125 Shaftesbury Avenue): 52.4%

Area to receive 2 hours of direct sunlight, based on the June 21<sup>st</sup> (to establish the sunlight potential in the summer when the space is more frequently used):

- Existing: 98.6%
- Proposal: 98.2%
- The existing (including the implementation of No.125 Shaftesbury Avenue): 98.6%
- The proposal (including the implementation of No.125 Shaftesbury Avenue): 98.2%

3.14 The proposal demonstrates the designated open space of Phoenix Community Garden would, given the nature of the site, its proximity to surrounding residential buildings, continue to receive at least 2 hours of direct sunlight over 52% which is considered acceptable.



## Overlooking

- 3.15 The new openings within the building's façade would primarily serve the hotel, with an ancillary bar and plant enclosure within the new roof levels.
- 3.16 Introducing a greater potential for close distance mutual overlooking, resulting in a loss of privacy to the occupiers of each building would be contrary to CPG6 (Amenity). To ensure privacy, there should normally be a minimum distance of 18m between the windows of habitable rooms of different units that directly face each other.
- 3.17 The closest residential properties are set beyond public highways and between 15m (Nos.1-25 New Compton Street (Pendrell House)), 20m (Nos. 152-160 Shaftesbury Avenue) and 26m (Nos.166-170 Shaftesbury Avenue) away. As a result of the proposal, facades would not be brought closer to these addresses, however new windows would be introduced within the facade and new roof top structure.
- 3.18 Given the relationship the proposal site has with Nos. 152-160 Shaftesbury Avenue and Nos.166-170 Shaftesbury Avenue, namely set across a public highway and 18m in distance, the proposal would not result introduce a harmful level of overlooking to these occupiers. With specific regard to Nos.1-25 New Compton Street (Pendrell House), this residential block comprises windows on each facing elevation along with a bay corner element. Outlook from the proposal site would afford extremely oblique views of Pendrell House but more direct views would be possible as the upper floor levels are more glazed and open. Within this context and given that no façade would directly face each other, it is unlikely that a harmful level of overlooking would result from this proposal, such as to warrant refusal on this ground.

## Noise Nuisance

- 3.19 The proposal would introduce a terrace at 7th floor level and would be located 15m away from Pendrell House. Where terraces associated with offices would be unlikely to be used for long periods or out of office hours, this would be associated with hotel and bar use and would therefore be used for long periods and in particularly evenings. To ensure amenity levels would not be harmed detrimentally, a condition could restrict use between the hours of 10:00 to 19:00 Monday to Sunday.

## Plant

- 3.20 The proposed drawings indicate a significant provision of plant at basement level -3 (111sqm), basement level -2 (519sqm) and levels 7 and 8. A Noise Impact Assessment, including a noise survey to determine the existing background sound levels in the vicinity of the site and surrounding noise sensitive premises has been submitted for the application and states:

*At this stage, no information is available in relation to the proposed installation of building services plant, and this will need to be assessed in detail as the design progresses. If the proposed plant is designed to achieve the noise level limits in Table 4, Camden Council's requirements will be met.*

- 3.21 The Council will only grant permission for noise generating development, including any plant and machinery, if it can be operated without causing harm to amenity. Whilst conditions would typically be used to safeguard any premises that may be affected by noise, the applicant has failed to provide sufficient information to demonstrate that the proposed roof top plant would operate in accordance with the Council's minimum noise and vibration standards and this becomes a reason for refusal.

## Conclusion

3.22 Notwithstanding matters of plant and potential noise disturbance, it is concluded that the proposal could be acceptable on amenity grounds.

#### **4.0 Basement impact**

##### Policy Review

4.1 Policy A5 (Basements) states that the Council will only permit basement development where it is demonstrated that it will not cause harm, structurally, in amenity terms, environmentally or in conservation/design terms.

##### Site

4.2 The proposal involves a new level of basement in addition to the existing double storey basement. No additional external manifestations would result from the new basement floor level.

##### Basement Impact Assessment

4.3 A Basement Impact Assessment (BIA) has been submitted as part of this application. This document has been independently reviewed by Campbell Reith on behalf of Camden Council. It is concluded that the BIA presented has a robust understanding of the underlying ground conditions and wider hydrogeological environment that is more than adequate to support the proposed works.

4.4 The assessment has identified appropriate parameters for the design and construction of the works which can be implemented safely, resulting in Category 0 to 1 (Negligible to Very Slight) damage predicted in accordance with the Burland Scale. Given that the façade is to be propped and monitored during the proposed works, it is accepted that this can feasibly be maintained within Category 1 (Very Slight). Impacts to the nearby Crossrail tunnel has been assessed to be negligible. Thames Water assets are identified within the zone of influence and would require further consultation which could be secured by way of condition in regards to their asset protection and suitable mitigation methods. The proposed development will not impact the wider hydrological environment.

4.5 The basement construction and associated BIA therefore meets the relevant criteria of Policy A5, namely parts a – e and n – u (Also discussed in paragraph 2.35).

4.6 With regard to the relevant criteria of Policy A5, namely parts f-m, given the justification for and quantum of development proposed, an exception to parts f (not comprise of more than one storey) and g (not be built under an existing basement) shall be made in this instance.

##### Conclusion

4.7 Notwithstanding the exceptions discussed above, it is concluded that the BIA is adequate and in accordance with Policy A5 and guidance contained in CPG Basements. The proposed basement is therefore considered acceptable, subject to a condition requiring details of the engineers overseeing the excavation and regarding flood resistance measures.

#### **5.0 Transport**

##### Policy Review

5.1 Camden Local Plan policies T1, T2, T3 and T4 and CPG Transport are relevant with regards to transport issues.

##### Site

5.2 The site is located in the Central London Area and is easily accessible by public transport (PTAL rating is 6b). Various underground stations are located with a 5 minute walk, including Covent Garden, Leicester Square and Tottenham Court Road. In addition, bus stops are located nearby on Charing Cross Road, Shaftesbury Avenue and St Giles High Street. Shaftesbury Avenue (A401) is a busy traffic corridor and forms part of the Strategic Road Network. Cyclists and pedestrians make up a significant proportion of the traffic in the vicinity of the site, particularly during peak periods. The property has frontages adjacent to the public highway on Shaftesbury Avenue, New Compton Street, Stacey Street and St Giles Passage. The site is also conveniently located near various cycle hire docking stations, which are bike hire schemes for short journeys. Staff, customers and visitors would be able to hire a bike for 24hrs and the bike could be returned to any docking station in London.

#### Trip generation

5.3 The submitted Transport Assessment (TA) includes details of trip generation analysis for the proposed development. This is based on an acceptable and recognised methodology of using data from comparable developments to identify the net impact of the proposed development when compared to the existing situation. In order to predict the uplift in trip generation, the TA examines each of the three new components: hotel, cinema and bar / restaurant.

5.4 The results predict an increase of 1,823 trips to and from the site on a daily basis. Further analysis suggests the proposed development would generate 42 and 147 additional trips in the morning and evening peak hours respectively.

5.5 The assessment suggests the following modal share:

- 73% on foot
- 23% by public transport
- 4% by taxi

5.6 The results of the assessment suggest that the proposed development will not have a severe impact on the surrounding transport network. However, there is some concern that trips by bicycle have a predicted modal share of less than 1%. The Council would hope to see trips by bicycle having a modal share of at least 2% and preferably 5%. The Council anticipates that this can be achieved via a travel plan and the implementation of public realm improvements in the local area to make cycling more attractive.

#### Travel planning

5.7 A draft workplace travel plan has been submitted in support of the planning application. The Travel Plan would be targeted towards staff and hotel guests. The location of the site in Central London with excellent connections to the public transport network would help to reduce the need to travel by single occupancy private car and would encourage staff, guests and visitors to make walking, cycling and travel by public transport the natural choice for day-to-day trips by staff and visitors.

5.8 A workplace travel plan and associated monitoring fee of £6,432 would be secured as a section 106 planning obligations if planning permission were granted. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

#### Cycle parking

5.9 The basement would include secure cycle storage, with step-free access from street level via a service lift for 12 long-stay cycle parking spaces (2-tier racks) and space for at least 1 adapted cycle for staff. This level of provision is in accordance with the London Plan minimum requirements. The proposed facilities are in accordance with Camden Planning Guidance

document CPG Transport. The provision and ongoing retention of these cycle parking facilities would be secured by condition if planning permission were to be granted.

- 5.10 The proposed development would also need to make provision for 30 short-stay cycle parking spaces for visitors. There is no space available within the property for such facilities. The Council would therefore need to investigate the feasibility of providing 15 cycle parking stands (2 spaces per stand) on the public highway in the general vicinity of the site. It must be noted that it might not be possible to find a suitable site for such facilities in such a busy pedestrian environment. The developer would be required to pay the Council's costs in this regard and these will be included in the highways contribution (to be discussed further below) and would be secured as a section 106 planning obligations if planning permission were granted. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.
- 5.11 The proposed upper basement plan also indicates that wheelchair accessible changing rooms will be provided for male and female staff. This is welcomed as it will encourage staff to commute by bicycle.

#### Car parking

- 5.12 The site is located within the Holborn & Covent Garden controlled parking zone (CPC CA-C). Residents' bays are controlled 24 hours per day, 7 days per week. Parking controls are in place in pay to park bays and single yellow lines from 0830 to 1830 on Monday to Saturday.
- 5.13 The proposed development would not benefit from any on-site car parking spaces and would therefore essentially be car-free. The site is easily accessible by public transport, however the London Plan (Car parking standards) suggests that workplace developments should be required to provide one designated blue badge parking space for each employee who is a disabled motorist. It is difficult to quantify or predict how many employees would need to travel to and from the site by private motor vehicle.
- 5.14 The applicant was asked to consider the feasibility of providing a blue badge parking bay on the public highway adjacent to the New Compton frontage of the property.
- 5.15 The applicant noted that this would appear to be feasible alongside some proposed amendments to yellow lines to provide additional kerbside opportunities for servicing and deliveries. However, these proposals would result in the loss of the existing motorcycles bay and one residents bay. The Council's Transport Officer asked the applicant to consider the feasibility of relocating these bays rather than them being lost.
- 5.16 At this stage, the applicant carried out parking beat surveys of streets in the general vicinity of the site. The surveys were undertaken outside of school holiday periods and adverse weather conditions on Saturday 10th, Sunday 11th, Tuesday 13th and Wednesday 14th March 2018.
- 5.17 The results of the parking surveys indicate that there is some spare capacity within each day/time period across the streets surveyed. It is therefore considered that the aforementioned motorcycles bay and resident bay can be relocated to new locations nearby without having any detrimental effect on the local CPZ.
- 5.18 This element of the proposal would require the Council to amend the existing traffic management orders on streets in the general vicinity of the site. This would include a separate public consultation exercise which would be undertaken by the Council's Transport Design Team. The developer would be required to pay the Council's costs in this regard and these would be included in the highways contribution secured as a section 106 planning obligation if planning permission were granted. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

### Coach parking

- 5.19 The proposed development will make no provision for parties of guests or visitors arriving by coach. This would be controlled as a section 106 planning obligation if planning permission were granted. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

### Highway works

- 5.20 The footways and carriageways directly adjacent to the site are likely to sustain significant damage because of the proposed construction works. The Council would need to undertake remedial works to repair any such damage following completion of the proposed development.
- 5.21 The applicant has also suggested various alterations to the public highway adjacent to the site to accommodate on-street deliveries, refuse and recycling collections and other servicing activity.
- 5.22 The Council will need to provide visitor cycle parking facilities on the public highway in the general vicinity of the site due to a lack of space within the building footprint. The Council may also need to provide at least 1 disabled parking space on the public highway within 50 metres of the site. This element of the proposal would require the Council to amend the existing traffic management orders on streets in the general vicinity of the site. This would include a separate public consultation exercise which would be undertaken by the Council's Transport Design Team.
- 5.23 A highways contribution would need to be secured as a section 106 planning obligations if planning permission were granted. This would allow the Council to undertake the following highway works:
- repave the carriageway and footway directly adjacent to the property
  - provide 15 Camden 'M' cycle parking stands in the general vicinity of the site (e.g. Shaftesbury Avenue)
  - remove any redundant street furniture
  - amend existing traffic management orders to facilitate servicing and disabled parking improvements adjacent to the New Compton frontage

- 5.24 Within this context, a highways contribution of £89,750 would be secured as a section 106 planning obligations if planning permission were granted. The highway works would be implemented by the Council's highways contractor on completion of the development. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

### Pedestrian, cycling and public realm environmental improvements

- 5.25 The proposed development will generate a significant increase to and from the site on a daily basis. The Council's transport policies are geared towards encouraging and promoting active travel (i.e. walking and cycling). The Council would therefore seek to secure a Pedestrian, Cycling and Environmental (PC&E) improvements contribution of £225,000 as a section 106 planning obligation if planning permission were granted. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

### Deliveries and other servicing activities

- 5.26 Deliveries, refuse and recycling collections and other servicing activity is currently accommodated from the public highway in the general vicinity of the site. The applicant has suggested various highway alterations to the public highway adjacent to the New Compton

Street and Shaftesbury Avenue frontages with a view to accommodating servicing activities. The proposal to provide a dedicated loading bay adjacent to the Shaftesbury Avenue frontage was not supported as it would prevent this kerbside space from being used for other purposes. This would include parking outside of CPZ hours. The proposal would have also required the nearby zebra crossing to be removed or relocated. A further proposal was suggested to remove or relocate the parking bays adjacent to the New Compton Street frontage.

5.27 A draft servicing management plan (SMP) has been submitted in support of the planning application. This provides some useful information which suggests that the impacts of servicing activity on the surrounding transport network can be mitigated. It appears likely that the majority of servicing activity would be accommodated from the public highway directly adjacent to the Shaftesbury Avenue and New Compton Street frontages. A SMP would be secured as a section 106 planning obligation if planning permission were granted. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

#### Managing and mitigating the impacts of construction

5.28 Construction management plans (CMPs) are used to demonstrate how developments will minimise impacts from the movement of goods and materials during the construction process (including any demolition works). A draft CMP has been submitted in support of the planning application. This provides some useful information. However, it lacks detail as a principal contractor has yet to be appointed. It also fails to use the Council's CMP pro-forma.

5.29 The draft CMP indicates that the site would be serviced from the public highway adjacent to the Shaftesbury Avenue and New Compton Street frontages. This is likely to require various highway licences to be granted, including:

- suspension of the parking bays on New Compton Street
- suspension or relocation of the zebra crossing on Shaftesbury Avenue
- hoarding and scaffolding licences for all 4 frontages
- mobile crane and skip licences

5.30 The site is located in the Central London Area. This part of the borough suffers from severe traffic congestion during peak periods. The Council's primary concern is public safety but it must also be ensured that construction traffic does not create (or add to existing) traffic congestion in the local area. The proposal is also likely to lead to a variety of amenity issues for local people (e.g. noise, vibration, air quality, temporary loss of parking, etc.). The Council needs to ensure that the development can be implemented without being detrimental to amenity or the safe and efficient operation of the highway network in the local area.

5.31 The draft CMP acknowledges that construction vehicle movements to and from the site would need to be scheduled to avoid peak periods to minimise the impacts of construction on the transport network. It also notes that the contractor would need to register the works with the Considerate Constructors' Scheme. The contractor would also need to adhere to the CLOCS standard.

5.32 There are a number of significant developments in the general vicinity of the site that are currently under construction or have been approved. This part of the borough already experiences significant traffic problems. The construction of various significant developments concurrently raises concerns about cumulative impacts on the transport network as well as amenity issues such as noise, dust, air quality and vibration. The developer and principal contractor, would be required to work closely with other contractors working nearby with a view to minimising and mitigating the cumulative impacts of construction.

5.33 A CMP would be required to be secured as a section 106 planning obligation if planning permission were granted. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

5.34 The development, if approved, would require significant input from officers. This would relate to the development and assessment of the CMP as well as ongoing monitoring and enforcement of the CMP during demolition and construction. A CMP implementation support contribution would be secured as a section 106 planning obligations if planning permission were granted. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

5.35 A further requirement to form a construction working group consisting of representatives from the local community would also be secured as a section 106 planning obligations if planning permission were granted. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

#### Basement Excavations Adjacent to the Public Highway

5.36 The proposal would involve basement excavations directly adjacent to the public highway along all 4 frontages. The Council has to ensure that the stability of the public highway adjacent to the site is not compromised by the proposed basement excavations.

5.37 The applicant would be required to submit an 'Approval in Principle' (AIP) report to the Council's Highways Structures & Bridges Team within Engineering Services as a pre-commencement Section 106 planning obligation. This is a requirement of British Standard BD2/12. The AIP report would need to include structural details and calculations to demonstrate that the proposed development would not affect the stability of the public highway adjacent to the site. The AIP would also need to include an explanation of any mitigation measures which might be required.

5.38 The AIP report and an associated assessment fee of £7,200 would need to be secured via Section 106 planning obligations if planning permission is granted. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

#### Entrance Canopy on Shaftesbury Avenue

5.39 The proposed plans indicate that a new entrance canopy would be provided adjacent to the Shaftesbury Avenue frontage at 1<sup>st</sup> floor level and above. The clearance between the underside of the canopy and the footway underneath would be 3.5 metres. This would not have any impact on pedestrian comfort or safety. The proposal is in accordance with Local Plan Policy A1 in this respect.

5.40 A highway projection licence would be required prior to construction works commencing on site and would be secured as a pre-commencement condition if planning permission were granted.

#### External doors adjacent to the public highway

5.41 In accordance with Section 153 of the Highways Act, no ground floor level doors would open outwards onto the public highway. This is welcomed as it would ensure that pedestrian comfort and movement would not be impeded or obstructed on the adjacent footways at times when the doors are open. The proposal is in accordance with Local Plan Policy A1 in this respect.

#### Conclusion

5.42 Subject to the conditions and planning obligations discussed above, the proposed development is acceptable in transport terms.

## **6.0 Landscaping and trees**

#### Policy review

6.1 Camden Local Plan policy A3 seeks to protect trees.

#### Designations

6.2 None of the site is designated as public open space.

#### Landscaping and Trees

6.3 Given the constraints of the site (total site coverage), there are no trees on the application site and the proposed development does not include any tree removals. There are trees immediately adjacent to the application site on the footway of New Compton Street.

#### Conclusion

6.4 Given the proposal includes subterranean work that would be beneath the existing basement floor level, if planning permission were granted, a condition would be secured requiring details of tree protection measures.

### **7.0 Sustainable Design and construction**

#### Policy review

7.1 The Council aims to tackle the causes of climate change in the borough by ensuring developments use less energy and through the use of decentralised energy and renewable energy technologies. Policy CC1 requires all development to minimise the effects of climate change and encourages all developments to meet the highest feasible environmental standards. It requires all developments to achieve a 20% reduction in CO2 emissions through renewable technologies (the 3rd stage of the energy hierarchy) wherever feasible. Policy CC2 requires development to be resilient to climate change by adopting climate change adaptation measures.

7.2 Policy 5.2 of the London plan requires development to be designed in accordance with the energy hierarchy: be lean (use less energy), be clean (supply energy efficiently), be green (use renewable energy). In addition chapter 5 of the London Plan sets out the need for schemes to secure a minimum 35% reduction in regulated CO2 emissions below the maximum threshold allowed under Part L 2013.

7.3 Where the London Plan carbon reduction target cannot be met on-site policy allows for a carbon-offset financial contribution which will be used to secure the delivery of carbon reduction measures elsewhere in the borough.

7.4 Developments are also expected to implement the sustainable design principles as noted in policy CC2 by achieving a BREEAM 'Excellent' rating and minimum credit requirements under Energy (60%), Materials (40%) and Water (60%).

#### The site and the proposal

7.5 The proposal is within Central London in very close proximity to Excellent public transport links (PTAL 6b). The scheme is mixed use, the principle of the scheme is therefore highly sustainable.

#### Energy

##### *Carbon reduction*

7.6 An energy statement was submitted by DSA Engineering. Following revisions to the proposed



roof extension, including making the façade more efficient by providing fitted glass to the majority of the glazed extension, reduction of clear glazing throughout, removal of the roof top bar's glazed roof, and incorporation of PV panels, the proposed CO2 savings were increased from 19.44% to 24.2%, which would still fall short of the 35% target. As such, a carbon offset contribution would be required to cover the shortfall. This would be secured by S106 legal agreement.

#### *Connection to existing Decentralised Energy Network (DEN)*

7.7 The scheme is surrounded by the boundaries of the following potential network areas:

- Soho (Westminster council): approximately 150m
- Bloomsbury H&P extension: approximately 500m
- Great Ormond Street cluster study area: approximately 650m

7.8 Sites within 1km of a potential network should future proof unless demonstrated to be unfeasible. Developments which are in locations where no heat networks are planned and that are not of the size/density to benefit from connection to a network would not be expected to future proof. In these circumstances, building specific heating technologies, such as individual gas boilers or heat pumps, would be acceptable.

7.9 Although the proposed development sits outside the zones identified for potential networks, the site is within proximity to the Bloomsbury H&P extension and Soho potential networks and the applicant's energy statement confirms the development will therefore be future proofed to allow future connection of the site into any of these networks if they are implemented.

7.10 Submitted drawings show allocated space for future provision of district heating heat exchangers in the basement plant room and routes for pipework to the boundary line on the ground floor (below ground) where the expected route of the district system (Shaftesbury Avenue) will be.

7.11 The systems proposed for the developments are based around a site wide air source heat pump, which will need to be located on the roof to dispel heat. The space available for the district heating heat exchanger units has been allocated in the basement plant room, therefore the main distribution pipework within risers will be homogeneous for the entire height of the building allowing for connection from the roof at completion, and allowing for future connection into the riser from the basement plant rooms if a district heating system is connected.

7.12 Once a district heating system is planned, and an expected heat availability date is confirmed, connection dates of the proposed development can be established. This would be secured as part of the Energy Plan for the Section 106 legal agreement. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

#### *Renewables (Be Green)*

7.13 Following the introduction of PV panels, the renewables contribution would be 20%, in accordance with the requirement for 20% carbon reduction coming from renewables. In addition, the scheme includes air source heat pumps (ASHPs) which provide renewable heat. Full details of the PV panels, including detailed roof plans and a scheme of maintenance would be secured by condition if the proposals were considered acceptable in all other regards.

#### Sustainability

7.14 For non-residential buildings there is a requirement to achieve a BREEAM 'Excellent' rating and minimum credit requirements under Energy (60%), Materials (40%) and Water (60%).

7.15 BREEAM Excellent is being targeted, with minimum credits for Energy (75%), Materials (71.43%) and Water (88.89%), which exceeds the minimum expected credit scores.

7.16 To ensure the credits are met, these targets would be secured within a Sustainability Plan via S106 legal agreement, including Design Stage and Post Construction stage BREEM assessment reports and certificates, demonstrating meeting targets prior to implementation and occupation respectively. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

### *Cooling*

7.17 In accordance with policy CC2 all development should demonstrate that measures to adapt to climate change have been implemented and that overheating risk has been managed including application of the cooling hierarchy. The cooling hierarchy is noted within paragraph 8.43 of the Camden Local Plan and includes 6 steps, which puts a preference on passive ventilation, mechanical ventilation (eg. Ceiling fans) and then active cooling (eg. Air conditioning). The supporting text to the policy also notes that active cooling will only be permitted where dynamic thermal modelling demonstrates there is a clear need for it after all of the preferred measures are incorporated in line with the cooling hierarchy.

7.18 Active cooling is proposed, although this is considered acceptable in this instance following submission of an Overheating Analysis report and Dynamic Thermal modelling demonstrating a need.

## **8.0 Flood risk and drainage**

8.1 Camden Local Plan policy CC3 is relevant with regards to flood risk and drainage and seeks to ensure development does not increase flood risk and reduces the risk of flooding where possible.

8.2 The applicant has submitted a drainage strategy prepared by Price & Myers for the proposed development which considers the flood risk of the site as well as considering a number of surface water management measures and sustainable urban drainage systems (SuDS).

8.3 The existing site is 100% impervious, is located within Flood Zone 1 and is at a low risk of surface water flooding. While a formal flood risk assessment is not required, the drainage design for the proposals has sought to implement as many SuDS strategies as possible.

8.4 When considering the proposed drainage design, the following was found:

- Results from site investigation work confirmed that the site is underlain by London Clay, meaning that infiltration systems would not be feasible;
- Surface water attenuation was not considered feasible due to the space requirements and the associated connection means to the public sewer. Furthermore, the proposals would result in no net increase in surface water runoff compared with the current building; and
- Greywater harvesting was considered feasible as part of the Sustainability Strategy, which would have benefits for reduced water demand of the building.

8.5 Based on the site-specific constraints, it was concluded that there are limited means to implement SuDS strategies. As such, the drainage strategy would result in surface water being discharged into the existing Thames Water connections on site, and foul water would be discharged into the Thames Water sewers. This would continue the existing arrangement on site and, given the site-specific constraints, is considered appropriate.

## **9.0 Nature Conservation and Biodiversity**

9.1 Policy A3 seeks to enhance biodiversity in the borough.

- 9.2 A preliminary ecological appraisal was submitted in support of the application. The report notes that due to the site having no emergent or existing vegetation on site, a daytime bat and nesting bird assessment was undertaken on 1<sup>st</sup> November 2017. The report concluded that there were no potential access points or crevice spaces, and that there was no evidence of nesting birds during inspections. The building was deemed as nil potential for roosting bats, and as such, it was concluded that further echolocation surveys were not required and the works could proceed with standard precautionary measures in place.
- 9.3 The ecological appraisal was assessed against the biodiversity evidence base by the Council's Nature Conservation Service who confirmed that the surveys for breeding birds were undertaken at a time that is unsuitable (as it was outside breeding season) for finding evidence of breeding for some species and no adequate data search was undertaken to determine what species may be present within the vicinity. Both peregrine and black redstart have been found within 500m of the proposed development within the last 10 years and both of these species are protected Schedule 1 species. Although these species may not have been present on site at the time of the survey, it is considered that the proposed development does not sufficiently consider them, nor incorporate biodiversity enhancements to benefit them in the future. Other important species present locally include house sparrow and starling.
- 9.4 As such, Nature Conservation confirmed that any works proposed to be undertaken during the months of February-August (bird breeding season) would need to be subject to a breeding bird survey before demolition to ensure that no breeding birds are present. This must be undertaken by a qualified ecologist no more than two weeks before the proposed demolition. A survey could be undertaken sooner but there would be a requirement to ensure that sufficient procedures (nets, bird scarers etc.) were undertaken to ensure that no birds start breeding on site between the survey date and the demolition date. If the proposals were considered acceptable in all other regards, this would be secured by condition.
- 9.5 As mentioned above, the proposals do not include any plans for biodiversity enhancements. Policy A3 expects all developments to provide biodiversity enhancements in their proposal where possible. The proposed development could potentially incorporate bird and bat boxes/bricks into its design and could also incorporate green/brown roofs and/or green walls or even some pot planting schedule on the roofs (subject to acceptability of design). As such, if the proposals were considered acceptable in all other regards, full details of these enhancements would be secured by condition to ensure compliance with Policy A3.

## **10.0 Accessibility**

- 10.1 An initial review by the Council's Access Officer found the submitted Access Statement to be insufficient in the following regards:
- The London Plan requires 10% of hotel bedrooms to be accessible; with a choice of both left and right hand transfer and bath and shower. No detail on this has been provided in either the plans or within the Access Statement.
  - No details of accessible car parking bays to accompany the accessible rooms.
  - No detail is given on the spa facilities and whether all or some of these will be fully accessible.
  - In line with the Equality Act 2010, accessible staff change and shower facilities should be provided at basement level.
  - Bike spaces for adapted and non-two wheel bikes should be provided.
  - The bar, Spa and main reception desk should all cater for both seated and standing guests and staff and include an induction loop. It is not clear if this is the case.
  - Not all the cinemas have the required wheelchair accessible viewing spaces required by Approved Document M and not clear if they have induction loops.
  - The feature stairs to the cinema should have protection from the underside up to a height of

2.1m. No details on this are given.

- The cinema single sex sanitary provision should include ambulant disabled person's cubicles.

10.2 Revised drawings were subsequently submitted incorporating the following amendments:

- A total of 10% of rooms within the hotel are accessible.
- Accessible changing and showering facilities are provided at basement level.
- An accessible cycle parking space is provided at basement level 2.
- Additional disabled toilet provided for the cinema.
- Each cinema equipped with wheelchair accessible seating areas.
- Induction loops provided throughout the building.

10.3 Following these revisions, the proposals are considered acceptable in accessibility terms. Full details of the wheelchair accessible rooms and site-wide accessibility measures would be secured by condition if the proposals were considered acceptable in all other regards.

## **11.0 Air Quality**

11.1 Camden Local Plan policy CC4 seeks to ensure the impact of development on air quality is mitigated and ensures that exposure to poor air quality is reduced in the Borough.

11.2 An Air Quality Assessment (AQA) has been submitted as part of this application.

11.3 The proposed development would be car free and heating and hot water requirements would be provided through air source heat pumps and low NOx boilers. As such the development is not expected to result in an increase of pollutant emissions over the existing situation and has been demonstrated to be air quality neutral.

11.4 With regard to the impact of construction works on air quality, the AQA has confirmed that a range of mitigation measures will be developed for the construction phase such as a dust management plan. These would be required to be included in the Construction Management Plan (CMP) which would be secured via Section 106 legal agreement. The CMP itself would set out how these would be managed together with construction vehicle exhaust emissions and construction phase emissions. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

11.5 Whilst the proposed development would not impact air quality, it would introduce new hotel accommodation into a location where existing air quality would exceed the NO2 objective. It is not anticipated that prospective clients would be in residence for long durations and as such there would no long term exposure to internal air within bedroom units. Nonetheless the design of the development has aimed to reduce the exposure of prospective hotel residents and other users of the building to poor air quality through the use of mechanical ventilation with air intakes placed at roof level where pollutant concentrations would be expected to be reduced compared to that experienced at ground level.

11.6 In light of the above, it is considered the development would be in accordance with CC4 of the Local Plan.

## **12.0 Safety and Security**

12.1 The Metropolitan Police 'Designing Out Crime' Officer confirmed he did not object to the development of the building, but had a number of recommendations to reduce crime and the fear of crime following meeting with the applicant.

- The 'back of house' doors which lead out onto New Compton Street should be security

rated to LPS 1175 SR2. The current recesses could be removed and the door line brought forward so that it is flush with the building line. The area suffers greatly from Class A drugs Misuse and any lit alcove is favourable for this activity. Apart from the anti-social aspect of this behaviour there is also the health risk to consider as the associated detritus that is left by drug users. Due to the rear of the building backing onto Phoenix Gardens there is no natural surveillance covering it and therefore it is considered to be the most vulnerable part of the development.

- The cycle storage area for guests to the hotel currently has an entrance (sliding shutter door) from New Compton Street. For the above reasons of no natural surveillance and no activity at night this entrance should be removed so that the storage area is only accessed from the interior of the hotel. The cycle racks themselves should be security rated and allow for the user to secure the cycle at three points of contact (Frame and both wheels).
- The main entrance into the hotel/cinema currently has an airlock system and at least one of these door sets should be rated at LPS 1175 SR2 with the ability for the staff to activate a 'lock down' if there is an incident outside the location. This is especially the case with the current terrorist threat levels and the type of roaming attacks London has suffered from in recent times.
- Lighting around the building should meet BS5489, be of a 40% uniformity and should complement any CCTV which would be considered. LED lighting is recommended due to the low cost to run, low maintenance and also they give excellent coverage and colour rendition. These should operate on a 'dusk till dawn' operating system as a continual light source is found to reduce crime better than if operated on a PIR.
- From a building management perspective there is a need to address the relation between the cinema and hotel. Currently there is no control over the lifts which actually lead into the middle of the four cinema rooms... this means a person can bypass the cinema reception and gain entry to a cinema without being challenged. This is also reversed in the fact a person in the cinema can enter the lift and gain access to the hotel without having to go pass the main reception. Access control on the lifts would assist but probably be too complicated to manage at this current time. It is recommended that one lift is provided for the cinema only restricting it to just the B1 level... the two main hotel lifts to bypass the cinema floor to prevent this freedom of movement.
- All hotel rooms should have security rated doors to PAS 24:2016 and be controlled with FOB access control.
- CCTV will be registered and comply with information commissioners guidelines - [www.ico.org.uk](http://www.ico.org.uk).

12.2 Revised drawings were submitted to address the above comments which incorporated the following alterations:

- The alcoves and door recesses removed from the New Compton Street elevation at ground floor level. New window introduced to this elevation at ground floor level, to provide a greater degree of natural surveillance to the street, reducing opportunities for criminal behaviour;
- External access to staff cycle parking facilities removed from the New Compton Street elevation, with access to the staff cycle parking facilities accessed internally;
- Operational Management Plan provided detailing the management of the various uses within the building, including providing safe and secure access to hotel rooms and measures to control access to the lifts; and
- The suggested securing rating details for doors, lighting and CCTV would all be incorporated into the proposals during the detailed design phase of the project.

12.3 Following these revisions, the proposals are considered acceptable with regards to Designing out Crime.

### **13.0 Refuse and Recycling**

- 13.1 Camden Local Plan policy CC5 (Waste) and CPG (Design) are relevant with regards to waste and recycling storage and seek to ensure that appropriate storage for waste and recyclables is provided in all developments.
- 13.2 Due to the limited space within the building envelope, and particularly on the ground floor, management of the various waste streams must be highly efficient. A small dedicated loading area at basement -2 level can hold 4 x 660l Eurobins and 3 recycling trolleys. It is considered that the area proposed is sufficient for the intended use.
- 13.3 If the proposals were considered acceptable in all other regards, a condition would secure details of the waste management plan to ensure the waste is managed and brought onto street for collection and returned back to the allocated storage room.

#### **14.0 Employment and Training Opportunities**

- 14.1 Although there is no employment (B1/B2/B8) floorspace – either currently or proposed – the Council's Economic Development Team would seek to secure employment and skills-related opportunities that the scheme could generate through the hotel restaurant, public house and cinema uses.
- 14.2 To ensure that residents benefit through the construction phase and when end users occupy the completed development, the Economic Development team would seek to secure the following employment and training opportunities for Camden residents through a Section 106 agreement:

##### **Construction phase:**

- The applicant should work to CITB benchmarks for local employment when recruiting for construction-related jobs as per section 68 of the Employment sites and business premises CPG
- The applicant should advertise all construction vacancies and work placement opportunities exclusively with the King's Cross Construction Skills Centre for a period of 1 week before marketing more widely.
- The applicant should provide a specified number (to be agreed) of construction work placement opportunities of not less than 2 weeks each, to be undertaken over the course of the development, to be recruited through the Council's King's Cross Construction Skills Centre, as per section 70 of the Employment sites and business premises CPG
- If the build costs of the scheme exceed £3 million the applicant must recruit 1 construction apprentice per £3million of build costs and pay the council a support fee of £1,700 per apprentice as per section 65 of the Employment sites and business premises CPG. Recruitment of construction apprentices should be conducted through the Council's King's Cross Construction Skills Centre. Recruitment of non-construction apprentices should be conducted through the Council's Economic Development team.
- If the value of the scheme exceeds £1 million, the applicant must also sign up to the Camden Local Procurement Code, as per section 71 of the Employment sites and business premises CPG; and
- The applicant provide a local employment, skills and local supply plan setting out their plan for delivering the above requirements in advance of commencing on site, as per section 63 of the Employment sites and business premises CPG.

##### **End use phase:**

- We would request provision of end use apprenticeships. The apprenticeships could be within a range of roles (examples include hospitality, business administration, finance, customer service, IT)
- The applicant should provide a specified number (to be agreed) of end use work placement opportunities of not less than 2 weeks each, to be undertaken over the course of the

development, to be recruited through the Council's Economic Development team, as per section 70 of the Employment sites and business premises CPG; and

- The applicant should facilitate promotion of the Camden STEAM Commission's objectives amongst end use occupiers.

14.3 As the proposed scheme would provide hotel floorspace, there would also be a requirement to provide an employment and training contribution, to support initiatives which create and promote employment and training opportunities and to support local procurement initiatives in Camden, in accordance with section 73 of the Employment sites and business premises CPG. Such a contribution would be secured by S106 legal agreement.

14.4 In the absence of an acceptable scheme (and hence no section 106 agreement securing an Employment and Training plan or contribution) this becomes a reason for refusal.

### **15.0 Mayor of London's Crossrail CIL**

15.1 The proposal would be liable for the Mayor of London's Community Infrastructure Levy (CIL). Based on the Mayor's CIL charging schedule and the information provided as part of the application, the Mayoral CIL is based at £50 per sqm (Camden is in charging Zone 1). This would be collected by Camden after the scheme is implemented, were permission to be granted.

### **16.0 Camden CIL**

16.1 The proposal would be liable for the Camden Community Infrastructure Levy (CIL). The site is located within Zone A. The charge for Hotel (including tourist hostels) in this zone is £40/sqm. The charge for Retail (including bar/restaurant/entertainment and other town centre uses) in this zone is £25/sqm.

### **17.0 Conclusion**

17.1 In conclusion, the proposed change of use is considered to cause harm to the significance of the building. It is not considered that the retention of an alternative leisure use such as a theatre operator has been sufficiently explored by the applicant by way of an appropriate marketing exercise.

17.2 The proposed extension is considered to compromise the form and integrity of the host building. The materiality of the extension does not support the existing architectural character of the host building, Shaftesbury Avenue or the Seven Dials and Denmark Street conservation areas. The proposed glazing is also not suited for the hotel use as it would result in additional paraphernalia behind the glazed screening, compromising the intended design. The change of use and the extension cause less than substantial harm to the building. Although it is acknowledged that there are direct heritage benefits within the proposals, these are not considered to outweigh the harm caused.

17.3 As such, it is recommended the application is refused.