

## James Kon

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**From:** Whittingham, Gideon <Gideon.Whittingham@camden.gov.uk>  
**Sent:** 16 January 2019 19:59  
**To:** Lewis Westhoff; Kieron Hodgson; McDonald, Neil; Cullen, Bethany; Hatton, Colette  
**Cc:** 'Haim cateringuk@btconnect.com'; Sue Wheldon; James Dilley; Laurie Handcock; David van der Lande; Anna Snow  
**Subject:** RE: 135-149 Shaftesbury Avenue - Notes from last week's meeting

Lewis,

Thank you for your email.

Given the extensive correspondence and assessment thus far, it is important that this application be brought to a conclusion and hopefully we can offer a route towards a recommendation.

It is important however to first provide some context and feedback from your email dated 04/01/2019 and the 'key points' therein:

- The change of use of the site within Use class D2 may not require planning permission in itself but any associated physical changes would likely require planning permission as well as listed building consent. The scheme being proposed results in a significant reduction in D2 floorspace which is contrary to policy. It is accepted there are reasons for additional high value floorspace on the site to support a viable future use as you have detailed in your supporting statements and consultants reports. However all we are asking is for a better understanding of why the existing cinema operator is leaving, in order to help us present a robust case about why the overall loss of D2 floorspace might be something we need to accept. We note the applicant's explanation that the Odeon has always intended to leave the building only wanting it on a short term basis but without a letter direct from the Odeon we have no way of verifying this is the case.
- Camden's request to gain this input from the current tenant who is vacating the site is considered a reasonable one in gaining a fuller picture of the building's constraints and potentially business reasons for an established cinema operator vacating the site. It could provide valuable information to ensure the success of the cinema proposed, particularly given their position as a leading and established cinema operator. The information would on the face of it seem easy for you to provide and would certainly be worthwhile to help de-risk the scheme when it comes to be presented at committee, since members will inevitably want to scrutinise this given the serious policy issues raised combined with harm to a listed building.
- Ultimately you have made it clear to us that you do not wish to provide the information requested and we will have to take a view based on the information we have already. I therefore propose that we move forward on this basis with a view to accepting on balance the land use arguments that you make while continuing to work with you to mitigate the harm to the listed building through a design we can accept.

To progress this application, we would therefore encourage the remaining and substantive issue, namely design, to be resolved. As stated in our previous email, Collette is available to meet and outline the necessary revisions.

For expediency I am happy for the architect and Colette to corresponded directly and set up a meeting. I will forward an update to the PPA shortly for your agreement, noting that a likely committee date for the 11<sup>th</sup> April.

Regards

Gideon Whittingham  
Senior Planner

Telephone: 020 7974 5180



**From:** Lewis Westhoff <lwesthoff@iceniprojects.com>

**Sent:** 15 January 2019 13:00

**To:** Whittingham, Gideon <Gideon.Whittingham@camden.gov.uk>; Kieron Hodgson <KHodgson@iceniprojects.com>; McDonald, Neil <Neil.McDonald@camden.gov.uk>; Cullen, Bethany <Bethany.Cullen@camden.gov.uk>; Hatton, Colette <Colette.Hatton@camden.gov.uk>

**Cc:** 'Haim cateringuk@btconnect.com' <haim@thaisq.com>; Sue Wheldon <sue@brandarchitectsgroup.com>; James Dilley <James.Dilley@jesticowhiles.com>; Laurie Handcock <LHandcock@iceniprojects.com>; David van der Lande <dlande@iceniprojects.com>; Anna Snow <ASnow@iceniprojects.com>

**Subject:** RE: 135-149 Shaftesbury Avenue - Notes from last week's meeting

Gideon

We hope you are well.

Please can you provide us with your response? We were expecting to receive something on Friday.

We look forward to hearing from you.

Kind regards

Lewis

**Lewis Westhoff**  
Senior Planner, Planning

**telephone:** 020 3640 1024

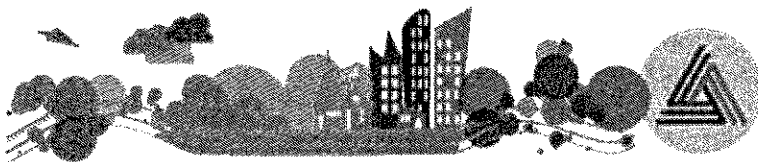
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**From:** Whittingham, Gideon <Gideon.Whittingham@camden.gov.uk>

**Sent:** 09 January 2019 19:16

**To:** Kieron Hodgson <KHodgson@iceniprojects.com>; McDonald, Neil <Neil.McDonald@camden.gov.uk>; Cullen, Bethany <Bethany.Cullen@camden.gov.uk>; Hatton, Colette <Colette.Hatton@camden.gov.uk>

**Cc:** 'Haim cateringuk@btconnect.com' <haim@thaisq.com>; Sue Wheldon <sue@brandarchitectsgroup.com>; James Dilley <James.Dilley@jesticowhiles.com>; Laurie Handcock <LHandcock@iceniprojects.com>; David van der Lande <dlande@iceniprojects.com>; Lewis Westhoff <lwesthoff@iceniprojects.com>; Anna Snow <ASnow@iceniprojects.com>

**Subject:** RE: 135-149 Shaftesbury Avenue - Notes from last week's meeting

Thank you Kieron,

Really appreciate you coming back to me on these points.

I'll be in meetings all day tomorrow but will provide a detailed response on Friday.

Regards

Gideon Whittingham  
Senior Planner

Telephone: 020 7974 5180



**From:** Kieron Hodgson <KHodgson@iceniprojects.com>

**Sent:** 04 January 2019 15:26

**To:** Whittingham, Gideon <Gideon.Whittingham@camden.gov.uk>; McDonald, Neil <Neil.McDonald@camden.gov.uk>; Cullen, Bethany <Bethany.Cullen@camden.gov.uk>; Hatton, Colette <Colette.Hatton@camden.gov.uk>

**Cc:** 'Haim cateringuk@btconnect.com' <haim@thaisq.com>; Sue Wheldon <sue@brandarchitectsgroup.com>; James Dilley <James.Dilley@jesticowhiles.com>; Laurie Handcock <LHandcock@iceniprojects.com>; David van der Lande <dlande@iceniprojects.com>; Lewis Westhoff <lwesthoff@iceniprojects.com>; Anna Snow <ASnow@iceniprojects.com>; Kieron Hodgson <KHodgson@iceniprojects.com>

**Subject:** RE: 135-149 Shaftesbury Avenue - Notes from last week's meeting

Dear Gideon

We fully understand the desire to secure a viable operation, this also being of key concern to our client, however we remain deeply concerned at the content of your email as your principal comments relate to non-relevant planning points and instead seeks to focus on the occupational tenancy of the building by Odeon, which should have no bearing whatsoever on the assessment and determination of the application.

We thought it would be helpful to remind officers of the following key points:

- The building benefits from an open D2 permission. This means that the use could change from the existing cinema use to any other D2 use or to any other cinema operator at any time without the need for planning permission. You may recall that we discussed the possibility of providing a theatre/cultural space at the site when our pre-application discussions began some 2 years ago and indeed Camden encouraged this given the buildings historical use, however a subsequent request from officers led the client team to pursue a cinema use as part of the proposals.
- Notwithstanding the above and as we have explained extensively in previous correspondence, Odeon articulated at an early stage their intention to leave the building and occupy new premises in Leicester Square as part of their business model, all of which is clear in the request to surrender their lease. For

clarity, the Surrender of Lease was between the client and the previous owners of Odeon cinemas (which was a UK company) with Odeon subsequently been sold to an American company. The Client however retains the binding contract for Odeon to leave the building subject to being given 6 months' notice, which shall be served shortly.

- With regard to verification of the ICO Report, the ICO Report formed part of our Viability Assessment, which was subject to preparation by cinema specialists and was then subject to further external assessment, validation and endorsement by the Council's own consultants. On this basis, we cannot understand what possible further verification of this work officers could require.
- To reiterate then, it is clear from our submitted information that the Odeon's occupational tenancy was always intended to be short-term and we can take this explanation no further. We are unable to make Odeon meet with you directly as there is no onus upon them to do so.

It is within this context and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, we find your specific request to meet with Odeon unnecessary and unreasonable with no legitimate planning or policy reason to support it, especially as the building has an open D2 permission and a Surrender of Lease, both of which enable a cinema use to be extinguished at any time. We feel we have made and evidenced these points to you many times and you must therefore understand our frustrations in this matter.

We note your comments in relation to design and we are confident that a fantastic scheme could be delivered, which reflects the site's location in the heart of the West End, delivers the wide range of public benefits as set out in our application and meets the necessary requirements in terms of floorspace quantum to enable the delivery of a viable scheme in order to secure the future of this important listed building. As you are aware, a significant amount of work has gone into the design, as supported by the positive comments from Camden's own Design Review Panel, however our client would be willing to continue design discussions on the basis of a reasonable scope in seeking to reach a mutually agreeable solution and in the event that officers confirm that the matters officers raise relating to Odeon and land use are now agreed. For the purposes of expediency we request that this is provided within 7 days of the date of this email.

In the event that a consensus cannot be reached on the one remaining land use issue, we request that you determine the application in a timely manner, allowing us to progress with the submission of an appeal against any refusal. As we advised in our meeting on 30th October 2018, this would take the form of a Public Inquiry and we would apply for full costs on the basis of unreasonable behaviour displayed by Camden Council in the management of these applications.

It is our view that the Applicant has engaged proactively with the council at every stage and has responded fully to every possible reasonable and relevant planning consideration. The application proposals are the product of extensive pre-application advice and wider stakeholder engagement. They have been robustly prepared, justified and evidenced and have been subject to external independent assessment, verification and endorsement, significantly in excess of any normal planning assessment, all of which has confirmed that this is a fully policy compliant scheme which would secure the long-term future of this listed building.

We look forward to hearing from officers.

Kind regards

Kieron

**Kieron Hodgson**  
Director, Planning

telephone: 020 3435 4218  
mobile: 07807 264 704  
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**From:** Whittingham, Gideon <[Gideon.Whittingham@camden.gov.uk](mailto:Gideon.Whittingham@camden.gov.uk)>

**Sent:** 17 December 2018 19:36

**To:** Lewis Westhoff <[lwesthoff@iceniprojects.com](mailto:lwesthoff@iceniprojects.com)>; McDonald, Neil <[Neil.McDonald@camden.gov.uk](mailto:Neil.McDonald@camden.gov.uk)>; Cullen, Bethany <[Bethany.Cullen@camden.gov.uk](mailto:Bethany.Cullen@camden.gov.uk)>; Hatton, Colette <[Colette.Hatton@camden.gov.uk](mailto:Colette.Hatton@camden.gov.uk)>

**Cc:** 'Haim [cateringuk@btconnect.com](mailto:cateringuk@btconnect.com)' <[haim@thaisq.com](mailto:haim@thaisq.com)>; Sue Wheldon <[sue@brandarchitectsgroup.com](mailto:sue@brandarchitectsgroup.com)>; James Dilley <[James.Dilley@jesticowhiles.com](mailto:James.Dilley@jesticowhiles.com)>; Laurie Handcock <[LHandcock@iceniprojects.com](mailto:LHandcock@iceniprojects.com)>; David van der Lande <[dlande@iceniprojects.com](mailto:dlande@iceniprojects.com)>; Kieron Hodgson <[KHodgson@iceniprojects.com](mailto:KHodgson@iceniprojects.com)>

**Subject:** RE: 135-149 Shaftesbury Avenue - Notes from last week's meeting

Lewis,

Thank you for your email outlining the mixed-use approach for the cinema and for suggesting the framework for future design meetings.

With regard to land uses, we would appreciate input directly from Odeon on the matters you have raised. It is important to get a greater insight and perhaps verification of those findings by the ICO report which we acknowledge outlines, at a macro level, the viability issue of cinemas in the current climate.

It would be useful to get their input regarding the business operations on site, their aspirations for the site (and relationship with the Leicester Square site) and involvement in regards to future occupation. Acknowledging the 'option to surrender' provided, it would be useful to understand the business case directly from Odeon, particularly the signing of the initial declaration prior to agreement to surrender a business tenancy.

This would provide a good base to better understand the information you've put forward.

The input from Odeon would not only inform Camden, but also guide us how best to integrate and secure a viable cinema operated by CNC within this proposal.

CNC have stated in their Business Plan they wish to consult with the LPA to 'ascertain precisely the niche that this cinema is to fill with the special regard to the other proposed developments (Odeon Leicester Square/Ramada Hotel)'.

Understanding the reasons for Odeon vacating would not only inform Camden but also the CNC, as to what is needed to ensure a viable cinema at this site, which I'm sure, both parties are seeking.

Camden would be happy to discuss this directly with Odeon should you so wish with the aim of better understanding their rationale for surrendering the lease and the viability of their operation at this site.

With regard to design, Colette is available to discuss all matters, however, this should be driven by all design considerations and not a fixed quantum as the minimum needed to support the proposal.

I note your request for an early Committee next year, however, given the nature and extent of matters outstanding, it is improbable Camden would be in a position to recommend this scheme for January 2019.

Regards

Gideon Whittingham  
Senior Planner

Telephone: 020 7974 5180



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**From:** Lewis Westhoff <[lwesthoff@iceniprojects.com](mailto:lwesthoff@iceniprojects.com)>

**Sent:** 22 November 2018 11:23

**To:** McDonald, Neil <[Neil.McDonald@camden.gov.uk](mailto:Neil.McDonald@camden.gov.uk)>; Cullen, Bethany <[Bethany.Cullen@camden.gov.uk](mailto:Bethany.Cullen@camden.gov.uk)>; Whittingham, Gideon <[Gideon.Whittingham@camden.gov.uk](mailto:Gideon.Whittingham@camden.gov.uk)>; Hatton, Colette <[Colette.Hatton@camden.gov.uk](mailto:Colette.Hatton@camden.gov.uk)>

**Cc:** 'Haim cateringuk@btconnect.com' <[haim@thaisq.com](mailto:haim@thaisq.com)>; Sue Wheldon <[sue@brandarchitectsgroup.com](mailto:sue@brandarchitectsgroup.com)>; James Dilley <[James.Dilley@jesticowhiles.com](mailto:James.Dilley@jesticowhiles.com)>; Laurie Handcock <[LHandcock@iceniprojects.com](mailto:LHandcock@iceniprojects.com)>; David van der Lande <[dlande@iceniprojects.com](mailto:dlande@iceniprojects.com)>; Kieron Hodgson <[KHodgson@iceniprojects.com](mailto:KHodgson@iceniprojects.com)>

**Subject:** RE: 135-149 Shaftesbury Avenue - Notes from last week's meeting

Dear Neil

Thank you for your email, which raises a number of points. We have discussed your email with the Applicant and their professional team and provide our response below, which we hope is helpful.

#### **Mixed use approach and cinema**

As you know, our principal land use objective is to deliver a sustainable and genuinely mixed-use building, in accordance with planning policy and entirely commensurate with the site's heritage and location within the CAZ within the heart of and at the heart of the West End. The application proposals involve an hotel, spa and mixed Class A uses, supported by a new cinema.

As discussed at our meeting, the Applicant shall retain the freehold of the building, shall deliver the new cinema use in parallel with a cinema operator alongside best in class cinema business advice. We enclose with this email details of the Applicant's commercial arrangements with the cinema operator (John Sullivan from Cinema Next and the Light Cinema model), which reinforce the commitment to both the land use and the delivery of the cinema which is key to supporting the wider diversity and viability of the mixed commercial uses proposed with the ground plane.

With regard to the Odeon, we discussed at our meeting the principal points in relation to their departure, which we summarise below:

- The Odeon cinema never envisaged staying within the building over the long term.
- It was always the intention of Odeon to relocate to the new purpose-built Odeon cinema in Leicester Square.
- Based on the above planned relocation to Leicester Square, the Odeon (or ABC as it was at that time) articulated their intention to depart in December 2012. We enclose again for officers the Option to Surrender, which would be effective with six months' notice. We understand from Odeon that the Leicester Square development shall be ready for occupation in Q4 2019.
- The new Leicester Square Odeon has taken a lot longer than to deliver than Odeon originally anticipated, resulting in a continued run down of the Shaftesbury Avenue Odeon cinema business. Officers are aware of the poor financial performance of this cinema and other relevant financial considerations in the context of our submitted and externally validated financial viability assessment.

As such, we have a cinema operator who expressed an interest to leave in 2012, continues to wish to leave and relocated to Leicester Square, a new cinema operator and freehold owner seeking to re-provide a cinema use as a significant planning benefit, all in the context of an open D2 permission and established set of lease arrangements where a cinema use could cease at any time without further recourse to planning. There is no planning policy requiring the Applicant to demonstrate need.

We therefore trust the above is helpful in reaffirming the Applicant's commitment to both a cinema use and the delivery of a complimentary mixed-use development overall.

## **Design**

Thank you for your offer in seeking to continue negotiations with regard to the design. As you know, the many professional reports commissioned and assessments undertaken all agree that a) a roof extension is required and appropriate, and b) the roof extension must accommodate a specific and minimum quantum of floor area to enable a viable scheme.

In this context, we are keen to ensure that any further design discussions are clear on their scope – i.e. the shape and form of the roof extension and its materiality. In addition, and given the extensive time already incurred in engaging with regard to design matters, we would respectfully request that Bethany Cullen, Ed Jarvis and yourself be directly and closely involved going forwards.

Lastly, we would wish any future design discussion to have a defined duration. In this respect, we would propose that officers proceed on the basis that the application is reported to the Planning Committee on 17 January 2019 with a recommendation for approval, with the design negotiations taking place in November and December 2018. We feel that this programme is entirely achievable given the Applicant's commitment to resolving this last outstanding issue and the limited scope design matters requiring resolution as we set out above.

We hope the above and enclosed is helpful and look forward to officers' comments.

We would then propose to amend the PPA and to enable to progress.

Kind regards

Lewis

**Lewis Westhoff**  
Senior Planner, Planning

**telephone:** 020 3640 1024  
**mobile:** 07557 678 587  
**email:** lwesthoff@iceniprojects.com



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**From:** McDonald, Neil <[Neil.McDonald@camden.gov.uk](mailto:Neil.McDonald@camden.gov.uk)>

**Sent:** 13 November 2018 19:22

**To:** Lewis Westhoff <[lwesthoff@iceniprojects.com](mailto:lwesthoff@iceniprojects.com)>; Cullen, Bethany <[Bethany.Cullen@camden.gov.uk](mailto:Bethany.Cullen@camden.gov.uk)>;  
Whittingham, Gideon <[Gideon.Whittingham@camden.gov.uk](mailto:Gideon.Whittingham@camden.gov.uk)>; Hatton, Colette <[Colette.Hatton@camden.gov.uk](mailto:Colette.Hatton@camden.gov.uk)>

**Cc:** 'Haim cateringuk@btconnect.com' <[haim@thaisq.com](mailto:haim@thaisq.com)>; Sue Wheldon <[sue@brandarchitectsgroup.com](mailto:sue@brandarchitectsgroup.com)>; James Dilley <[James.Dilley@jesticowhiles.com](mailto:James.Dilley@jesticowhiles.com)>; Laurie Handcock <[LHandcock@iceniprojects.com](mailto:LHandcock@iceniprojects.com)>; David van der Lande <[dlande@iceniprojects.com](mailto:dlande@iceniprojects.com)>; Kieron Hodgson <[KHodgson@iceniprojects.com](mailto:KHodgson@iceniprojects.com)>

**Subject:** RE: 135-149 Shaftesbury Avenue - Notes from last week's meeting

Dear Lewis,

Apologies for not getting back to you sooner as we had said. I think it emerged from what we discussed at the meeting that our main concerns focus on the harm to the building from the significantly scaled extension on top of the building which is in no way subordinate to it and not befitting in its design. In fact the design seems unrelated to the host building and this may be due in part to it's a-symmetrical nature. Although we had advised in pre-app that an a-symmetrical approach might be appropriate this does not appear to have been successfully conceived – particularly given the height/bulk of the structure which as you know is of particular concern.

However from the various reports commissioned by both yourselves and the Council it is appreciated that there is an argument for some form of extension which is more substantial than we would ideally like for the building. It may be that a scheme of similar floorspace to that argued by yourselves could be achieved in more sympathetic form by redistributing the bulk in a different perhaps lower form thus mitigating the harm.

In addition, the need for such development could be more clearly understood if a letter can be provided from the Odeon confirming their intentions regarding the move from the building and their reasons for this and we have requested this countless times. Also as discussed at the meeting we would require written confirmation from the cinema operator which you said you were working with, in regard to the commitment to the project they are making and its financial nature to give needed confidence in the viability of the proposed basement cinema screens and likelihood of this part of the project being successfully realised.

On condition that you are able to provide us the necessary information in the above regards, and in the spirit of the PPA we are prepared to keep this application running for the time being to continue discussion on the design. I would be grateful if you can forward the information to Gideon to receive on his return from leave next Wednesday in order for us to reconsider issuing a refusal at this stage.

Regards,

Neil McDonald



Team Manager (South), Development Management

Telephone: 020 7974 2061

---

**From:** Lewis Westhoff <[lwesthoff@iceniprojects.com](mailto:lwesthoff@iceniprojects.com)>

**Sent:** 13 November 2018 15:39

**To:** Cullen, Bethany <[Bethany.Cullen@camden.gov.uk](mailto:Bethany.Cullen@camden.gov.uk)>; McDonald, Neil <[Neil.McDonald@camden.gov.uk](mailto:Neil.McDonald@camden.gov.uk)>; Whittingham, Gideon <[Gideon.Whittingham@camden.gov.uk](mailto:Gideon.Whittingham@camden.gov.uk)>; Hatton, Colette <[Colette.Hatton@camden.gov.uk](mailto:Colette.Hatton@camden.gov.uk)>

**Cc:** 'Haim [cateringuk@btconnect.com](mailto:cateringuk@btconnect.com)' <[haim@thaisq.com](mailto:haim@thaisq.com)>; Sue Wheldon <[sue@brandarchitectsgroup.com](mailto:sue@brandarchitectsgroup.com)>; James Dilley <[James.Dilley@jesticowhiles.com](mailto:James.Dilley@jesticowhiles.com)>; Laurie Handcock <[LHandcock@iceniprojects.com](mailto:LHandcock@iceniprojects.com)>; David van der Lande <[dlande@iceniprojects.com](mailto:dlande@iceniprojects.com)>; Kieron Hodgson <[KHodgson@iceniprojects.com](mailto:KHodgson@iceniprojects.com)>

**Subject:** RE: 135-149 Shaftesbury Avenue - Notes from last week's meeting

Bethany / Neil / Gideon / Collette

Could you please provide us with an update as to when we can expect to receive your final view on the applications?

We were expecting to receive your final view last week.

Kind regards

Lewis

**Lewis Westhoff**

Senior Planner, Planning

**telephone:** 020 3640 1024

**mobile:** 07557 678 587

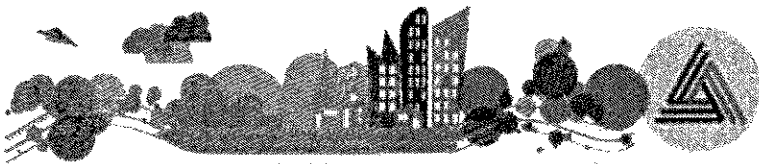
**email:** [lwesthoff@iceniprojects.com](mailto:lwesthoff@iceniprojects.com)

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---

**From:** Lewis Westhoff

**Sent:** 08 November 2018 16:35

**To:** Cullen, Bethany <[Bethany.Cullen@camden.gov.uk](mailto:Bethany.Cullen@camden.gov.uk)>; McDonald, Neil <[Neil.McDonald@camden.gov.uk](mailto:Neil.McDonald@camden.gov.uk)>;

Whittingham, Gideon <[Gideon.Whittingham@camden.gov.uk](mailto:Gideon.Whittingham@camden.gov.uk)>; Hatton, Colette <[Colette.Hatton@camden.gov.uk](mailto:Colette.Hatton@camden.gov.uk)>  
**Cc:** 'Haim cateringuk@btconnect.com' <[haim@thaisq.com](mailto:haim@thaisq.com)>; Sue Wheldon <[sue@brandarchitectsgroup.com](mailto:sue@brandarchitectsgroup.com)>; James Dilley <[James.Dilley@jesticowhiles.com](mailto:James.Dilley@jesticowhiles.com)>; Laurie Handcock <[LHandcock@iceniprojects.com](mailto:LHandcock@iceniprojects.com)>; David van der Lande <[dlande@iceniprojects.com](mailto:dlande@iceniprojects.com)>; Kieron Hodgson <[KHodgson@iceniprojects.com](mailto:KHodgson@iceniprojects.com)>  
**Subject:** RE: 135-149 Shaftesbury Avenue - Notes from last week's meeting

Bethany / Neil / Gideon / Collette

We hope you are well.

We would be grateful if you could please provide us with a timeframe that we can expect to receive your final views on the applications.

Kind regards

Lewis

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**From:** Lewis Westhoff  
**Sent:** 05 November 2018 10:35  
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**Subject:** 135-149 Shaftesbury Avenue - Notes from last week's meeting

Bethany / Neil / Gideon / Collette

Thanks again for your time last week to discuss the applications at 135-149 Shaftesbury Avenue.

We have prepared the enclosed Draft Meeting Notes. We would be grateful if you could please review and confirm that these are an accurate reflection of our discussions.

We also look forward to receiving your final view on the applications soon.

Kind regards

Lewis

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Please be aware that from the 29th October our new London office address will be Da Vinci House, 44 Saffron Hill, London, EC1N 8FH



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