

STATEMENT OF COMMON GROUND

APPLICATION REFERENCES: 2017/7051/P and 2018/0037/L

APPEAL REFERENCES: APP/X5210/W/19/3243781 and APP/X5210/Y/19/3243782

SITE ADDRESS: 135-149 Shaftesbury Avenue London WC2H 8AH (the “Site”)

DESCRIPTION OF THE DEVELOPMENT

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

APPELLANT: Capitalstart Limited (“the Appellant”)

LOCAL PLANNING AUTHORITY: London Borough of Camden (“the Council”)

This statement addresses the following areas of common ground:

1. Description of the site
2. Designations
3. Planning history of the site and the application
4. Development plan (including relevant policies)
5. Relevance of any supplementary planning guidance published by LPA
6. Relevant national policy
7. Evidence
8. Areas of agreement
9. Areas of disagreement
10. Conditions
11. Section 106 agreements
12. CIL

1 Description of the site

- a. 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.

2 Designations

- a. The Site was listed as Grade II in 1998 by Historic England.

- b. 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

3 Planning History of the site and the application

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.

4 Development plan policies and designations

- a. For the purposes of Section 38 of the Planning and Compulsory Purchase Act 2004 the Development Plan for the London Borough of Camden comprises:
 - i. The London Plan (2016)
 - ii. Camden Local Plan (2017)
- b. The Council has also adopted a number of Planning Guidance documents.
- c. The following Local Plan policies are relevant to this appeal

Camden Local Plan (2017)
Policy G1 Delivery and location of growth
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
Policy C1 Health and wellbeing
Policy C2 Community facilities
Policy C3 Cultural and leisure facilities
Policy C5 Safety and security
Policy C6 Access for all
Policy E3 Tourism
Policy A1 Managing the impact of development
Policy A2 Open space
Policy A3 Biodiversity
Policy A4 Noise and vibration
Policy A5 Basements
Policy D1 Design
Policy D2 Heritage
Policy D3 Shopfronts
Policy CC1 Climate change mitigation
Policy CC2 Adapting to climate change
Policy CC3 Water and flooding

Policy CC4 Air quality
Policy CC5 Waste
Policy TC1 Quantity and location of retail development
Policy TC2 Camden's centres and other shopping areas
Policy TC4 Town centres uses
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
Policy DM1 Delivery and monitoring

5 Supplementary Planning Guidance

a. Camden adopted Planning Guidance

- 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)

6 National Policy

Both the National Planning Policy Framework and the Planning Practice Guidance are material considerations in the determination of this application. While none of the content can be dismissed as irrelevant, it is considered that specific parts of each one are particularly relevant as follows:

a. NPPF

- i. Chapter 2 – Achieving sustainable development
- ii. Chapter 8 – Promoting healthy and safe communities
- iii. Chapter 12 – Achieving well-designed places
- iv. Chapter 16 – Conserving and enhancing the historic environment

b. PPG

- i. Paragraphs 007 and 008 (Reference ID: 18a-007-20190723 and 18a-008-20190723) and the guidance on 'significance' in terms of heritage;

- ii. Paragraphs 15, 16 and 17 (Reference ID: 18a-015-20190723, Reference ID: 18a-016-20190723 and Reference ID: 18a-017-20190723) which provides guidance as to optimum viable use of heritage assets;
- iii. Paragraph: 020 Reference ID: 18a-020-20190723 and the guidance on public heritage benefits derived from developments.

7 Evidence

- a. The Council intends to produce evidence in relation to the following areas:
 - i. Planning
 - ii. Architecture and design
 - iii. Heritage and conservation
 - iv. Viability
- b. The Appellant intends to produce evidence as follows:
 - i. Planning
 - ii. Architecture and design
 - iii. Heritage and conservation
 - iv. Viability

8 Areas of Agreement

Land use

- a. There is no in-principle objection to the creation of a new hotel, restaurant, bar and spa in this location, but the Council objects to the alleged resulting loss of the existing cultural facility as a result of the proposals;
- b. The proposed restaurant and bar are located within a mixed use area, and the introduction of new food and drink uses to the site would contribute to the vitality of the Central Activities Zone, subject to amenity and transport considerations as outlined in sections 3 and 5 of the Officer's report;
- c. Given the site's inclusion within the Central Activities Zone, and its PTAL rating of 6b (the highest), it is considered an appropriate location for the introduction of a new hotel use, subject to amenity and transport considerations as outlined in sections 3 and 5 of the Officer's report;
- d. The Council's Design Review Panel stated that it supported the principle of refurbishing the building as a hotel, on the clear proviso that an operational cinema could be retained, but there was concern that the cinema function will not be viable unless it is fully embedded into the building's design.

Heritage and design

- e. 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. The full listing is included as Appendix 1.
- f. The building is steel framed, and clad in red-brown brick with an artificial stone plinth and frieze to the front.

- g. 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;
- h. In 1970 the building was converted from a theatre into two cinemas.
- i. A roof extension of this form and height, if sympathetically executed could be incorporated without significant harm to the listed building. Any less than substantial harm caused would need to be outweighed by the scheme's public benefits in accordance with paragraph 196 of the NPPF.
- j. The proposed repair and reinstatement works, including works to the frieze and the arched window, are direct heritage benefits of the proposal;
- k. The proposed basement excavation would not harm the significance of the listed building.

Viability

- l. The Council has received informal expressions of interest from a number of theatre operators.

Other

- m. The parties consider that reasons for refusal 4-14 could be overcome by entering into a s106 agreement (see Heads of Terms below);
- n. Reason for Refusal 3 could be dealt with by way of condition. The Appellant has confirmed that it has instructed its team to prepare a report to the Council in connection with this issue. Further updates will be provided to the Inspector during the course of the appeal.

9 Areas of disagreement on reasons for refusal 1 and 2

- a. Whether the proposals would cause harm to the heritage significance of the Property, in terms of its form, architectural character, historic interest and main use, or whether the heritage asset would be preserved or enhanced;
- b. Whether the detailed design of the proposals is appropriate;
- c. Whether any harm would be caused by the proposals to the settings of the nearby conservation areas;
- d. If less than substantial harm is caused to the heritage assets, which is itself disputed, whether such harm would be outweighed by the scheme's public benefits, and whether the proposals would be the optimum viable use of the Property;
- e. Whether the current cultural/leisure facility would be lost as part of the proposals;
- f. Whether alternative proposals would be viable at the site;
- g. Whether there was a policy requirement for a marketing exercise to be undertaken targeted at alternative cultural and leisure operators.

Areas of disagreement on Reason for refusal 3

- h. Assuming that no agreement can be reached between the parties as to whether a condition would be sufficient to deal with this reason for refusal, whether sufficient information has been provided to demonstrate that the proposed roof top plant would operate in accordance with the Council's minimum noise and vibration standards and that that all plant, when operating at full capacity, would be capable of doing so without causing noise disturbance and harm to the local residential environment.

10 Conditions

Draft conditions will be agreed in advance of any inquiry, with any outstanding disputes to be discussed at the inquiry itself.

11 Section 106 Agreement

- a. The following heads of terms have been agreed:
 - i. workplace travel plan and financial contribution for travel plan monitoring;
 - ii. "coach-free" development;
 - iii. Financial contribution towards public highways works;
 - iv. Financial contributions towards pedestrian, cyclist and environmental improvements in the area;
 - v. Servicing Management Plan for the commercial element;
 - vi. Construction management plan, community working group and an appropriate financial contribution towards implementation support;
 - vii. Approval in Principle Report and appropriate financial contribution towards an approval in principle for basement works under the public highway;
 - viii. Energy Efficiency Plan and renewable energy plan including the measures set out in the Energy Strategy;
 - ix. Carbon off-set contribution;
 - x. Sustainability Plan including Design Stage and Post Construction stage BREEAM assessment reports and certificates;
 - xi. Local employment and training package with appropriate financial contributions.

- b. Both sides are confident that an agreed and completed version of the document will be submitted to the Inspector prior to the close of the inquiry.

12 Community Infrastructure Levy

The proposals would be subject to Council and Mayoral CIL

Document List

Legislation

Town and Country Planning Act 1990

Planning and Compulsory Purchase Act 2004

Planning (Listed Buildings and Conservation Areas) Act 1990

National Guidance

National Planning Policy Framework (2018)

National Planning Practice Guidance (Online)

Greater London Authority

The London Plan (2016)
Emerging London Plan (TBC)

Camden

Camden Local Plan (2017)
CPG Access for all (2019)
CPG Amenity (2018)
CPG Basements (2018)
CPG Biodiversity (2018)
CPG Design (2019)
CPG Developer contributions (2019)
CPG Energy efficiency (2019)
CPG Interim Housing (2019)
CPG2 Housing (2016, amended 2019)
CPG Transport (2019)
CPG Trees (2019)
CPG Water and flooding (2019)
CPG Community uses, leisure facilities and pubs (2018)
CPG Planning for health and wellbeing (2018)
CPG Town Centres (2018)

LBC CIL Charging Schedule

APPENDIX 1: Historic England Listing Description ref: 1271631

FORMER SAVILLE THEATRE

3 contributions

Overview

Heritage Category:

Listed Building

Grade:

II

List Entry Number:

1271631

Date first listed:

01-Jul-1998

Statutory Address:

FORMER SAVILLE THEATRE, SHAFTESBURY AVENUE

Map



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The above map is for quick reference purposes only and may not be to scale. For a copy of the full scale map, please see the attached PDF - [1271631.pdf \(opens in a new window\)](#)

This copy shows the entry on 21-Jan-2020 at 13:20:09.

Location

Statutory Address:

FORMER SAVILLE THEATRE, SHAFTESBURY AVENUE

The building or site itself may lie within the boundary of more than one authority.

County:

Greater London Authority

District:

Camden (London Borough)

National Grid Reference:

TQ 29980 81145

Details

CAMDEN

TQ2981SE SHAFTESBURY AVENUE 798-1/104/1899 Former Saville Theatre
01/07/98

II

Former theatre, now cinema. Designed 1929-30, built 1930-1 by TP Bennett and Son for AE Fournier, theatrical impresario. Steel frame clad in red-brown brick with artificial stone plinth and sculpted frieze to front, and parapet round the building. Rectangular building, originally comprising a theatre on 3 levels, but converted in 1970 into 2 cinemas set one above the other and with large foyer and staircase. EXTERIOR: the elevation is particularly handsome. Rusticated stone plinth with band supports frieze by Gilbert Bayes depicting Drama through the Ages. Moulded band over, above which a blind facade of rusticated brickwork interrupted only by 5 pairs of roundel plaques, and a giant arch over the entrance, framed by simple stone banding with a flat keystone. The arch originally with bronze metal glazing, since 1970 tiled over. Simpler brickwork to side elevations and rear. INTERIOR: remodelled in 1970 and nothing of the 1930-1 work remains on view. The Saville Theatre is remarkable as a fine composition that incorporates architecture and sculpture with rare intelligence, and which fulfills Bayes' vision of a unity between the two arts. Bayes' frieze is one of the largest and most important works of public sculpture of its age, and won him the silver medal of the Institute of Sculptors for the best piece of applied sculpture of its year. It is 129 feet long and made from artificial stone. It consists of a frieze of dramatic players and dancers set between a broad curtain which is folded round the side of the building. It depicts from left to right: St Joan; the Chester players; St George; a Roman triumphal procession; Bacchanalian dancers; a Harlequinade in Comedia dell'arte costume; Shakespearean figures; figures from contemporary drama and (round the corner) a figure in Boer War uniform. The plaques above depict art of Egypt;

Assyria; the Italian Renaissance; Medieval (initialled); Pompadour; Victorian period (signed); Elizabethan and Georgian.

Listing NGR: TQ2998081145

Legacy

The contents of this record have been generated from a legacy data system.

Legacy System number:

477977

Legacy System:

LBS

Legal

This building is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.

End of official listing