

**164 Shaftesbury Avenue**  
London WC2H 8HL

**Townscape, Heritage and Visual Impact Assessment**



May 2022

Consultancy for the  
Historic Built Environment

**KMI Heritage**

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## 1 Introduction

- 1.1 This Townscape, Heritage and Visual Impact Assessment has been prepared by KMHeritage on behalf of Daejan Investments Ltd. in support of proposals for 164 Shaftesbury Ave, London WC2H 8HL. This is referred to as the 'site' in this report.
- 1.2 This report should be read in conjunction with the accompanying drawings and Design & Access Statement prepared by Child Graddon Lewis and the Planning Statement prepared by JLL.

### The proposed development

- 1.3 Planning permission is sought for:

*"Erection of two-storey infill extension at ground and first floor and single-storey extension at fifth floor on the corner of Shaftesbury Avenue and Mercer Street, external alterations including relocation of main entrance from Shaftesbury Avenue to Mercer Street, replacement gates on Mercer Street, replacement of three terraces fronting Mercer Street with one at fifth floor level, erection of new roof terrace at sixth floor level, and replacement glazing and cladding at ground to fifth floor levels, and overhaul of building services including a new lift overrun and replacement and installation of plant."*

### Purpose

- 1.4 The purpose of this report is to assess the emerging proposals against national and local policies and guidance relating to the historic built environment and architectural and urban design.

### Organisation

- 1.5 This introduction is followed by a description of the history of the site in Section 2. Section 3 analyses the heritage and townscape significance of the site and its context. Section 4 sets out the national and local policy and guidance relating to the historic built environment,

relevant to this matter. An analysis is provided in Section 5 of the emerging proposal and its potential effect in heritage and townscape terms. Section 6 examines the proposal in terms of policy and guidance, and Section 7 is a summary and conclusion.

#### **Authorship and contributors**

- 1.6 The author of this report is Kevin Murphy B.Arch MUBC RIBA IHBC. Kevin was an Inspector of Historic Buildings in the London Region of English Heritage and dealt with a range of major projects involving listed buildings and conservation areas in London. Prior to this, he had been a conservation officer with the London Borough of Southwark and was Head of Conservation and Design at Hackney Council between 1997 and 1999. He trained and worked as an architect and has a specialist qualification in urban and building conservation.
- 1.7 Assistance in preparing this report was provided by Anne Roache MA MSc. Anne is a conservation professional who began her career at Jones Lang LaSalle and went on to gain broad experience working for leading commercial organizations in the fields of property, planning and law. She specialises in the architectural and social history of London.
- 1.8 Historical research was carried out by Jonathan Clarke. MSocSci. Jonathan is experienced historic environment professional, with more than 25 years' experience working in the historic built environment sector including for English Heritage and the Royal Commission on the Historic Monuments of England.

## 2 The site and its surroundings

- 2.1 This section of the report describes the history and development of the site and its surroundings.

### The area around the site

- 2.2 No. 164 Shaftesbury Avenue (**Fig. 1**) occupies a prominent site within the Seven Dials district situated north of Covent Garden and south of St Giles. Seven Dials was developed in the 1690s by Thomas Neale, M.P. (1641–99), a wealthy entrepreneur and speculator who, mindful of the successful Covent Garden Piazza development earlier in the century, saw its potential as the most fashionable address in London.<sup>1</sup> In 1690 Neale obtained a lease of Marshland Close – Crown land, that in the Middle Ages belonged to the Hospital of St Giles – and in 1693 construction began on the large square shaped plot. Uniquely, from an English perspective, it was not planned on the usual square layout seen at Covent Garden Piazza or St James’s Square, but on a distinctive pattern of seven streets radiating from a central polygonal space. Inspiration for this likely came from Renaissance Italy or Louis XIV’s France, but more immediately and locally from Wren’s unexecuted plan for the rebuilding the post-fire City, which featured several set-pieces with radiating streets.<sup>2</sup>

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<sup>1</sup> <https://www.sevendials.co.uk/history>

<sup>2</sup> *Seven Dials Renaissance: The Environmental Handbook* (Civic Design Partnership in Association with Historic Buildings Consultants, 1990), p3



Figure 1: 164 Shaftesbury Avenue; Mercer Street is on the left

2.3 With seven narrow streets radiating from a central column bearing six sundials (designed by Edward Pierce (ca. 1635–1695), Seven Dials enjoyed a short-lived cachet as a respectable residential district. The density of the street layout allowed for a large number of profitable frontages and the terraced houses, built by individual builders, were soon inhabited by gentlemen, lawyers and prosperous tradesmen. However, fashion moved westwards, and the star-shaped layout came to be seen as cramped rather than novel. Neale, who had converted his Crown leasehold to freehold in 1692, sold his interest in the estate, and in the 1730s, the then owner, James Joye, sold the triangular segments separately (**Fig. 2**). The fragmentation of the ownership, and absence of overarching restrictive covenants, saw the area become increasingly commercialised and crime-ridden, recorded in Hogath's *Gin Lane* and other works. In 1773 the central pillar was removed in an effort to stop mobs from



congregating, although unrest continued. In the 1790s, as leases were renewed, many of the original houses were refronted or rebuilt, some with timber shopfronts (Fig. 3).<sup>3</sup>

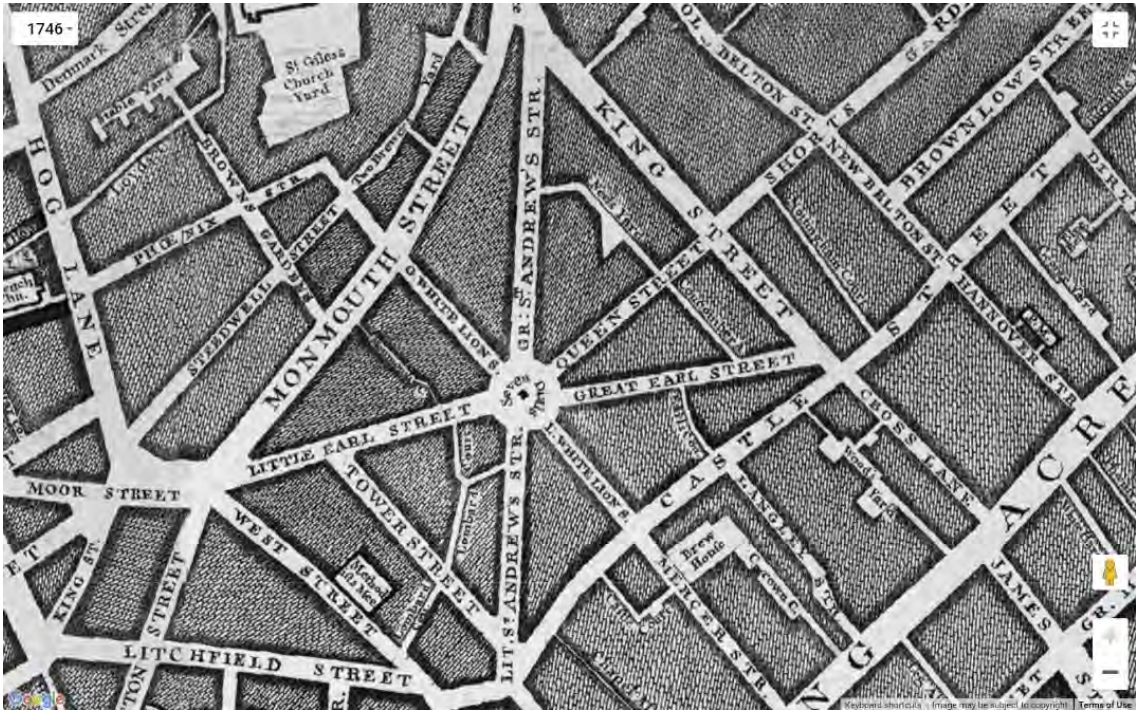


Figure 2: John Rocque's map of 1746, by which time the triangular segments of Seven Dials were already in separate ownerships

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<sup>3</sup> Ibid; Bridget Cherry & Nikolaus Pevsner *The Buildings of England. London 4: North* (1998), p317



Figure 3: Extract from Horwood's map of 1792-99, at which date Seven Dials still consisted largely of terraced houses, shops and workshops

- 2.4 Victorian slum clearances and street improvements, including the creation of Shaftesbury Avenue in 1877–86 linking the West End to New Oxford Street, saw the residential character mostly replaced by commercial, industrial and institutional buildings. The western segment bounded by Shaftesbury Avenue, Mercer Street (née Great White Lion Street) and Earlham Street (née Little Earl Street) saw the replacement most of the original houses along Shaftesbury Avenue by much larger buildings (Fig. 4). These included the International Hotel Employees Society, Nos 158–260 (denoted German Club on the OS map), and Shaftesbury House at No. 264.<sup>4</sup> Shaftesbury House was built as the new headquarters of the National Refuges for Homeless and Destitute Children (est. 1843) in 1887–90 to designs by the prolific church architect Edgar Phillip Loftus Brock, F.S.A. (1833–1895). The foundation stone of this ‘large block of buildings’

<sup>4</sup> 1895 POD, p576; 1899 POD, p728

(Fig. 5) was laid by the future Edward VII, then Prince of Wales.<sup>5</sup>



Figure 4: Extract from 1892 OS map (survey date) showing the changing character of Seven Dials as larger commercial and institutional buildings replaced Georgian terraced houses.

2.5 In 1937–8, the street names and numbers of Seven Dials was changed,<sup>6</sup> although the numbering of that section of the west segment fronting Shaftesbury Avenue seems to have remained unchanged. The area largely escaped wartime bombing, and it wasn't until after the removal of Covent Garden Market to Wandsworth in the 1970s that concerted redevelopment and rehabilitation began. To deal with the consequences of the vacation of the market, including changes of ownership and uses, the Initial Development Plan for Greater London was amended in 1973 to include the designation of Covent Garden as a

<sup>5</sup> Obit, *The Builder*, 9 November 1895, 339

<sup>6</sup> *Seven Dials Renaissance: The Environmental Handbook* (Civic Design Partnership in Association with Historic Buildings Consultants, 1990), p4

Comprehensive Development Area (CDA). Seven Dials was given 'Outstanding Status' by the Secretary of State, and the following year it was given Conservation Area status.<sup>7</sup> Despite laying the foundations for notable conservation gains and triumphs to the area in the ensuing years, including much restoration under the parameters of the GLC Covent Garden Area Action Plan (1978), the CDA failed to prevent all inappropriate development.



Figure 5: Edgar P.L. Brock's headquarters building for the National Refuges for Homeless and Destitute Children (1887-90),as photographed shortly before demolition in 1975

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<sup>7</sup> Ibid

## The development of 164 Shaftesbury Avenue

- 2.6 Most controversially, ‘without full public participation, [and] in complete contradiction to the policies of the whole Greater London Council’, the GLC’s Covent Garden Development Committee granted outline planning permission for a mixed-use scheme designed by Richard Seifert & Partners for the property developers Amalgamated Investment & Property Co. Ltd (Fig. 6).<sup>8</sup> This part six and part four storey brick-clad reinforced concrete block at No. 164 Shaftesbury Avenue, Nos 15–27 Earlham Street and Nos 33–43 Mercer Street was erected in 1975–6.<sup>9</sup> It entirely replaced Brock’s Shaftesbury House (1887–90). Part of the controversy lay in the fact that Seifert claimed on the one hand that he was only replacing pre-existing office space, and, on the other, that the site was actually vacant. In the view of the *Architects’ Journal*, there was a lack of public consultation and participation, with the chairman of CGDC also partially to blame: ‘Both Seifert and Ponsonby should think again before they try and force another lump of developers’ sterile offices into the long-suffering Covent Garden area.’<sup>10</sup>

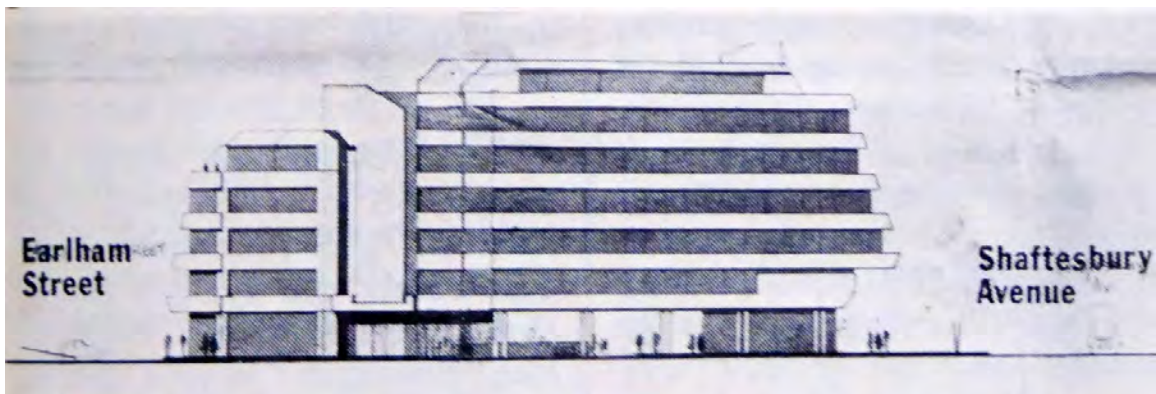


Figure 6: Mercer Street elevation of Seifert scheme  
[Architects' Journal, 27 May 1974]

<sup>8</sup> ‘Pushing your luck’, *Architects’ Journal*, 27 May 1974, p1125

<sup>9</sup> *The Financial Times*, 3 November 1975, p13. This source notes that the scheme had a contract value of £1.6 million and that work had begun and was due to be completed in 95 weeks.

<sup>10</sup> ‘Pushing your luck’, *Architects’ Journal*, 27 May 1974, p1125

### 164 Shaftesbury Avenue: architectural features

- 2.7 The main component of Seifert's scheme was 2,323 square metres (25,000 sq. ft) of air-conditioned office space. This occupied the six-storey parts of the building facing Shaftesbury Avenue and Mercer Street. The scheme also included three ground-floor shops (presumably on Earlham Street, as now) and 15 flats for Camden Council – the latter, named Earlham House, was, according to the *Architects' Journal*, 'thrown in as a sop to public opinion'.<sup>11</sup>
- 2.8 Faced in a reddish buff brick, with bronzed anodised aluminium windows and set-back roof storeys, it was a more contextualised and less brazen design compared to much of Seifert's output to its mid-1970s date. Its horizontal emphasis, with alternating bands of continuous glazing and brickwork which broadly matches the tone of neighbouring buildings, was tempered by the set-back massing, and vertical channels. Such details were not present in the published elevation of 1974 (Fig 6) and may have been introduced to gain planning consent. Seifert also clearly expressed the residential function of the Mercer Street and Earlham Street parts of the building, the former with windows set in, or projecting from the wall plane, and the latter with deep, inset balconies. The residential flats were ostensibly entirely separate from the office component of the building, with a courtyard area in the former, presumably to bring natural light to the inner-facing rooms.

### Later alterations

- 2.9 The office component of the building was seemingly occupied, at least in part, by the Post Office, for in 1979 permission was granted for 43,000 sq. ft of basement level space for storage purposes.<sup>12</sup> In 1986 permission was given for a residential flat on the sixth floor to have a

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<sup>11</sup> Ibid

<sup>12</sup> Planning Application #28692 (registered 21 June 1979).

glazed roof,<sup>13</sup> and in the 1990s infill extensions were made to the ground and first floor to provide more office and gallery exhibition space.<sup>14</sup> In 2005 a new lobby was created on the Shaftesbury Avenue frontage that saw the extension of the ground and first floor, and in the same year permission was granted for a roof extension at fifth floor level to the Mercer Street frontage.<sup>15</sup>

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<sup>13</sup> Ibid, #8601934 (registered 10 October 1986).

<sup>14</sup> Ibid, #9000192 (registered 10 April 1990), #9501336 (registered 28 July 1995).

<sup>15</sup> Ibid, #2005/3664/P (registered 15 September 2005), #2005/4782/P (registered 16 November 2005), ##2005/4784/P (registered 16 November 2005)

### 3 The heritage and townscape context of the site

#### Introduction

- 3.1 The heritage context of the site has been established through a search of the Greater London Historic Environment Record (GLHER), the National Heritage List for England and resources provided by the London Borough of Camden, as well as other relevant archives and sources.

#### Heritage assets

- 3.2 164 Shaftesbury Avenue is located in the Seven Dials Conservation Area. The former Saville Theatre, now an Odeon cinema, at 135-149 Shaftesbury Avenue, is listed Grade II and lies immediately opposite 164 Shaftesbury Avenue to the west. There are no other listed or locally listed buildings in the immediate vicinity, with Grade II listed buildings located to the east of Monmouth Street and south of Earlham street. The southern boundary of the Denmark Street Conservation Area runs along New Compton Street, behind the listed cinema building. (Figure 7)

- 3.3 The current conservation area appraisal dates from 1998. The overall character and appearance of the conservation area is described as follows:

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

*Most buildings appear to spring from the footway without physical front boundaries or basement areas. In this tightly contained streetscape, changes of road width, building form and land-use give dramatic character variation, narrow alleys and hidden yards provide unforeseen interest and the few open spaces provide relief*



*and a chance to pause and take stock of one's surroundings. Apart from Seven Dials there are no formal open spaces but some significant informal spaces occur in the form of yards and street junctions.*

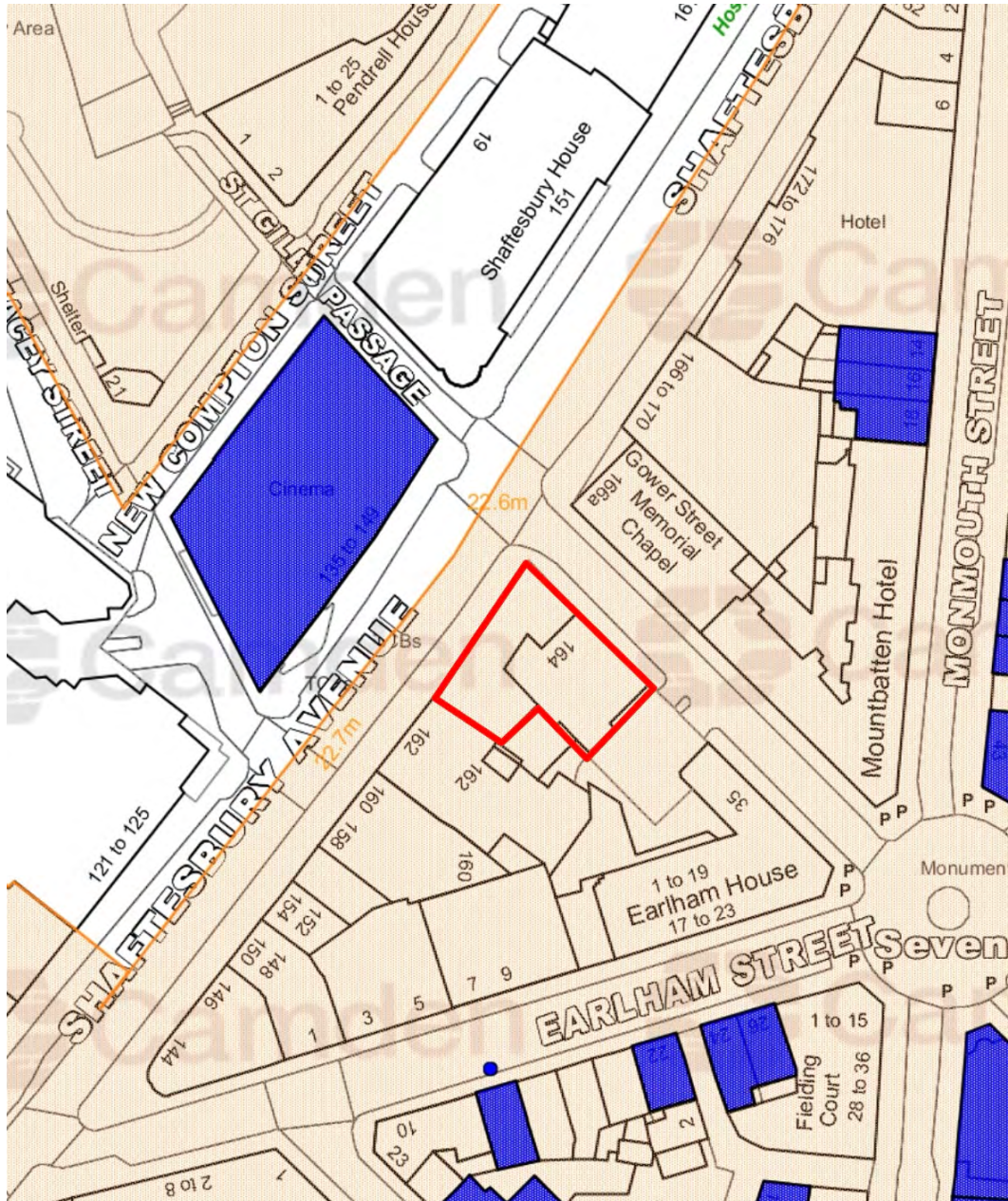


Figure 7: Heritage assets in the vicinity of the site - listed buildings are show in blue (all Grade II) and conservation areas in beige tone. The site is outlined in red.

- 3.4 164 Shaftesbury Avenue lies in Sub-area 1 of the Seven Dials Conservation Area. The Shaftesbury Avenue is described in the conservation area appraisal as follows:

*Shaftesbury Avenue and the north east corner of Cambridge Circus were formed by the Metropolitan Board of Works in the 1880s by widening the existing street. Shaftesbury Avenue then became an important central London Avenue, with a distinctive scale of buildings and use of materials, dominated by red brick and the use of terracotta.*

*The street and the plot widths are generally wider than the rest of the Conservation Area and the buildings are generally higher. London Plane trees were planted to line the Avenue, which have become a distinctive feature of the street. Shaftesbury Avenue's character makes it a natural boundary to the Conservation Area, with three distinct spaces along its length. Cambridge Circus, though marred by the road layout and traffic is the grandest in terms of layout and scale. The Monmouth Street/Neal Street junction, with its widened footways forms a lesser and informal space. Outside the Conservation Area at the northern end is Princes Circus, currently a fragmented and traffic dominated space that contributes little to the area but its plane trees.*

#### **Townscape character**

- 3.5 The conservation area appraisal says of the townscape character of the Seven Dials Conservation Area that:

*In an area of narrow streets open spaces provide unexpected and important contrasts and an opportunity to view the townscape. The most significant are; views towards and from Seven Dials; this included the view west along Earlham Street that frames the distinctive, red brick turreted corner of the Palace Theatre at Cambridge Circus and the view north along Mercer Street to the Post Office Tower. The views towards the open space at the northern end of Neal Street, the open space at the corner of Neal Street, Earlham Street and Shelton Street, views along*

*Shaftesbury Avenue towards Cambridge Circus and Princes Circus, views into Neal's Yard.*

- 3.6 The conservation area appraisal explicitly refers to 164 Shaftesbury Avenue as a negative feature in the conservation area:

*Not all recent development has enhanced the character and appearance of the area; such as Earlham House on Mercer Street/Shaftesbury Avenue/Earlham Street designed by Richard Seifert.*

- 3.7 In addition, the conservation area appraisal identifies the site as an 'opportunity site'.
- 3.8 The buildings forming the northern side of Mercer Street are identified as making a positive contribution to the conservation area, as are those to the south of 164 Shaftesbury Avenue on the same side.

### **Heritage and townscape significance**

*Assessing heritage significance: concepts and terminology*

- 3.9 Listed buildings and conservation areas are 'designated heritage assets', as defined by the National Planning Policy Framework (the NPPF). Other buildings and structures identified as having heritage significance can be considered as 'non-designated heritage assets', and this includes locally listed buildings.
- 3.10 Heritage 'significance' is defined in the NPPF as  
*'the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting'.*
- 3.11 The Historic England 'Historic Environment Good Practice Advice in Planning Note 2' puts it slightly differently – as 'the sum of its architectural, historic, artistic or archaeological interest'.

3.12 'Conservation Principles, Policies and Guidance for the sustainable management of the historic environment' (English Heritage, 2008) describes a number of 'heritage values' that may be present in a 'significant place'. These are evidential, historical, aesthetic and communal value.

3.13 'Heritage significance' and 'heritage values' are assumed to be conceptually equivalent to each other, and both to the statutory term the 'special architectural or historic interest' of listed buildings or conservation areas.

*Historic interest' or 'Historical value', 'Evidential value' and 'Communal value'*

3.14 Historical value is described as being illustrative or associative and the buildings that comprise the site, the listed buildings and other buildings nearby, and their relationship to one another, collectively illustrate the development of this part of London over an extended period of time. Their story tells us a good deal about how Covent Garden evolved: from the transformative developments of the late 17th and 18th centuries, through to the commercial activities of the 19th century, and the 20th century post-war decline and regeneration.

3.15 In terms of 'Conservation Principles' the site and its surroundings provide us with 'evidence about past human activity' and by means of the fabric, design and appearance of buildings, communicate information about the past to a varying degree, depending on the individual buildings in question. The buildings communicate a story about economic and social change and lifestyles during that extended period, and about the nature of urban regeneration in the recent past.

3.16 The surrounding area has many associations with important individuals and bodies, in terms of notable former residents, as well as the landowners and architects who formed the district as we see it today.

*'Architectural interest', 'artistic interest' or 'aesthetic value'*

- 3.17 In respect of design, 'Conservation Principles' says that *'design value... embraces composition (form, proportions, massing, silhouette, views and vistas, circulation) and usually materials or planting, decoration or detailing, and craftsmanship'*.
- 3.18 It is clear that many buildings in the vicinity of the site have 'architectural' and 'artistic interest' (PPS5) or 'aesthetic value' ('Conservation Principles'). In respect of design, 'Conservation Principles' says that *'design value... embraces composition (form, proportions, massing, silhouette, views and vistas, circulation) and usually materials or planting, decoration or detailing, and craftsmanship'*.

*164 Shaftesbury Avenue*

- 3.19 Like many of the Seifert practice's lesser or later works, this project passed virtually unnoticed by the architectural press with no magazine seemingly featuring it upon its completion. At its design stage the *Architect's Journal* thought it 'yet another dead barrack block of offices' and 'another lump of developers' sterile offices'.<sup>16</sup> It was entirely ignored by Bridget Cherry in her revision of Pevsner,<sup>17</sup> and, as referred to earlier, the building is considered to detract from the Seven Dials Conservation Area, and has 'a particularly damaging impact at street level on Mercer Street at the entrance to the basement car park'.<sup>18</sup>
- 3.20 The Seifert scheme came at the very end of the 1960s/early '70s commercial property boom, a period for developers which saw the Seifert practice produce its more noted works including Centre Point, Space House (now Civil Aviation Authority House), and The Alpha

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<sup>16</sup> *Architects' Journal*, 27 May 1974, p1125

<sup>17</sup> Bridget Cherry & Nikolaus Pevsner *The Buildings of England. London 4: North* (1998)

<sup>18</sup> Seven Dials Conservation Area Statement (Camden Council, 1995), p11

Tower in Birmingham. Among the developers Seifert was working for in the early/mid-1970s was the Amalgamated Investment and Property Company Limited, (AIP), a firm which chose Seifert's Whittington House, Alfred Place, Tottenham Court Road (1971–2) as the main element of one particular advertising campaign. This building employed Seifert's trademark sculptural pre-cast columns, and is now seen, in contrast to 164 Shaftesbury Avenue in the Seven Dials Conservation Area as making a positive contribution to the (enlarged) Bloomsbury Conservation Area.<sup>19</sup> By early 1976 AIP had collapsed and been compulsorily liquidated, 'the latest, and most notable victim of the property market crash'.<sup>20</sup> Thus No. 164 Shaftesbury Avenue was perhaps one of the last speculations by this heavyweight developer (then the UK's 8<sup>th</sup> largest),<sup>21</sup> and a work by Seifert that came at the tail end of this particular property boom.

- 3.21 164 Shaftesbury Avenue is quite different to the characteristic sculpted forms or bravura displays that typify his earlier works, and certainly blander than most of what came later. The late '70s and 1980s saw the firm turn to polished granite and tinted-reflective or mirror-glass for eye-catching effect, often garishly so. 164 Shaftesbury Avenue occupies a relatively unremarkable period in the practice's history.

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<sup>19</sup> Bloomsbury Conservation Area Appraisal and Management Strategy (Adopted draft 18 April 2011), p37

<sup>20</sup> 'No rescue for Amalgamated Investment & Property', *The Times*, 12 March 1976, p19

<sup>21</sup> *Ibid*

## 4 The legislative, policy and guidance context

### Introduction

- 4.1 This section of the report briefly sets out the range of national and local policy and guidance relevant to the consideration of change in the built environment as it affects 164 Shaftesbury Avenue.
- 4.2 Section 6 demonstrates how the proposed scheme complies with statute, policy and guidance. Not all the guidance set out in this section is analysed in this manner in Section 6: some of the guidance set out below has served as a means of analysing or assessing the existing site and its surrounding, and in reaching conclusions about the effect of the proposed development.

### The Planning (Listed Buildings and Conservation Areas) Act 1990

- 4.3 The legislation governing listed buildings and conservation areas is the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act').
- 4.4 Section 16(2) says that 'In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'
- 4.5 Section 66(1) of the Act says that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or exercise of any features of special architectural or historic interest which it possesses'.
- 4.6 Section 72(1) of the Act requires decision makers with respect to any buildings or other land in a conservation

area to pay ‘special attention... to the desirability of preserving or enhancing the character or appearance of that area’.

### **The National Planning Policy Framework**

- 4.7 The National Planning Policy Framework was revised on 20 July 2021 and sets out the government's planning policies for England and how these are expected to be applied. The revised Framework replaces the previous National Planning Policy Framework published in March 2012, revised in July 2018 and updated in February 2019.<sup>22</sup>.

#### *Design*

- 4.8 Chapter 12 of the National Planning Policy Framework, ‘Achieving well-designed places’, deals with design:. It begins:

*‘The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process’ (paragraph 126).’*

- 4.9 Paragraph 130 sets out a series of expectations regarding design quality and advises that ‘planning policies and decisions should ensure that developments:

*a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

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<sup>22</sup> Ministry of Housing, Communities & Local Government (2021). Available at: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>



*b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

*c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

*d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*

*e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*

*f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'*

#### *Proposals affecting heritage assets*

- 4.10 Chapter 16 of the National Planning Policy Framework: 'Conserving and enhancing the historic environment' deals with Heritage Assets describing them as 'an irreplaceable resource' that '*should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations*' (paragraph 189).<sup>23</sup>

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<sup>23</sup> The policies set out in this chapter relate, as applicable, to the heritage-related consent regimes for which local planning authorities are responsible under the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as to plan-making and decision-making.

- 4.11 Paragraphs 190-193 discuss the responsibilities of the local authority towards plan making and the historic environment.
- 4.12 Paragraph 194 brings the NPPF in line with statute and case law on listed buildings and conservation areas. It says that:
- ‘In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.’*
- 4.13 In terms of the local authority, paragraph 195 requires that they:
- ‘identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.’*
- 4.14 Further: ‘where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision’ (paragraph 196).
- 4.15 Paragraph 197 says 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.'*

*Considering potential impacts*

- 4.16 Paragraph 199 advises local planning authorities that 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'
- 4.17 Paragraph 200 continues: 'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:
- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*
  - b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.'*<sup>24</sup>
- 4.18 In terms of proposed development that will lead to substantial harm to (or total loss of significance of) a designated heritage asset, paragraph 201 states that '*local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*
- (a) the nature of the heritage asset prevents all reasonable uses of the site; and*

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<sup>24</sup> Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

*(b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*

*(c) conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*

*(d) the harm or loss is outweighed by the benefit of bringing the site back into use.'*

- 4.19 It continues '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' (paragraph 202).
- 4.20 In considering the effect of an application on the significance of a non-designated heritage asset the local authority should employ a 'balanced judgement' in regard to the scale of any harm or loss and the significance of the heritage asset (paragraph 203).
- 4.21 Paragraph 204 requires that 'Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred' (paragraph 204).
- 4.22 Where a heritage asset is to be lost, the developer will be required to 'record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible' (paragraph 205).<sup>25</sup>
- 4.23 In terms of development within the setting of heritage assets, paragraph 206, advises that 'local planning authorities should look for opportunities for new

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<sup>25</sup> Copies of evidence should be deposited with the relevant historic environment record, and any archives with a local museum or other public depository.

development within Conservation Areas and World Heritage sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably' (paragraph 206).

- 4.24 It goes on however that 'Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage site should be treated either as substantial harm under paragraph 200 or less than substantial harm under paragraph 201, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage site as a whole' (paragraph 207).
- 4.25 Finally, paragraph 208 requires that the onus will be on local planning authorities to 'assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies'.
- 4.26 The setting of a heritage asset is defined in the NPPF as:
- 'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral'.<sup>26</sup>*

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<sup>26</sup> <https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary>

### Planning Practice Guidance

4.27 Planning Practice Guidance<sup>27</sup> provides streamlined guidance for the National Planning Policy Framework and the planning system. It includes guidance on matters relating to protecting the historic environment in the section entitled ‘Conserving and Enhancing the Historic Environment’. It is subdivided into sections giving specific advice in the following areas:

- Overview: historic environment
- Plan making: historic environment
- Decision-taking: historic environment
- Designated heritage assets
- Non-designated heritage assets
- Heritage Consent Processes and
- Consultation and notification requirements for heritage related applications.

4.28 The Government published an updated Historic Environment section of PPG on 23 July 2019 to reflect the changes made to the National Planning Policy Framework (NPPF) since the 2012 edition.

4.29 In respect of how proposals can avoid or minimise harm to the significance of a heritage asset PPG says:

*‘A clear understanding of the significance of a heritage asset and its setting from an early stage in the design process can help to inform the development of proposals which avoid or minimise harm. Analysis of relevant information can generate a clear understanding of the affected asset, the heritage interests represented in it, and their relative importance. Early appraisals, a conservation plan or targeted specialist investigation can help to identify constraints and opportunities arising from the asset at an early stage. Such appraisals or investigations*

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<sup>27</sup> Ministry of Housing, Communities and Local Government, Online: [www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment](http://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment)

*can identify alternative development options, for example more sensitive designs or different orientations, that will conserve the heritage assets and deliver public benefits in a more sustainable and appropriate way.'*

4.30 PPG discusses the setting of heritage assets as follows:

*'The setting of a heritage asset is defined in the Glossary of the National Planning Policy Framework.*

*All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. The setting of a heritage asset and the asset's curtilage may not have the same extent.*

*The extent and importance of setting is often expressed by reference to the visual relationship between the asset and the Proposed scheme and associated visual/physical considerations. Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.*

*The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting. The contribution may vary over time.*

*When assessing any application which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now,*

*or in the future, thereby threatening its ongoing conservation.'*

### **Historic England's Planning Advice<sup>28</sup>**

#### *Good Practice Advice*

4.31 The guidance provide 'information on good practice to assist local authorities, planning and other consultants, owners, applicants and other interested parties in implementing historic environment policy in the National Planning Policy Framework (NPPF) and the related guidance given in the national Planning Practice Guide (PPG)'.

4.32 These notes are:

- GPA 1: The Historic Environment in Local Plans (2015);
- GPA 2: Managing Significance in Decision-Taking in the Historic Environment (2015);
- GPA 3: The Setting of Heritage Assets (2nd ed., 2017);
- GPA 4: Enabling development and heritage assets (2020).

#### *GPA 3: The Setting of Heritage Assets*

4.33 This note provides guidance regarding the setting of heritage assets and how to assess the effect of change on that setting.

4.34 The guidance echoes the definition of 'setting' in the NPPF as

*'the surroundings in which [the asset] is experienced' and continues: 'its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the*

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<sup>28</sup> Historic England, *The Planning System*, Online: [historicengland.org.uk/advice/planning/planning-system](https://historicengland.org.uk/advice/planning/planning-system)



*significance of an asset, may affect the ability to appreciate that significance or may be neutral’.*

4.35 The guidance provides, at Paragraph 12, a step-by-step methodology for identifying setting, its contribution to the significance of a heritage asset, and the assessment of the effect of proposed scheme on that significance.

- Step 1: identify which heritage assets and their settings are affected;
- Step 2: assess whether, how and to what degree these settings make a contribution to the significance of the heritage asset(s);
- Step 3: assess the effects of the proposed development, whether beneficial or harmful, on that significance;
- Step 4: explore the way to maximise enhancement and avoid or minimise harm;
- Step 5: make and document the decision and monitor outcomes.

4.36 The document then sets out how the step-by-step methodology is used and considers each step in more detail.

*Historic England Advice Notes*

4.37 This set of advice notes covers various planning topics in more detail and at a more practical level.<sup>29</sup> The documents most relevant to the proposed scheme are:

4.38 The document most relevant to the proposed scheme is

- HEAN 1 - Conservation Areas;
- HEAN 4- Tall buildings
- HEAN 10 - Listed Buildings and Curtilage;

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<sup>29</sup> Historic England Advice Notes:  
[historicengland.org.uk/advice/planning/planning-system](https://historicengland.org.uk/advice/planning/planning-system)

- HEAN 12- Statements of Heritage Significance: Analysing Significance in Heritage Assets;

*Conservation Principles, Policies and Guidance for the sustainable management of the historic environment*

4.39 This document<sup>30</sup> has been referred to in Section 3 of this report.

#### **The London Plan**

4.40 The London Plan 2021 was adopted in March 2021. It is the overall strategic plan for London, and sets out an integrated economic, environmental, transport and social framework for the development of the city over the next 20-25 years

4.41 Chapter 3 ‘Design’ deals with overarching themes in relation to design in the built environment and provides a range of policies concerning the design of new development in London.

4.42 Policy D3 ‘Optimising site capacity through the design-led approach’ requires that development proposals should ‘enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions.’ Further that proposals should ‘respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character.’ Policy D4 ‘Delivering good design’ sets out the means by which design proposals should be put forward and assessed.

4.43 Section C (1) requires that development proposals address ‘Visual Impacts’ as follows:

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<sup>30</sup> English Heritage (2008) *Conservation principles, policies and guidance for the sustainable management of the historic environment*.

*a) the views of buildings from different distances:*

*i. long-range views – these require attention to be paid to the design of the top of the building. It should make a positive contribution to the existing and emerging skyline and not adversely affect local or strategic views*

*ii. mid-range views from the surrounding neighbourhood – particular attention should be paid to the form and proportions of the building. It should make a positive contribution to the local townscape in terms of legibility, proportions and materiality*

*iii. immediate views from the surrounding streets – attention should be paid to the base of the building. It should have a direct relationship with the street, maintaining the pedestrian scale, character and vitality of the street. Where the edges of the site are adjacent to buildings of significantly lower height or parks and other open spaces there should be an appropriate transition in scale between the tall building and its surrounding context to protect amenity or privacy.*

*b) whether part of a group or stand-alone, tall buildings should reinforce the spatial hierarchy of the local and wider context and aid legibility and wayfinding*

*c) architectural quality and materials should be of an exemplary standard to ensure that the appearance and architectural integrity of the building is maintained through its lifespan*

*d) proposals should take account of, and avoid harm to, the significance of London's heritage assets and their settings. Proposals resulting in harm will require clear and convincing justification, demonstrating that alternatives have been explored and that there are clear public benefits that outweigh that harm. The buildings should positively contribute to the character of the area*

*e) buildings in the setting of a World Heritage Site must preserve, and not harm, the Outstanding Universal Value of the World Heritage Site, and the ability to appreciate it*

*f) buildings near the River Thames, particularly in the Thames Policy Area, should protect and enhance the open quality of the river and the riverside public realm, including views, and not contribute to a canyon effect along the river g) buildings should not cause adverse reflected glare*

*h) buildings should be designed to minimise light pollution from internal and external lighting.'*

4.44 Chapter 7 'Heritage and Culture' defines 'Heritage significance' (para 7.1.7) as

*'the archaeological, architectural, artistic or historic interest of a heritage asset. This may can be represented in many ways, in an asset's visual attributes, such as - form, scale, materials, and architectural detail, design and setting, as well as through historic associations between people and a place, and, where relevant, the historic relationships between heritage assets.'* It goes on to say that *'development that affects heritage assets and their settings should respond positively to the assets' significance, local context and character to protect the contribution that settings make to the assets' significance. In particular, consideration will need to be given to mitigating impacts from development that is not sympathetic in terms of scale, materials, details and form'.*

4.45 In terms of development proposals, Policy HC1 'Heritage conservation and growth', says that:

*'Development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. The cumulative impacts of incremental change from development on heritage assets and their settings should also be actively managed. Development proposals should avoid harm and identify enhancement opportunities by integrating heritage considerations early on in the design process.'*

### Camden's Local Plan

- 4.46 The London Borough of Camden adopted its Local Plan in July 2017. The Plan sets out the Council's planning policies. It replaces Camden's Core Strategy and Development Policies planning documents (adopted in 2010).
- 4.47 Section 7 of the Plan deals with Design and Heritage saying that 'the Council places great importance on preserving the historic environment'.
- 4.48 Policy D1 Design says that:
- 'The Council will seek to secure high quality design in development. The Council will require that development:*
- a. respects local context and character;*
  - b. preserves or enhances the historic environment and heritage assets in accordance with "Policy D2 Heritage";*
  - c. is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;*
  - d. is of sustainable and durable construction and adaptable to different activities and land uses;*
  - e. comprises details and materials that are of high quality and complement the local character;*
  - f. integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;*
  - g. is inclusive and accessible for all;*
  - h. promotes health;*
  - i. is secure and designed to minimise crime and antisocial behaviour;*
  - j. responds to natural features and preserves gardens and other open space;*

*k. incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping,*

*l. incorporates outdoor amenity space; m. preserves strategic and local views;*

*n. for housing, provides a high standard of accommodation; and*

*o. carefully integrates building services equipment. The Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'*

4.49 Policy D1 also addresses Tall Buildings, Public Art and Excellence in Design.

4.50 Policy D2 Heritage deals with Camden's heritage assets. The policy says that:

*'The Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets.'*

4.51 In relation to designated heritage assets generally the policy says:

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

*a. the nature of the heritage asset prevents all reasonable uses of the site;*

*b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation;*

*c. conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*

*d. the harm or loss is outweighed by the benefit of bringing the site back into use.'*

4.52 The Council will *'not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm'.*

4.53 In relation to Conservation Areas the policy says:

*'In order to maintain the character of Camden's conservation areas, the Council will take account of conservation area statements, appraisals and management strategies when assessing applications within conservation areas. The Council will:*

*e. require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area;*

*f. resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area;*

*g. resist development outside of a conservation area that causes harm to the character or appearance of that conservation area; and*

*h. preserve trees and garden spaces which contribute to the character and appearance of a conservation area or which provide a setting for Camden's architectural heritage.'*

4.54 In relation to Listed Buildings the policy says:

*'To preserve or enhance the borough's listed buildings, the Council will:*

*i. resist the total or substantial demolition of a listed building;*

*j. resist proposals for a change of use or alterations and extensions to a listed building where this would cause harm to the special architectural and historic interest of the building; and*

*k. resist development that would cause harm to significance of a listed building through an effect on its setting.'*

- 4.55 In relation to other heritage assets and non-designated heritage assets including those on and off the local list, Registered Parks and Gardens and London Squares the policy states:

*'The effect of a proposal on the significance of a non-designated heritage asset will be weighed against the public benefits of the proposal, balancing the scale of any harm or loss and the significance of the heritage asset.'*

#### Camden Planning Guidance: Design

- 4.56 Updated guidance (CPG) relating to 'Design' was published in January 2021. In regard to Heritage, this sets out that:

*'The Council - will make a balanced judgment having regard to the scale of any harm or loss and the significance of the asset/s affected.'*

- 4.57 The Council will take account of:

*'· The desirability of sustaining and enhancing the significance of any heritage asset/s and putting them to viable uses consistent with their conservation;*

*· The positive contribution that the conservation of heritage assets can make to sustainable communities including their economic vitality and health and wellbeing;*



*· The desirability of new development that affects heritage assets to preserve and enhance local character and distinctiveness.*

*Applicants - will need to show how the significance of a heritage asset, including any contribution made by their setting, has been taken into consideration in the design of the proposed works. The level of detail required will be proportionate to the asset/s importance and no more than is sufficient to understand the potential impact of the proposal on the significance of the asset/s affected.'*

## **5 The proposed development and its effect**

### **Introduction**

- 5.1 This section of the report assesses the proposed scheme and its possible effect upon the heritage significance and townscape character of the surrounding context described earlier in this report.
- 5.2 The proposed development is described in the drawings and Design & Access Statement prepared by Child Graddon Lewis Architects, in the Planning Statement prepared by JLL and in other application documents.
- 5.3 Pre-application advice was sought from Camden Council in respect of the proposals. The scheme has been altered and developed in response to pre-application discussions.

### **Background**

- 5.4 In 2005 three planning permissions were granted for a series of modifications and extensions to 164 Shaftesbury Avenue. These included: a five storey rear corner extension of the existing property, with additional roof plant, safety rail and ducts; the extension and modification of the ground floor entrance reception, extension to the office space at ground and first floor, along Shaftesbury Avenue, along with use for either A1, A2, or B1 purposes; and a rooftop extension at fifth floor level and the addition of new plant at floor roof level. All three applications were fully implemented.

### **The need for the proposed scheme**

- 5.5 The existing office building at 164 Shaftesbury Avenue has reached a point where it is necessary to undertake work and make interventions in the building fabric so that the existing property can better meet the needs of current and future tenants.
- 5.6 Finishes and fittings are of poor quality and out of date. There are level differences on each floor. The relatively

small existing windows do not offer sufficient natural light internally, and the floor plates are deep.

- 5.7 The project is an example of retrofit - working with an existing building to sustain it in beneficial use for the long term. The retention of the concrete frame acknowledges the embodied carbon in the existing structure. The replacement of the existing services plant and equipment will enable more efficient energy use in the building.

#### **The proposed scheme**

- 5.8 The proposals include modifications to the internal layouts, the external façade, the ground floor entrance, parking/cycling facilities as well as a comprehensive overhaul of services and plant.
- 5.9 Specifically, the external proposals that may affect the appearance of 164 Shaftesbury Avenue are as follows:
- The replacement of the facade to the Mercer street/Shaftesbury Avenue corner of the building and the relocation of main entrance;
  - The replacement of external gates leading towards basement
  - three small terrace at fifth floor will be combined into one large terrace
  - A new terrace will be created at sixth floor, with an extended staircase; and
  - Plant will be replaced at roof level.



Figure 8: The proposed scheme

### **Effect on heritage and townscape significance**

- 5.10 The existing building is notable in heritage and townscape terms solely for being thoroughly unremarkable, and generic in its design to the extent that no clue is given in its design - unlike many, if not most, earlier and later Seifert buildings - as to the identity of its architect. It bears none of the hallmarks of Seifert's inimitable style.
- 5.11 However, and as many modern architects would allow, most late 20<sup>th</sup> century buildings were not designed to last over an extended period, and the concept of renewability

and replacement was central to architecture and urban design in that period. Unlike buildings of previous eras, post-war buildings are susceptible, by virtue of their design and construction, susceptible to change in their appearance. Some Seifert's finest buildings demonstrate this point - the Grade II Centre Point is the prime example - and many other examples exist. As we progress towards retrofit as the first choice in terms of refreshing our built environment as part of addressing climate change, it is wholly appropriate for buildings such as 164 Shaftesbury Avenue to be approached in the way proposed.

- 5.12 The proposed scheme does not treat the building as a blank canvas, or simply as a frame to be clad in in an entirely different way. The scheme is very clearly based on an understanding and close analysis of the Seifert design. The Design & Access Statement makes clear how the existing elevational design has informed the proposals and how those proposals echo the vertical and horizontal articulation of the Seifert elevations. The scheme achieves an excellent balance between this imperative, and going further to, for instance, increase natural light in the interior, strengthen the corner of the building, improve the ground floor expression and to place the entrance to the building in a more intelligible position.
- 5.13 The spirit of the Seifert design, for what is now a tired and bland building, is sustained in the proposed scheme. The original design can be read through the proposed interventions. It will be possible to comprehend the evolution of the building and identify the underlying 1970s design overlaid by a series of interventions that, in fact, strengthen and augment that design. One could speculate that if the Seifert were to approach this site now, in the present urban design and environmental context, his design might actually be close to that which is proposed.
- 5.14 The heritage assets potentially affected by the proposed scheme are set out in Section 3 above. These are, to any

meaningful degree, the Seven Dials Conservation Area and the Grade II former theatre at 135-149 Shaftesbury Avenue . Whilst visibility does not automatically equate to heritage harm, change in the setting of nearby heritage assets may have a visual effect upon the experience of a heritage asset.

### **Conclusion**

- 5.15 The conclusion of our assessment is that the effect of the proposed scheme upon the character and appearance of the Seven Dials Conservation area or the setting of the listed building will be positive and enhancing. Their heritage significance is safeguarded, sustained and enhanced. The character and appearance of the conservation area will be preserved and enhanced.
- 5.16 The effect upon other built heritage assets further from the site will be neutral, given the lack of intervisibility and/or the degree of separation from the site in terms of distance, and their heritage significance will thus be similarly safeguarded and sustained. No harm will arise. The setting of the listed buildings, and thus their special architectural or historic interest, will be preserved. The local interest of positive contributors to the conservation area is similarly preserved.
- 5.17 The proposed development will have a positive effect upon townscape significance and quality, adding visual interest and reinforcing the area's grain. The application of high-quality contemporary architectural design in a sensitive fashion to an unremarkable 1970s office building will reinforce a sense of place in this part of the conservation area by virtue of its complementary design.



Figure 9: The proposed scheme

## 6 Compliance with policy and guidance

### Introduction

- 6.1 This report has provided a detailed description and analysis of the heritage and townscape significance of the site and its context and has described how the proposed scheme would affect that heritage and townscape significance.

### The Planning (Listed Buildings and Conservation Areas) Act 1990

- 6.2 The conclusion of our assessment, contained in previous sections in this report, is that the proposed scheme preserves and enhances the character and appearance of the Seven Dials Conservation area and preserves the setting of nearby listed buildings. The proposed development thus complies with Sections 16, 66(1) and S.72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.3 It is important to note that the legal requirement regarding satisfying Section 72(1) of the Act was established by *South Lakeland District Council v Secretary of State for the Environment and another* [1992] 1 ALL ER 573 and is met if the proposed development leaves conservation areas unharmed. We believe that it would be difficult to characterise the proposed scheme as doing anything less than leaving the Seven Dials Conservation area unharmed. It very clearly enhances the conservation area over its present situation.
- 6.4 To be clear, our assessment is that the development goes beyond mere preservation and will enhance the character and appearance of the Seven Dials Conservation area and the setting of the Grade II listed cinema building at 135-149 Shaftesbury Avenue.



## The National Planning Policy Framework

### *Design*

- 6.5 The proposed scheme would be wholly consistent with Chapter 12 of the NPPF ‘Achieving well-designed places’. It is a good example of a design which ‘will function well and add to the overall quality of the area’ and be ‘sympathetic to local character and history, including the surrounding built environment while not preventing or discouraging appropriate innovation or change (such as increased densities);’ as sought by Paragraph 130 of the NPPF. It will ‘establish or maintain a strong sense of place’ and ‘optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development’.

### *The level and nature of ‘harm’ caused by the proposed development*

- 6.6 Having concluded that the proposal will preserve and enhance the relevant designated heritage assets, we now consider whether harm – in the sense used by the National Planning Policy Framework – is caused to these heritage assets.
- 6.7 As outlined in Section 4, the NPPF identifies two levels of potential ‘harm’ that might be caused to a heritage asset by a development: ‘substantial harm (or total loss of significance)’ or ‘less than substantial’ harm. Both levels of harm must be caused to a designated heritage asset – in this instance the Seven Dials Conservation area and nearby listed buildings. Harm to non-designated heritage assets is not allocated a level.
- 6.8 The only potential for ‘substantial harm’ (Paragraph 201 of the NPPF) would be if the proposed development for the site caused the loss of something central to the special interest of these heritage assets. The proposal evidently does not give rise to this level of harm.
- 6.9 Similarly, we also do not believe that any ‘less than substantial harm’ (Paragraph 202 of the NPPF) to listed

buildings and conservation areas is caused by the scheme. Our analysis of the proposed development, provided earlier in this report, when considered in relation to legislation, policy and guidance, concludes that no harm is caused to special interest or significance. Change occurs to and in the character and appearance or the setting of designated heritage assets (the Seven Dials Conservation Area and the listed building opposite, but this change will preserve the setting of the listed building and preserve and enhance the character and appearance of the Seven Dials Conservation area.

*Specific requirements of the NPPF in respect of heritage assets*

- 6.10 This report has referred to and used a detailed description and analysis of the significance of the site, its heritage context and all relevant heritage assets, as required by Paragraph 194 of the National Planning Policy Framework (see Section 2).
- 6.11 The proposed development complies with Paragraph 199 of the NPPF in that it conserves the heritage assets affected. Special architectural or historic interest is preserved and no harm to heritage significance is caused. Paragraphs 200, 201 and 202 of the National Planning Policy Framework are therefore not engaged in consideration of the proposed works. Paragraph 203 is not relevant in this instance.
- 6.12 The proposed development is a good example of what is sought by Paragraph 206 of the NPPF: it represents a ‘new development within Conservation Areas ...and within the setting of heritage assets [which will] enhance or better reveal their significance’ and will ‘preserve those elements of the setting that make a positive contribution to the asset’.
- 6.13 In summary, the proposed works very definitely strike the balance suggested by the NPPF – they intervene in the relevant designated heritage assets in a manner commensurate to their special interest and heritage

significance. This balance of intervention versus significance is described in detail earlier.

### **Historic England guidance on the setting of heritage assets**

6.14 In completing our draft assessment, we have followed the step-by-step methodology provided in Historic England's Historic Environment Good Practice Advice in Planning Note 3 which is addressed as follows:

- Step 1: identify which heritage assets and their settings are affected:

This is done in Section 2 and 3 of this report.

- Step 2: assess whether, how and to what degree these settings make a contribution to the significance of the heritage asset(s):

This is discussed in Section 3.

- Step 3: assess the effects of the proposed development, whether beneficial or harmful, on that significance:

This is undertaken in Section 5 of this report.

- Step 4: explore the way to maximise enhancement and avoid or minimise harm:

This formed part of the design process and pre-application discussions with the local planning authority, and the design has evolved to respond to pre-application advice.

- Step 5: make and document the decision and monitor outcomes:

The submission documents, in particular the Design & Access Statement, and this report record the scheme as amended following design development prior to and during an application for planning permission being made.

### **The London Plan**

- 6.15 The proposed scheme would be consistent with the London Plan and fully complies with its Design (Chapter 3) and Heritage (Chapter 7) policies.
- 6.16 The proposed scheme will be of the highest architectural quality and responds to Policy D3 '*Optimising site capacity through the design-led approach*' by '*positively responding to local distinctiveness and successfully responding to the existing character of the place and in that respects, enhances and utilises the heritage assets and architectural features that contribute towards the local character.*'
- 6.17 It would also be consistent with Policy HC1 Heritage Conservation and Growth in that the applicants have sought to identify, understand and conserve the historic environment and the proposals clearly conserve the significance of nearby heritage assets, and their settings, by being '*sympathetic to their significance and appreciation within their surroundings*'.

### **Camden's Local Plan**

- 6.18 The proposal fully respects and comply with the LB Camden's' policies in relation to Design (D1) and Heritage (D2). The development is a high quality design that respects local context and character and will preserve and enhance the character and appearance of the Seven Dials Conservation area.
- 6.19 This report has shown how the significance of surrounding heritage assets, including any contribution made to their setting, has been taken into consideration in the design of the proposed works thus satisfying Camden's Planning Guidance in relation to Design.

## **7 Summary and conclusions**

- 7.1 This report, at Section 2, sets out a brief history of the area, and in Section 3 identifies the heritage assets in the vicinity, and assesses heritage and townscape significance. Section 4 identifies the legislative, policy and guidance context for the development. The proposed scheme and its effect are assessed in Section 5.
- 7.2 The proposed development will have a positive effect upon townscape significance and quality, adding visual interest and reinforcing the area's grain. The application of high-quality contemporary architectural design in a sensitive fashion to an unremarkable 1970s office building will reinforce a sense of place in this part of the Seven Dials Conservation Area by virtue of its complementary design.
- 7.3 The effect of the proposed scheme upon the character and appearance of the Seven Dials Conservation area or the setting of the listed Grade II former theatre opposite will be positive and enhancing. Their heritage significance is safeguarded, sustained and enhanced. The character and appearance of the conservation area will be preserved and enhanced.
- 7.4 The effect upon other built heritage assets further from the site will be neutral, given the lack of intervisibility and/or the degree of separation from the site in terms of distance, and their heritage significance will thus be similarly safeguarded and sustained. No harm will arise. The setting of the listed buildings, and thus their special architectural or historic interest, will be preserved. The local interest of positive contributors to the conservation area is similarly preserved.
- 7.5 Section 6 demonstrates how the proposed development will comply with legislative, policy and guidance. We believe that the development will preserve and enhance the special architectural or historic interest of designated heritage assets (either directly, in the case of the Seven

Dials Conservation area, indirectly on the setting of the listed building opposite, or by not having any effect), and it therefore complies with S.16, S.66(1) and S.72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. It also preserves and enhances the setting of non-designated heritage assets (nearby locally listed buildings). The proposed scheme is consistent with the urban design and heritage policies of the National Planning Policy Framework, the London Plan and Camden's Local Plan.

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