Heritage Statement

Units 1 and 2, The Avenue, Spinningfields M3 3AP

On behalf of Troia Restaurants (UK) Ltd.

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1. Introduction

1.1. Pegasus Group have been commissioned by Caprice Holdings Ltd to prepare a Heritage Statement to assess the impact of the proposals at 2 Spinningfields Square, Manchester M3 3AP on the historic environment.

1.2. On 26 May 2022 permission was granted for the:

"Erection of single storey extension and creation of external seating area and external alterations to existing building."

1.3. Permission is now being sought for a reduced extension.

1.4. The site is located within a modern building but is located within the boundaries of Deansgate/Peter Street Conservation Area and adjacent to the Grade I Listed John Rylands Library.

1.5. This Built Heritage Statement provides information with regards to the significance of the historic environment to fulfil the requirement given in paragraph 194 of the Government's National Planning Policy Framework (the NPPF) which requires:

"an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting."

1.6. In order to inform an assessment of the acceptability of the scheme in relation to impacts to the historic environment, following paragraphs 199 to 203 of the NPPF, any harm to the historic environment resulting from the proposed development is also described, including impacts to significance through changes to setting.

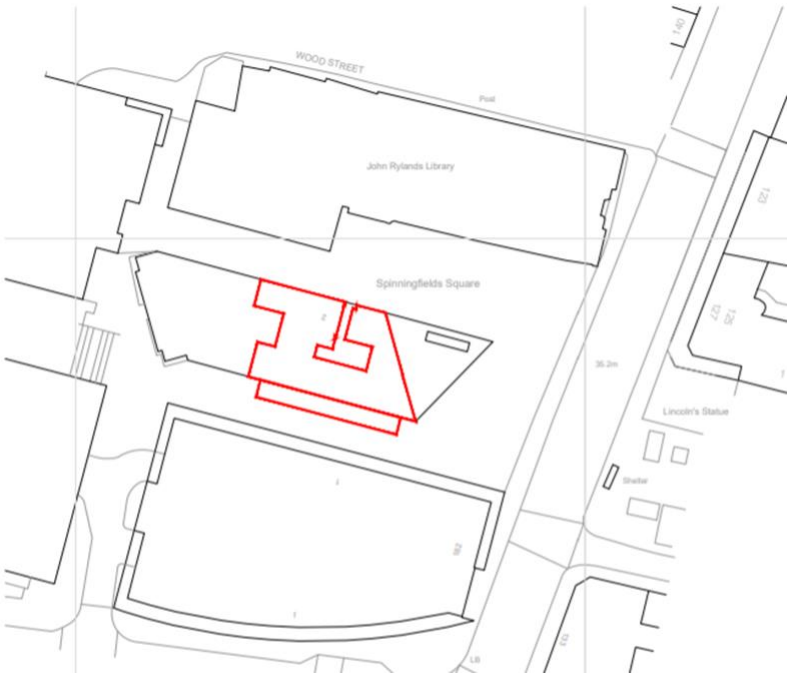

Plate 1: Site Location Plan.

2. Methodology

2.1. The following assessment has been informed by Historic England Advice Note 12: Statements of Heritage Significance;[1] Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment[2] (henceforth referred to as GPA 2: Managing Significance) and English Heritage's Conservation Principles.[3]

2.2. In order to relate to key policy, the following levels of harm may potentially be identified when assessing potential impacts of development on heritage assets, including harm resulting from a change in setting:

- **Substantial harm or total loss**. It has been clarified in a High Court Judgement of 2013 that this would be harm that would 'have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced';[4]
- **Less than substantial harm**. Harm of a lesser level that that defined above; and
- **No harm** (preservation). A High Court Judgement of 2014 is relevant to this, in which it was held that with regard to preserving the setting of Listed building or preserving the character and appearance of a Conservation Area, preserving means doing no harm.[5]

2.3. Preservation does not mean no change; it specifically means no harm. *GPA 2: Managing Significance* states that *"Change to heritage assets is inevitable but it is only harmful when significance is damaged"*. Thus, change is accepted in Historic England's guidance as part of the evolution of the landscape and environment, it is whether such change is neutral, harmful or beneficial to the significance of an asset that matters.

2.4. With specific regard to the content of this assessment, Paragraph 194 of the National Planning Policy Framework 2021 states:

"…The level of detail should be proportionate to an assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance…" (our emphasis)

2.5. Full details of the methodology adopted are provided at **Appendix 1.**

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[1] Historic England, 2019, *Historic England Advice Note 12: Statements of Heritage Significance: Analysing Significance in Heritage Assets*.

[2] Historic England, 2015, *Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment.*

[3] English Heritage, 2008, *Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment.*

[4] EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council.

[5] EWHC 1895, R (Forge Field Society, Barraud and Rees) v. Sevenoaks DC, West Kent Housing Association and Viscount De L'Isle.

3. Planning Policy Context

3.1. The site is a modern building and is not a Listed or Locally Listed Buildings, it does however sit adjacent to the Grade I Listed John Ryland Library and within the boundaries of Deansgate/Peter Street Conservation Area.

3.2. Legislation relating to the Historic Environment is primarily set out within the Planning (Listed Buildings and Conservation Areas) Act 1990 which provides statutory protection for Listed Buildings and Conservation Areas.

3.3. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

"In considering whether to grant planning permission [or permission in principle] 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 any features of special architectural or historic interest which it possesses."

3.4. With regard to development within Conservation Area, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

"in the exercise, with respect to any buildings or other land in a conservation area, of any powers under any provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area"

3.5. Notwithstanding the statutory presumption set out above, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise.

3.6. The Local Plan for Manchester City Council consists of the Manchester Core Strategy (July 2012), which directly references 'Heritage' under Policy EN 3, which states:

"Throughout the City, the Council will encourage development that complements and takes advantage of the distinct historic and heritage features of its districts and neighbourhoods, including those of the City Centre.

New developments must be designed so as to support the Council in preserving or, where possible, enhancing the historic environment, the character, setting and accessibility of areas and buildings of acknowledged importance, including scheduled ancient monuments, listed buildings, registered parks and gardens, conservation areas and archaeological remains.

Proposals which enable the re-use of heritage assets will be encouraged where they are considered consistent with the significance of the heritage asset."

3.7. Details of the full policy context are provided at **Appendix 2.**

4. The Site

4.1. The site occupies part of the ground floor of No. '1 The Avenue', which sits just off Deansgate Road. Apart from the Grade I Listed John Rylands Library to the north, the site is neighboured all around by late 20th and 21st century commercial buildings.

Site Development

4.2. The First Edition Ordnance Survey Map of 1891 shows that the site of the John Rylands Library was vacant and did not comprise any built form. This could have been in anticipation of the construction of the library, which was completed in 1899. The site was occupied by warehouses at this time but previously had terraced buildings fronting both Cumberland Street and Spinningfield.

Plate 2: 1891 Ordnance Survey Map.

4.3. The 1922 Ordnance Survey Map shows the Rylands Library in position and the narrowness of Spinningfield.

Plate 3: 1922 Ordnance Survey Map.

4.4. The warehouses were present until between 1963 and 1971 when they started being demolished from the rear when the area to the south was redeveloped. When the site was eventually redeveloped with the previous modern built form, the distance between the Rylands Library and built form on the site was increased to create an open space.

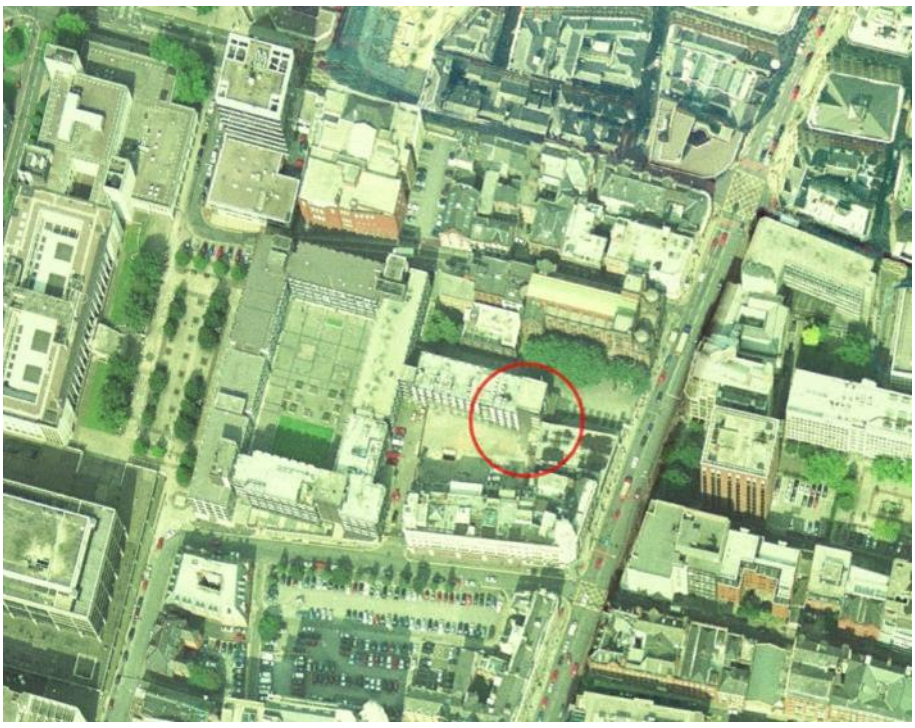

Plate 4: 2000 Aerial View (Source: Google).

4.5. A comprehensive redevelopment occurred in the area in the late 2000s including the site. The approved building on the site, which has been constructed and is currently present, is cladded completely of glass with a steel framed structure. The development reinstated a semblance of the historic street layout albeit with new names. Cumberland Street became the Avenue and Spinningfield became Brazennose Street. The open space to the south of the Rylands Library was retained and further enlarged through the incorporation of a significant cantilever on the site.

4.6. At a similar time, the Rylands Library had a new extension on its southern elevation towards the rear which encompassed a new public entrance to the building. The historic principal entrance to Deansgate has been retained but is no longer used.

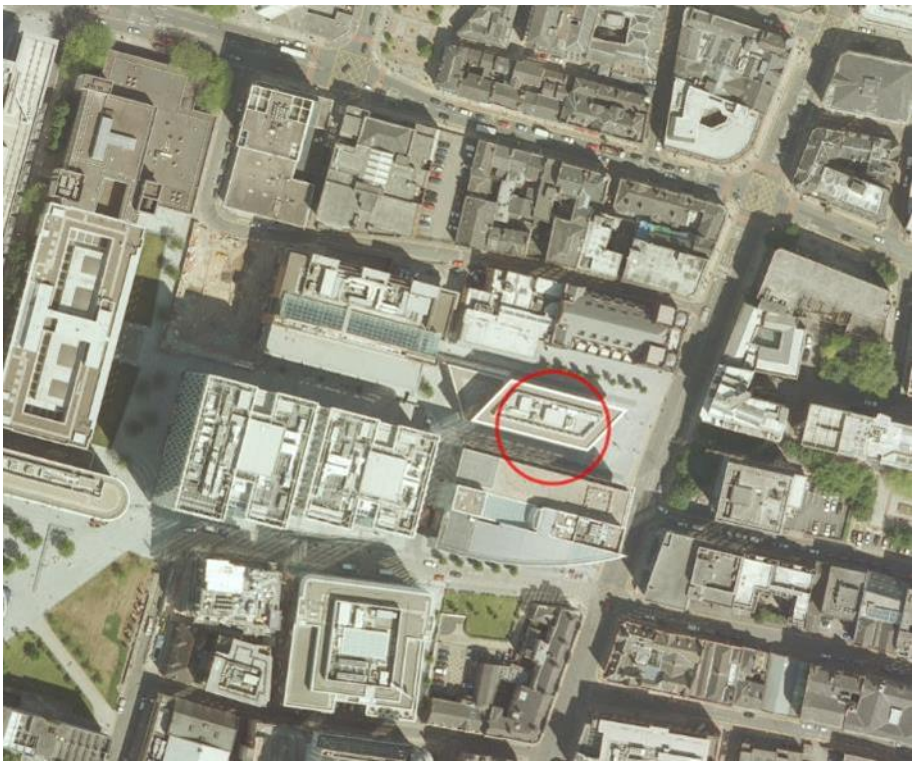

Plate 5: 2009 Aerial View (Source: Google).

Relevant Planning History

4.7. **080139/CC/2006/C1** and **080138/FO/2006/C1 |** Planning Permission, along with Conservation Area Consent, were sought out in 2006 for the demolition of the existing office building (formerly occupied by Manchester Newspapers Ltd) and erection of a mixed-use retail and office building with basement and mezzanine floor (1 The Avenue). The application was approved on 17th October 2006.

4.8. **132373/FO/2021** | Erection of single storey extension and creation of external seating area and external alterations to existing building | The application was approved on 26th May 2022.

5. Historic Environment

Designated/Peter Street Conservation Area

5.1. The Conservation Area was first designated in June 1985 and includes much of the area surrounding Peter Street and the junctions of Deansgate with both Quay Street and Bridge Street. Deansgate is the longest and straightest street in the city centre and consequently affords views of Manchester Cathedral to the north, framed by buildings on either side. Manchester City Council provide a profile on the Conservation Area on its website.

5.2. Deansgate traces its history to the Roman period where it formed the route between the two river crossings at River Medlock to the south and River Irwell to the north. Since then, the street has been at the heart of some of Manchester's most historic events, with the siege of Manchester in the English Civil War, the encroachment of urban development in the 18th-century and the demonstrations and chaos associated with the Peterloo Massacre in 1819.

5.3. Today, Deansgate/Peter Street Conservation Area is a predominantly built-up area with a range of historic and modern buildings, which are mostly commercial in use. The character of the Conservation Area derives mainly from the architectural style of its older buildings. Constructed to a high quality, these buildings are made from a mix of stone, red brick, terracotta and faience, with fine sculptural detail. The John Rylands Library which sits adjacent to the site, is one of these buildings and is also labelled as a 'landmark' by Manchester City Council.

5.4. No. 1 The Avenue is one of many modern buildings which have no mention within the Council's profile of Deansgate/Peter Street Conservation Area. The significance of the area derives predominantly from the earlier Victorian built buildings such as the John Rylands Library. Given that No. 1 The Avenue is set further back from Deansgate, its front façade does not make up the frame of buildings which has been identified within the south to north view of Manchester Cathedral. The open space to the front of the site and the west of Deansgate is a modern addition to the townscape, but not necessarily to its detriment. The open space also resulted in alternative access to the Rylands Library towards the rear of the south elevation, encouraging more foot traffic across the open space and underneath the site's cantilever.

5.5. The site itself is a contemporary building having replaced a previous modern building. The council have emphasised the carefully considered design of the building; however, overall, it is considered to make a neutral contribution to the heritage significance of the Conservation Area.

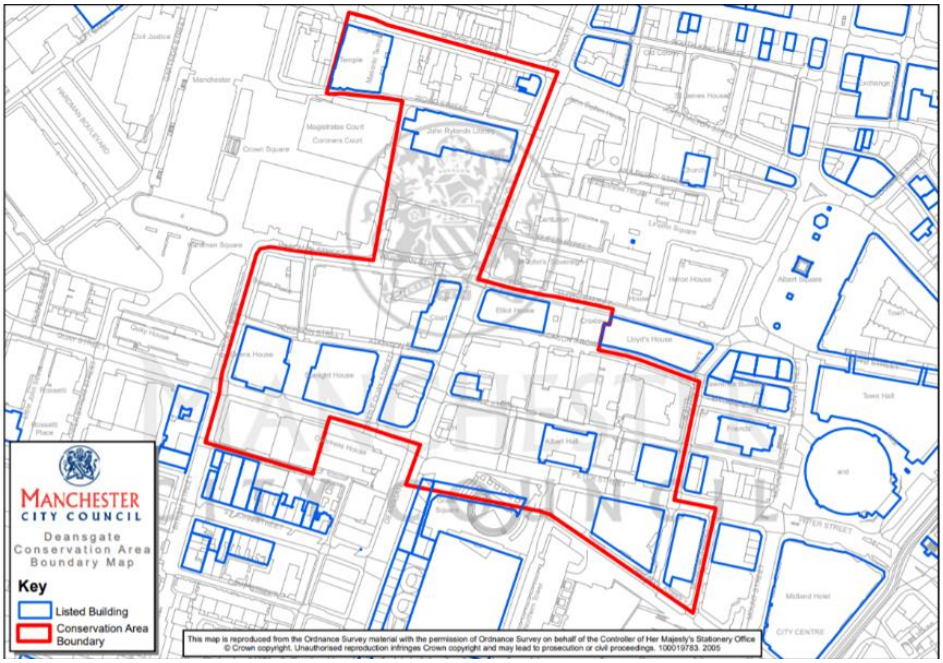

Plate 6: Conservation Area map with the site shown in green.

Plate 7: Northcliffe House and the former built form at the back of pavement along Deansgate. The crenelations of the Ryland Library can be glimpsed.

Plate 8: Application site with the open space in front.

The Grade I Listed John Rylands Library and attached railings, gates and lamp standards.

5.6. John Rylands Library was added to the National List on 25th January 1952, and later amended on 6th June 1994. The List Entry describes the monument as follows:

"Library. 1890-99, by Basil Champneys, for Enriqueta Augustina Rylands in memory of her husband; with back extension 1912, also by Champneys. Red sandstone (roof not visible). Rectangular plan at right-angles to street, plus back extensions. Decorated Gothic style with Arts and Crafts accent. Two unequal storeys with the appearance of 3 storeys, designed like a church raised on a crypt, the facade composed of a 2-storey 3-bay centre (like the gatehouse of a monastery) flanked by square 2-storey 2-bay wings, with an embattled parapet to the whole and large octagonal lanterns over the wings; and, set back behind these, the east window of the reading hall flanked by square towers. The centre has very elaborate Gothic decoration throughout, including a 2-centred arched portal containing coupled doorways with a trumeau, a tall 2-light window each side, 2 small canted oriels above the portal, lacy blind tracery on all surfaces enriched with finely-detailed carving, and open-work aracading in the battlements; and the set-back 3-light east window of the hall has delicate reticulated tracery and shafts carried up to a similar open-work parapet. The walls of the wings and the towers, by contrast, are plain except for string courses enriched with grotesques: the wing to the left has tall transomed staircase windows at 1st floor with staggered sills, and low segmental-headed windows below these, that to the right has tall windows at ground floor and short ones above, and both have octagonal corner turrets with flying buttresses thrown back to the octagonal lanterns. The lanterns have transomed 2-light windows, blind tracery and open-work battlements like those of the centre, and the towers behind them have slender octagonal corner turrets and small 2-light windows

above the level of the octagons. Return sides in similar style. Fine bronze forecourt railings with central double gates flanked by lamp standards, all in Art Nouveau style. Interior: very fine vaulted entrance hall and winding vaulted staircase; church-like reading hall with much elaborate decoration, including traceried arcades, rib-vaulted ceiling, panelled reading alcoves with oriel windows, statues of John Rylands and Mrs Rylands, etc. History: built to house the theological library of John Rylands (leading textile manufacturer and philanthropist), subsequently augmented by purchase of other collections, and now one of the finest in the country."

5.7. The full List Entry can be found in **Appendix 3.**

5.8. The Grade I Listing of the building highlights that it is a heritage asset of the highest significance as defined by the NPPF. Its significance is embodied in its architectural and artistic interest as a high-quality Victorian-Gothic landmark in the heart of Manchester. It also has historic interest with its associations with the textile manufacturer and philanthropist John Rylands; and for its maintained use as a publicly accessible library.

5.9. Elements of the setting that contribute to its significance include:

- Surviving historic built form and/or plots in the immediate surroundings, which reflect the historic townscape/urban grain in which the library was originally constructed;
- Its position and historic front entrance along Deansgate, a principal thoroughfare in Manchester's city centre.

5.10. The Grade I Listed Building is in close proximity to the application site. However, as stated, the site forms part of a much larger urban redevelopment within Spinningfields, which has an overtly contemporary appearance and does not reflect the historic townscape or layout of the buildings previously on the site. Nonetheless, the building has been set back from Deansgate and the building formed to allow for views of the southern elevation of the Rylands Library and encourage foot traffic to its modern entrance towards the rear.

5.11. As mentioned, views along Deansgate are typically focused on the canyon effect created by the built form leading to Manchester Cathedral at its northern terminus. The Rylands Library is a notable element within this view by virtue of its crenelated turrets and tracery panels. The modern open space to its south allows for views of its southern elevation and historic front entrance in addition to its modern entrance; however, this view would not have been possible historically due to the presence of built form fronting Deansgate up until the mid 20th century. Views from Deansgate towards the library and the site depict the original main entrance to the library and the open space. The unit on the site can be seen under the cantilever, but the area of the proposed extension is not visible.

5.12. Therefore, whilst there is intervisibility between the site and the library, as well as views that contain both the site and library, the site is considered to make a neutral contribution to the heritage significance of the Listed Building.

Plate 9: View up Deansgate.

Plate 10: View from in front of the Rylands Library.

6. Assessment of Impact

6.1. Following the granting of permission, the Applicant took the position that the larger extension was not needed and only required an entrance lobby with the same appearance as the approved. As with the previously approved extension, the reduced extension entails a number of design elements unique to the Sexy Fish brand, such as the Verde Esmereldo marble walls, a black granite skirting and turquoise fabric, fixed awning.

6.2. The design of the extension includes glazed panels which are in line with those on the host building, tying the extension into the elevation. The vertical emphasis is interrupted by the long awning, but this feature is specific to the applicant and creates a juxtaposition with the host building to allow for the two to be read as distinct elements. This approach is seen on other structures along the Avenue, including Comptoir Libanais at Nos. 18-19. Thaikhun at Nos. 16-17 Hardman Street and formerly at Nos. 14-15, thus adding to the commercial character of the area.

6.3. As described in the previous section, the application site makes a neutral contribution to the significance of both the Conservation Area and the Grade I Listed Rylands Library through setting. The incorporation of a structure on the southern elevation of the modern building within a pedestrian thoroughfare completely encompassed by modern built form will have no impact on any elements of the Conservation Area which contribute to its significance, namely the retained Victorian townscape. Furthermore, views of the Grade I Listed Rylands Library will not be affected by the new structure, which will either be a background element or not visible at all, depending on the position. The historic elements of the setting which contribute to the Listed Building's significance will be unaffected.

6.4. It has been noted that Manchester City Council previously identified heritage harm, with the Officer's Report stating:

"The proposal lies within Deansgate Conservation area and close to Grade I Listed Rylands Library. The proposed extension is sited on the west elevation and set back from the front elevation of the host building and therefore there are limited views in conjunction with John Rylands Library building. The proposed extension is considered to amount to small instances of less than substantial harm to the designated heritage assets which would be outweighed by the benefits which include providing additional floorspace to ensure the building retains a sustainable economic use in accordance with paragraph 202 of the NPPF."

6.5. However, the above is not clear as to where the significance of either asset has been impacted, particularly given the design comments in the preceding paragraph of the Officer's Report concluded that the extension was acceptable in design terms:

"Whilst the design of the proposed extension is not in character with the design of the host building, the applicant has submitted information to demonstrate that the proposal would be fully removable, and the glass faced could be fully reinstated should the occupier vacate the premises. The proposed extension forms a juxtaposition with the host building to allow for the two to be read as distinct elements. The proposal is therefore considered acceptable in design terms and a condition will be attached to ensure samples of proposed materials are submitted to ensure these are of a high quality."

6.6. The ability to view the proposed extension does not automatically equate to harm. As described in the previous section of this statement, the Conservation Area, particularly in this location, comprises a mix of building styles, materials, heights and uses. The historic elements which are considered to contribute positively include the Victorian buildings like the Rylands Library as well as the historic layout of the city. The proposals will not impact these characteristics.

6.7. Given no negative impacts have been identified to the heritage significance of the Deansgate/Peter Street Conservation Area or the Grade I Listed John Rylands Library through a change in setting, the proposals will result in 'no harm' to the significance of either designated heritage asset. Therefore, no public benefits are required.

Concluding Summary

6.8. With reference to the levels of harm in the NPPF, the proposals will result in 'no harm' to the heritage significance of either the Deansgate/Peter Street Conservation Area or the Grade I Listed John Rylands Library through a change in setting. The proposals will satisfy the requirements set out in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990. The proposals will also satisfy relevant local policy.

Appendix 1: Methodology

Assessment of Significance

In the NPPF, heritage significance is defined as:

> ***"The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance".***[6]

Historic England's *Managing Significance in Decision-Taking in the Historic Environment: Historic Environment Good Practice Advice in Planning: 2*[7] (hereafter GPA 2) gives advice on the assessment of significance as part of the application process. It advises understanding the nature, extent, and level of significance of a heritage asset.

In order to do this, GPA 2 also advocates considering the four types of heritage value an asset may hold, as identified in English Heritage's *Conservation Principles*.[8] These essentially cover the heritage 'interests' given in the glossary of the NPPF[9]and the online Planning Practice Guidance on the Historic Environment[10] (hereafter 'PPG') which are ***archaeological***, ***architectural and artistic*** and ***historic***.

The PPG provides further information on the interests it identifies:

> ***Archaeological interest: "As defined in the Glossary to the National Planning Policy Framework, there will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point."***
>
> ***Architectural and artistic interest: "These are interests in the design and general aesthetics of a place. They can arise from conscious design or fortuitously from the way the heritage asset has evolved. More specifically, architectural interest is an interest in the art or science of the design, construction, craftsmanship and decoration of buildings and structures of all types. Artistic interest is an interest in other human creative skills, like sculpture."***
>
> ***Historic interest: "An interest in past lives and events (including pre-historic). Heritage assets can illustrate or be associated with them. Heritage assets with historic interest not only provide a material record of our nation's history, but can also provide meaning***

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[6] NPPF, MHCLG, 2021, pp. 71–72.

[7] Historic England, *Managing Significance in Decision-Taking in the Historic Environment: Historic Environment Good Practice Advice in Planning: 2* (2nd edition, Swindon, July 2015).

[8] English Heritage, *Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment* (London, April 2008). These heritage values are identified as being 'aesthetic', 'communal', 'historical' and 'evidential', see idem pp. 28–32.

[9] MHCLG, *NPPF*, p. 71.

[10] Ministry of Housing Communities and Local Government (MHCLG), *Planning Practice Guidance: Historic Environment (PPG)* (revised edition, 23rd July 2019), https://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment.

for communities derived from their collective experience of a place and can symbolise wider values such as faith and cultural identity."[11]

Significance results from a combination of any, some or all of the values described above.

The most-recently issued guidance on assessing heritage significance, Historic England's *Statements of Heritage Significance: Analysing Significance in Heritage Assets, Historic England Advice Note 12*,[12] advises using the terminology of the NPPF and PPG, and thus it is that terminology which is used in this Report.

Listed Buildings and Conservation Areas are generally designated for their special architectural and historic interest. Scheduling is predominantly, although not exclusively, associated with archaeological interest.

Setting and significance

As defined by the NPPF:

"Significance derives not only from a heritage asset's physical presence, but also from its setting. "[13]

Setting is defined 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."[14]

Therefore, setting can contribute to, affect an appreciation of significance or be neutral with regards to heritage values.

It is also important to note that whilst a physical or visual connection between a heritage asset and its setting will often exist, it is not essential or determinative. This was recently considered in a High Court Judgement[15] where it was concluded that:

"The term setting is not defined in purely visual terms in the NPPF which refers to the "surroundings in which a heritage asset is experienced". The word "experienced" has a broad meaning, which is capable of extending beyond the purely visual".

Assessing change through alteration to setting

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[11] MHCLG, *PPG*, paragraph 006, reference ID: 18a-006-20190723.

[12] Historic England, *Statements of Heritage Significance: Analysing Significance in Heritage Assets, Historic England Advice Note 12* (Swindon, October 2019).

[13] NPPF, p. 72.

[14] Ibid., p. 71.

[15] EWHC 1456, Steer v. Secretary of State for Communities and Local Government, Catesby Estates Limited, Amber Valley Borough Council, 2017.

How setting might contribute to these values has been assessed within this report with reference to *Historic Environment Good Practice Advice in Planning Note 3 (Second Edition): The Setting of Heritage Assets*[16] (henceforth referred to as *GPA 3: The Setting of Heritage Assets*), particularly the checklist given on page 11. This advocates the clear articulation of '*what matters and why*'.

In *GPA 3: The Setting of Heritage Assets*, a stepped approach is recommended, of which Step 1 is to identify which heritage assets and their settings are affected. Step 2 is to assess "*whether, how and to what degree settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciate*"'. The guidance includes a (non-exhaustive) check-list of elements of the physical surroundings of an asset that might be considered when undertaking the assessment including, among other things: topography, other heritage assets, green space, functional relationships and degree of change over time. It also lists points associated with the experience of the asset which might be considered, including: views, intentional intervisibility, tranquillity, sense of enclosure, land use, accessibility and rarity.

Step 3 is to assess the effect of the proposed development on the significance of the asset(s). Step 4 is to explore ways to "*maximise enhancement and avoid or minimise harm*". Step 5 is to "*make and document the decision and monitor outcomes*".

Descriptions of significance will naturally anticipate the ways in which impacts will be considered. Hence descriptions of the significance of Conservation Areas will make reference to their special interest and character and appearance, and the significance of Listed Buildings will be discussed with reference to the building, its setting and any features of special architectural or historic interest which it possesses.

Levels of Significance

In accordance with the levels of significance articulated in the NPPF, three levels of significance are identified:

> ***Designated heritage assets of the highest significance, as identified in paragraph 194 of the NPPF comprising Grade I and II* Listed buildings, Grade I and II* Registered Parks and Gardens, Scheduled Monuments, Protected Wreck Sites, World Heritage Sites and Registered Battlefields (and also including some Conservation Areas) and non-designated heritage assets of archaeological interest which are demonstrably of equivalent significance to Scheduled Monuments, as identified in footnote 63 of the NPPF;***
>
> ***Designated heritage assets of less than the highest significance, as identified in paragraph 194 of the NPPF, comprising Grade II Listed buildings and Grade II Registered Parks and Gardens (and also some Conservation Areas); and***
>
> ***Non-designated heritage assets. Non-designated heritage assets are defined within the Government's Planning Practice Guidance as "buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of significance***

[16] Historic England, 2017, *Historic Environment Good Practice Advice in Planning Note 3 (Second Edition): The Setting of Heritage Assets*

meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets[17]".

Additionally, it is of course possible that sites, buildings or areas have **no heritage significance.**

Assessment of harm

Assessment of any harm will be articulated in terms of the policy and law that the proposed development will be assessed against, such as whether a proposed development preserves or enhances the character or appearance of a Conservation Area, and articulating the scale of any harm in order to inform a balanced judgement/weighing exercise as required by the NPPF.

In order to relate to key policy, the following levels of harm may potentially be identified:

Substantial harm or total loss. It has been clarified in a High Court Judgement of 2013 that this would be harm that would "have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced"; and

Less than substantial harm. Harm of a lesser level than that defined above.

It is also possible that development proposals will cause **no harm or preserve** the significance of heritage assets. A High Court Judgement of 2014 is relevant to this[18]. This concluded that with regard to preserving the setting of a Listed building or preserving the character and appearance of a Conservation Area, 'preserving' means doing 'no harm'.

Preservation does not mean no change; it specifically means no harm. *GPA 2: Managing Significance* states that "*Change to heritage assets is inevitable but it is only harmful when significance is damaged*". Thus, change is accepted in Historic England's guidance as part of the evolution of the landscape and environment. It is whether such change is neutral, harmful or beneficial to the significance of an asset that matters.

As part of this, setting may be a key consideration. For an evaluation of any harm to significance through changes to setting, this assessment follows the methodology given in *GPA 3: The Setting of Heritage Assets*, described above. Again, fundamental to the methodology set out in this document is stating '*what matters and why*'. Of particular relevance is the checklist given on page 13 of *GPA 3: The Setting of Heritage Assets*.

It should be noted that this key document states that:

"setting is not itself a heritage asset, nor a heritage designation"[19]

Hence any impacts are described in terms of how they affect the significance of a heritage asset, and heritage values that contribute to this significance, through changes to setting.

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[17] MHCLG, Planning Practice Guidance, Paragraph: 039 (ID: 18a-039-20190723, Revision date: 23.07.2019)

[18] EWHC 1895, R (Forge Field Society, Barraud and Rees) v. Sevenoaks DC, West Kent Housing Association and Viscount De L'Isle

[19] Historic England, 2017, *Historic Environment Good Practice Advice in Planning Note 3 (Second Edition): The Setting of Heritage Assets (paragraph 9)*

With regards to changes in setting, *GPA 3: The Setting of Heritage Assets* states that "*conserving or enhancing heritage assets by taking their settings into account need not prevent change*".

Additionally, it is also important to note that, as clarified in the Court of Appeal[20], whilst the statutory duty requires that special regard should be paid to the desirability of not harming the setting of a Listed Building, that cannot mean that any harm, however minor, would necessarily require planning permission to be refused.

Benefits

Proposed development may also result in benefits to heritage assets, and these are articulated in terms of how they enhance the heritage values and hence the significance of the assets concerned.

As detailed further in Section 6, the NPPF (at Paragraphs 195 and 196) requires harm to a designated heritage asset to be weighed against the public benefits of the development proposals.

Recent High Court Decisions have confirmed that enhancement to the historic environment should be considered as a public benefit under the provisions of Paragraphs 195 and 196.

The PPG provides further clarity on what is meant by the term 'public benefit', including how these may be derived from enhancement to the historic environment ('heritage benefits'), as follows:

> ***"Public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (paragraph 8). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.***
>
> ***Examples of heritage benefits may include:***
>
> - ***sustaining or enhancing the significance of a heritage asset and the contribution of its setting***
> - ***reducing or removing risks to a heritage asset***
> - ***securing the optimum viable use of a heritage asset in support of its long term conservation."***[21]

Any 'heritage benefits' arising from the proposed development, in line with the narrative above, will be clearly articulated in order for them to be taken into account by the Decision Maker.

[20] Palmer v Herefordshire Council & Anor [2016] EWCA Civ 1061 (04 November 2016)

[21] MHCLG, *PPG*, paragraph 020, reference ID: 18a-020-20190723.

Appendix 2: Planning Policy

Notwithstanding the statutory presumption set out within the Planning (Listed Buildings and Conservations Area) Act 1990, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise.

The National Planning Policy Framework (July 2021)

National policy and guidance is set out in the Government's National Planning Policy Framework (NPPF) published in July 2021. This replaced and updated the previous National Planning Policy Framework 2019. The NPPF needs to be read as a whole and is intended to promote the concept of delivering sustainable development.

The NPPF sets out the Government's economic, environmental and social planning policies for England. Taken together, these policies articulate the Government's vision of sustainable development, which should be interpreted and applied locally to meet local aspirations. The NPPF continues to recognise that the planning system is plan-led and that therefore Local Plans, incorporating Neighbourhood Plans, where relevant, are the starting point for the determination of any planning application, including those which relate to the historic environment.

The overarching policy change applicable to the proposed development is the presumption in favour of sustainable development. This presumption in favour of sustainable development (the 'presumption') sets out the tone of the Government's overall stance and operates with and through the other policies of the NPPF. Its purpose is to send a strong signal to all those involved in the planning process about the need to plan positively for appropriate new development; so that both plan making and development management are proactive and driven by a search for opportunities to deliver sustainable development, rather than barriers. Conserving historic assets in a manner appropriate to their significance forms part of this drive towards sustainable development.

The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF sets out three "objectives" to facilitate sustainable development: an economic objective, a social objective, and an environmental objective. The presumption is key to delivering these objectives, by creating a positive pro-development framework which is underpinned by the wider economic, environmental and social provisions of the NPPF. The presumption is set out in full at paragraph 11 of the NPPF and reads as follows:

> ***"Plans and decisions should apply a presumption in favour of sustainable development.***
>
> ***For plan-making this means that:***
>
> > ***a) all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;***
> >
> > ***b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:***

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

However, it is important to note that footnote 7 of the NPPF applies in relation to the final bullet of paragraph 11. This provides a context for paragraph 11 and reads as follows:

"The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 180) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, and Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change." (our emphasis)

The NPPF continues to recognise that the planning system is plan-led and that therefore, Local Plans, incorporating Neighbourhood Plans, where relevant, are the starting point for the determination of any planning application.

Heritage Assets are defined in Annex 2 of the NPPF as:

"A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including Local Listing)."

The NPPF goes on to define a Designated Heritage Asset as a:

> ***"World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under relevant legislation."*** [22]

As set out above, significance is also defined as:

> ***"The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance."*** [23]

Section 16 of the NPPF relates to 'Conserving and enhancing the historic environment' and states at paragraph 195 that:

> ***"Local planning authorities should 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."***

Paragraph 197 goes on to state that:

> ***"In determining planning 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"***

With regard to the impact of proposals on the significance of a heritage asset, paragraphs 199 and 200 are relevant and read as follows:

> ***"199 – 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."***

[22] NPPF, Annex 2.

[23] Ibid.

"200 – 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."

In the context of the above, it should be noted that paragraph 201 reads as follows:

"Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, 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; and

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 not for profit, 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"

Paragraph 202 goes on to state:

"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"

The NPPF also provides specific guidance in relation to development within Conservation Areas, stating at paragraph 206 that:

"Local planning authorities should look for opportunities for new 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 207 goes on to recognise that *"not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance*" and with regard to the potential harm from a proposed development states:

"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 as

substantial harm under paragraph 195 or less than substantial harm under paragraph 196, 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" (our emphasis)

With regards to non-designated heritage assets, paragraph 203 of NPPF states that:

"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."

Non-designated heritage assets of archaeological interest which are demonstrably of equivalent significance to a Scheduled Monument will be subject to the policies for designated heritage assets.

National Planning Guidance

The then Department for Communities and Local Government (now the Ministry for Housing, Communities and Local Government (MHCLG)) launched the planning practice web-based resource in March 2014, accompanied by a ministerial statement which confirmed that a number of previous planning practice guidance documents were cancelled.

This also introduced the national Planning Practice Guidance (PPG) which comprised a full and consolidated review of planning practice guidance documents to be read alongside the NPPF.

The PPG has a discrete section on the subject of the Historic Environment, which confirms that the consideration of 'significance' in decision taking is important and states:

"Heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals."[24]

In terms of assessment of substantial harm, the PPG confirms that whether a proposal causes substantial harm will be a judgement for the individual decision taker having regard to the individual circumstances and the policy set out within the NPPF. It goes on to state:

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

While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later

[24] MHCLG, *PPG*, paragraph 007, reference ID: 18a-007-20190723.

inappropriate additions to historic buildings which harm their significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm." [25] ***(our emphasis)***

[25] MHCLG, *PPG*, paragraph 018, reference ID: 18a-018-20190723.

Appendix 3: List Entry Description

Heritage Category: Listed Building

Grade: I

List Entry Number: 1217800

Date first listed: 25-Jan-1952

Date of most recent amendment: 06-Jun-1994

Statutory Address: JOHN RYLANDS LIBRARY AND ATTACHED RAILINGS, GATES AND LAMP STANDARDS`, DEANSGATE

District: Manchester (Metropolitan Authority)

Parish: Non Civil Parish

National Grid Reference: SJ 83568 98213

Details:

MANCHESTER

SJ8398SE DEANSGATE 698-1/27/118 (West side) 25/01/52 John Rylands Library and attached railings, gates and lamp standards (Formerly Listed as: DEANSGATE Rylands Library)

GV I

Library. 1890-99, by Basil Champneys, for Enriqueta Augustina Rylands in memory of her husband; with back extension 1912, also by Champneys. Red sandstone (roof not visible). Rectangular plan at right-angles to street, plus back extensions. Decorated Gothic style with Arts and Crafts accent. Two unequal storeys with the appearance of 3 storeys, designed like a church raised on a crypt, the facade composed of a 2-storey 3-bay centre (like the gatehouse of a monastery) flanked by square 2-storey 2-bay wings, with an embattled parapet to the whole and large octagonal lanterns over the wings; and, set back behind these, the east window of the reading hall flanked by square towers. The centre has very elaborate Gothic decoration throughout, including a 2-centred arched portal containing coupled doorways with a trumeau, a tall 2-light window each side, 2 small canted oriels above the portal, lacy blind tracery on all surfaces enriched with finely-detailed carving, and open-work aracading in the battlements; and the set-back 3-light east window of the hall has delicate reticulated tracery and shafts carried up to a similar open-work parapet. The walls of the wings and the towers, by contrast, are plain except for string courses enriched with grotesques: the wing to the left has tall transomed staircase windows at 1st floor with staggered sills, and low segmental-headed windows below these, that to the right has tall windows at ground floor and short ones above, and both have octagonal corner turrets with flying buttresses thrown back to the octagonal lanterns. The lanterns have transomed 2-light windows, blind tracery and open-work battlements like those of the centre, and the towers behind them have slender octagonal corner turrets and small 2-light windows above the level of the octagons. Return sides in similar style. Fine bronze forecourt railings with central double gates flanked by lamp standards, all in Art Nouveau style. Interior: very fine vaulted entrance hall and winding vaulted staircase; church-like reading hall with much elaborate decoration, including traceried arcades, rib-vaulted ceiling,

panelled reading alcoves with oriel windows, statues of John Rylands and Mrs Rylands, etc. History: built to house the theological library of John Rylands (leading textile manufacturer and philanthropist), subsequently augmented by purchase of other collections, and now one of the finest in the country.

Listing NGR: SJ8356898213

Legacy System number: 388101

Legacy System: LBS

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

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