

Ref.: TC/2012

11 April 2018

Ms Janet Filbin
Planning Services
Burnley Borough Council
Town Hall
Burnley
BB11 2DT

Dear Ms Filbin,

Application Ref: APP/2018/0144 & APP/2018/0145

Site: 118 St James's Street, Burnley, BB11 1NL

Proposal: Partial demolition of front elevation and from new shop front with iron gates, form balcony to rear, install extractor flue, partial mezzanine floor and internal alterations (re-submission of APP/2017/0386 & APP/2017/0387).

Remit: The Theatres Trust is the national advisory public body for theatres. We were established through the Theatres Trust Act 1976 'to promote the better protection of theatres' and provide statutory planning advice on theatre buildings and theatre use in England through The Town and Country Planning (Development Management Procedure) (England) Order 2015, requiring the Trust to be consulted by local authorities on planning applications which include 'development involving any land on which there is a theatre'.

Comment:

The Trust previously wrote on 31st August 2017 to object to the previous application of a similar nature. Following amendments to that proposal, we wrote again on 22nd January 2018 reiterating our objection while cautiously supporting the principle of a temporary permission in order to bring the application site (the foyer and entrance to the Empire Theatre) into active use whilst the theatre's long-term future was resolved. This was on the understanding such a permission would be for a period of two years following discussion with yourself, a position you reflected within your report and recommendation to your Council's Development Control Committee dated 6th February 2018. We also made it clear through our submission that future access to the main auditorium building through the application site would need to be safeguarded.

We became aware that the applicant was seeking a much longer 'temporary' permission on 12th February 2018, for which we submitted further comment to relay to Committee outlining the detrimental impact an extended permission would have on the ability to enact proposals to bring

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Chair Tim Eyles **Director** Jon Morgan

Trustees Richard Baldwin, David Blyth, Pam Bone, Paul Cartwright, Paddy Dillon, Ruth Eastwood, David Ian, Richard Johnston, Gary Kemp, Dara Ó Briain, Simon Ricketts, Peter Roberts, Ann Skippers, Anna Stapleton

The National Advisory Public Body for Theatres

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the theatre back to use that were realistic and potentially viable. We were therefore immensely disappointed with the decision made by your Committee on 15th February 2018, a position we put in writing to your Head of Planning, Chief Executive and Leader of the Council on 8th March 2018 while also seeking justification for the decision.

On that basis, we **strongly object** to this further submission which would appear to make the existing ten-year 'temporary' permission permanent and would prevent future access to the Empire Theatre due to the construction of an internal separation wall. This would result in the loss of the Empire Theatre as a cultural and heritage asset; the need to guard against the loss of such facilities is outlined in both the existing and proposed future version of the National Planning Policy Framework (NPPF).

There are no existing or proposed floorplans available to view, only some unclear images within the Design and Access Statement and Heritage Statement. Based on what we can ascertain from the plans that are shown, it appears that land outside of the applicant's ownership has been included (that of the bridge link building – land registry document LAN16805). That land formed part of the previous submission before it was later amended. It does not form part of the permitted scheme. Should the additional land be included within a permission arising from this application and developed by the applicant it would restrict the ability to access the circle seating (upper level) within the auditorium and limit access and egress from the stalls, thus even further reducing the ability and viability of efforts to restore the theatre to use as to create a new means of access would be incredibly costly, impact significant heritage and reduce capacity at stalls level.

We assume notice has been served on the landowner of the additional land though this has not been made available within documents uploaded to your portal; we recommend this is clarified and confirmed within your final report.

The applicant has once again submitted erroneous supporting information within their Design and Access Statement and Heritage Statement which is misleading and downplays the necessity to retain the application site as part of the overall Empire Theatre site. This has also been outlined within our previous representations. Both statements refer to the site falling within the curtilage of a listed building, whereas in fact the listing makes clear the application site is part of the listed building. Paragraph 5.5 of the Heritage Statement is incorrect as the listing was amended to refer to 118 St James's Street as the theatre's entrance rather than 124 St James's Street. The use of 118 St James's Street was shown in the 1911 drawings of renowned theatre architect Bertie Crewe. Crewe, who has not been credited within the applicant's heritage statement, was also responsible for the reconstruction the auditorium, the principle feature of importance as noted on the listing record. A further detailed historical evidence study as part of an earlier feasibility study was published in 1998. When hoardings were removed from 118 St James's Street more recently the old frontage was revealed and this was captured in photographic evidence by the Burnley Empire Theatre Trust (image attached). However, this was removed and disposed of by the applicant without Listed Building Consent and without any recording or retention of historic materials.

It is stated the exterior construction has fallen into disrepair and internal walls and ceilings are in "very bad condition". We would contend that it is the applicant that has allowed the site to fall

into the disrepair stated, therefore invalidating the condition of the building being an appropriate justification for the proposal and change of use in line with paragraph 130 of the NPPF.

Appendix A of the Heritage Statement shows the location of existing “entrances” to the auditorium as part of the applicant’s suggestion the application site is not required as part of the theatre site. Again, this has already been discounted and relayed through our previous objection. The potential access points shown are actually means of escape directly from the auditorium and ‘get-ins’ for equipment to backstage areas, they are not suitable entrance points as they would not be able to facilitate box offices, waiting areas and other such features necessary. Furthermore, as most open directly onto Cow Lane this would not provide safe or sufficient capacity for the assembly and exit of future theatre users.

By not providing appropriate, accurate and robust justification, the change of use of this site would conflict with emerging Policy TC6 of the new Burnley Local Plan. Part 2a of that policy states:

“Development which involves the loss of existing commercial and community uses in District Centres will only be supported where:

Redevelopment does not prejudice the lawful operating conditions or viability of adjacent land uses; and

either:

i) It would resolve an existing conflict with adjoining residents or users; or

ii) It is demonstrated through comprehensive marketing of the premises/land for at least 12 months that the continued use of the premises/land for commercial use is not viable.”

This policy has been considered by an Inspector through Examination and in principle is sound as it does not form part of the Council’s current consultation on Major Modifications. Therefore, it carries significant weight. As such, the applicant would need to comply with the requirements of this policy. If approval is given to this application in spite of it prejudicing the viability of adjacent community land uses, and without comprehensive marketing information setting out that continued use is not viable, the plan will have been undermined before it is even formally adopted. Paragraph 5.3.46 makes clear the policy applies to cultural facilities.

In terms of heritage, emerging Policy HE2.1 states that “all levels of harm” to designated heritage assets should be avoided. Part 2 states:

“Where proposals would lead to less than substantial harm to the significance of a designated heritage asset, or its setting, the harm will be weighed against the public benefit of the proposal, including securing its optimum viable use.”

This proposal does not represent the optimum viable use for the Empire site as a whole as it prevents future access and utilisation of the main auditorium which contains much of the site’s most significant historic features, thereby causing it significant harm and failing to preserve its significance in conflict with part 3 of Policy HE2 and paragraphs 132-134 of the NPPF.

Notwithstanding our planning concerns outlined above, we would further caution that a decision

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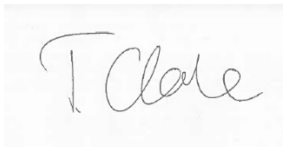
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to approve this application and make permanent the change of use of the application site would effectively end any remaining hope that realistic efforts and options available to bring the Empire Theatre back to use can be realised. We would remind the Council of its statutory obligations in helping to preserve Burnley's heritage, particularly where the asset concerned is statutorily listed and of such great architectural and social interest. It is a building that could be a tremendous community and cultural asset for the people of Burnley and play a significant role in the revitalisation and future of Burnley's town centre. We would encourage the Council to reflect on the emphasis Bradford City Council have placed on bringing the Bradford Odeon back to use, the value of a theatre being recognised as a focal point to help stimulate regeneration efforts in their city.

In conclusion, this proposal does not accord with local or national policy and would compromise the future of the Empire Theatre as a cultural and heritage asset for Burnley. The application contains misleading and erroneous information, downplaying the historic significance of the application site and the main auditorium. We **object** to this application and listed building consent and recommend they be **refused**.

Please contact us if we may be of further assistance.

Regards,

A handwritten signature in black ink, appearing to read 'T Clarke', on a light-colored rectangular background.

Tom Clarke
National Planning Adviser