

Protecting theatres for everyone



Ref.: TC

21 January 2021

North Hertfordshire District Council
PO Box 10613
Nottingham
NG6 6DW

By e-mail: tom.rea@north-herts.gov.uk

Application: 20/03065/FP

Site: The Market Theatre 6A Sun Street Hitchin Hertfordshire

Proposal: Change of use from theatre (Sui generis) to residential (C3) including external alterations to fenestration to create three 2-bed and two 1-bed flats

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:

Thank you for consulting Theatres Trust regarding this application for planning permission which seeks the change of use of the Market Theatre and resultant alterations to the building to facilitate residential use. The Trust **strongly objects** to these proposals. This is on the basis of the loss of the site as a theatre currently in operation which is a valued community, cultural and social asset, with no evidence it is surplus to requirements. This primary objection is supported by local and national policy provisions.

The Market Theatre is highly valued by its users and the wider community in and around Hitchin. It plays an important role as a small community theatre as it facilitates participation and engagement in performance and the arts, providing a space for local groups to meet and come together such as a children's group, a youth group, amateur dramatic societies and a choir. This helps improve social and cultural well-being and reduces isolation. The theatre also functions as a wider social facility hosting parties, quizzes and other events. Further to this it is a 'producing' theatre, creating works which are taken around the UK, and hosts professional productions and signed artists as part of a varied programme. As such loss of the theatre would have direct economic impacts on existing jobs and opportunities in the local area and would be harmful to the overall provision of culture in the town and the vitality of the designated town centre.

Theatres Trust

22 Charing Cross Road, London WC2H 0QL

T 020 7836 8591 E info@theatrestrust.org.uk W theatrestrust.org.uk

Chair Tim Eyles **Director** Jon Morgan

Trustees Richard Baldwin, Paul Cartwright, Paddy Dillon, Annie Hampson, Richard Johnston, Gary Kemp, Jane Spiers, Truda Spruyt, Katie Town

The National Advisory Public Body for Theatres

The Theatres Trust Charitable Fund co-operates with the Theatres Trust, has the same Trustees and is registered as a charity under number 274697

Paragraph 92 of the NPPF (2019) seeks decisions to guard against the loss of valued facilities and more fundamentally paragraph 8 outlines that sustainable development has a social objective which should support social and cultural well-being. This proposal is in direct conflict with those provisions. The theatre function would be completely lost for which there is no supporting evidence, information or justification within documents submitted by the applicant. Whilst increased housing within town centres is promoted by the Government, the presence of an active and well-regarded theatre clearly renders this an inappropriate site for such development. Recent changes to commercial and town centre use classes and broadening of permitted development rights enabling changes of use to residential have actually introduced and strengthened protections for cultural facilities including theatres, not weakened them.

Policy 28 of the Hitchin Town Centre Strategy (2004) states the Council will “resist the loss of community facilities” which is a clear and unambiguous position. This policy would also “require the replacement of existing community facilities in development proposals or through enhancement schemes”. The applicant makes no attempt to adequately re-provide this theatre elsewhere and neither in any case is there any evidence such a move would be in the interests of the theatre and its users were alternative premises to even be available.

Saved Policy 43.ii.b of the District Local Plan No. 2 with Alterations (1996) permits development proposals for ‘other uses’ (which can be assumed to include residential) if it would not affect the shopping pattern and would attract people to the centre. Whilst clearly theatre is not a retail use it is a core town centre use and one which helps bring people into the town centre to the benefit of other businesses and general footfall. It forms an important part of a cluster of leisure uses and independent businesses on Sun Street which contributes to the character of the area. As such, change of use would affect the shopping pattern and residential use would not attract people to the centre, in fact it would do the opposite. Again, this demonstrates conflict with policy and principles of sustainable development.

Those principles are replicated within the emerging North Hertfordshire Local Plan 2011-2031 Proposed Submission (September 2016) incorporating the Proposed Main Modifications (November 2018). As the parts referenced in these comments below have passed through examination and do not form main modifications which have been subject to further hearing sessions, and are consistent with NPPF policies, with reference to paragraph 48 of the NPPF we consider they carry significant weight.

The emerging Plan’s Vision states, “New development will help to maintain and enhance the vibrancy of existing settlements, enabling the towns and villages to embrace their roles within the District’s settlement hierarchy and provide an enhanced variety of new housing, employment opportunities and essential infrastructure that is of benefit to existing and future residents.” This proposal would detract from the vibrancy of Hitchin and reduce social and cultural infrastructure available to residents.

Continuing, the Vision adds, “The vitality and viability of the towns of Hitchin, Letchworth Garden

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City, Royston and Baldock are safeguarded in a way that takes account of their distinctive role.” Again, the vitality and viability of Hitchin’s designated town centre would be harmed by the loss of the Market Theatre particularly businesses around the theatre which especially benefit from the increased custom and footfall it draws in. It goes on, “North Hertfordshire will have a range of community, leisure, cultural and recreational facilities in locations that are accessible to the local population, creating cohesive communities that recognise the needs of the older population; and enhance the opportunities for children and young people.” This is an existing community, leisure and cultural use in an accessible location which meets the needs of different parts of the community and enhances opportunities thus it must be protected to help deliver the vision and avoid undermining the plan before it is even fully adopted.

Those parts of the emerging Vision are achieved through emerging Strategic Priority ENV4 which states, “Maintain and enhance the vitality and viability of our town, neighbourhood and village centres, as well as strengthening the retail roles of our town centres ensuring that they remain competitive and attractive for modern-day use” and SOC3 which says, “Improve access to, maintain and make provision for new facilities including community, sports, leisure, health and cultural facilities, that meet the needs of all North Hertfordshire’s communities.” The key word within SOC3 is ‘maintain’, on which this proposal fails.

Emerging Policy SP10 seeks to support the retention of existing community, cultural, leisure or recreation facilities. Supporting paragraph 4.119 confirms this applies to theatres, and also acknowledges the points made above by articulating participation in “cultural pastimes” helps to “enhance physical, spiritual and mental well being”. Paragraph 4.121 makes clear a “general presumption will be that existing facilities should be retained”. This proposal fails to do that. Neither is this theatre being replaced, it is in an ideal location to address future patterns of demand by virtue of its prominent town centre location and there is certainly no evidence it is not viable in its existing form. Therefore loss of the theatre to facilitate the residential development proposed conflicts with all these criteria and the thrust of the emerging policy.

This point is further reflected through Policy HC1, again whereby this proposal fails to reflect the provisions of parts i., ii. and iii. Paragraph 10.2 again confirms this policy applies to theatres, and paragraph 10.1 acknowledges our earlier point that theatres, particularly of this nature, “help to enhance physical, spiritual and mental well being”.

Clearly theatres have been particularly badly impacted by Covid-19 restrictions and having been the first to close it is likely that they will also be amongst the last uses to return to normal operations. Nonetheless even if the current operator were to fold the Ministerial Statement of 14th July 2020 makes it clear that “local authorities should have due regard to their current circumstances when considering whether to grant planning permission for a change of use”. The Government’s position is that otherwise viable facilities should not “be lost forever”. As such the granting of permission for change of use because of Covid-19 or failure of the operator would also be contrary to national policy. If the theatre’s tenancy at the site were to be ended though the actions of the applicant, the popularity and success of the Market Theatre to date would

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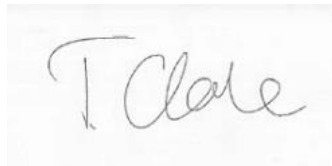
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nevertheless make it challenging for the applicant to demonstrate there is no need or demand for theatre at the site. Thus in that scenario permission for change of use still could not be supported by policy or justified in the foreseeable future.

In conclusion any limited benefits arising from the provision of new housing are far negated by the proposal's fundamental conflict with national and local policy, both adopted and emerging, which protects the existing theatre as a valued facility for local people. When the wider placemaking role of the theatre in contributing to and supporting the vibrancy and function of Hitchin as a designated town centre is considered, plus the impact the loss of the theatre would have on the cultural and social well-being of its users and local people, it is clear that the granting of planning permission for change of use would be highly detrimental to Hitchin and would not constitute sustainable development. Therefore **we recommend that this application is refused.**

As a statutory consultee considerable weight should be afforded to this advice and our objection. The importance of the views of statutory consultees and their particular expertise, together with the legal requirements upon decision makers should they depart from such expert views has been recently emphasised by the High Court in *Visao Ltd v The Secretary of State for Housing, Communities and Local Government* [2019] EWHC 276 (Admin). Additionally, the High Court in *Shadwell Estates Ltd. v Breckland DC* [2013] EWHC 12 (Admin) held that "*a decision-maker should give the views of statutory consultees... "great" or "considerable" weight. A departure from those views requires "cogent and compelling reasons"*". Given the nature and circumstances of this application and its conflict with national policy we would as a statutory consultee consider seeking call-in by the Secretary of State should the Council be minded to approve.

We would request that we are notified of any updates in regard to this application such as the submission of further documentation or referral to Committee for determination. Please contact us if we may be of further assistance or should you wish to discuss these comments further.



Tom Clarke MRTPI
National Planning Adviser

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