

Protecting theatres for everyone



Ref.: TC/3538

03 February 2021

Matthew Woodhead
The Royal Borough of Kensington & Chelsea
Town Hall
Hornton Street
W8 7NX

By e-mail: planning@rbkc.gov.uk

Applications: PP/21/00090

Site: Staff Flat, 118 Finborough Road, LONDON, SW10 9ED

Proposal: Conversion of 4-bedroom flat into two 1-bedroom flats on the second floor

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:

This application for planning permission has been brought to the attention of the Trust because the site includes the Finborough Theatre which is directly below the accommodation for which conversion is sought. The Trust is a statutory consultee and we should have been formally notified as such because this development falls within our remit described above.

The applicant is seeking to convert the accommodation to the building's second floor, which is currently ancillary to the pub below, into two self-contained one bedroom flats (Class C3). Development of this nature is of great concern to the Trust because residential uses and noise-generating cultural venues such as theatres are not necessarily compatible due to transfer of noise and vibrations, giving rise to challenges of sub-optimal living conditions for residents and in turn potentially harmful restrictions on the operations of venues should complaints be made by new neighbours. Therefore our general position is to object to such development unless there are compelling circumstances to the contrary and sufficient mitigations are in place which extinguishes all reasonable doubt.

Finborough Theatre is long established and highly valued by its users and the wider community, forming part of London's substantial fringe theatre offer which contributes to the city's strong

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

reputation as a global hub for the arts and to the economy. Policy at local, London and national level is clear that such uses should be supported and protected. Paragraph 92 of the NPPF seeks planning decisions to plan positively for cultural facilities and to guard against unnecessary loss. Policy CF7 of the Council's Local Plan "supports the borough's role in both local and world-class arts and culture" and will "protect, nurture and encourage those which already exist". Part a. protects all current arts and cultural uses.

There is previous planning history at this site and for the second floor specifically seeking conversions for residential use, notably in 2014 and 2016. Both of those applications were refused, and both resulted in appeals which were dismissed. The 2014 appeal concluded that safeguarding of the theatre and living conditions for future residents were "significant and overriding". Significantly, that appeal was refused on those grounds having been raised by the Trust and not covered within the Council's delegated report. Within the 2016 appeal the future of the Finborough Theatre was a formal main issue and the Inspector concluded that "the long term viability of the Finborough Theatre would be compromised by the construction of the proposed development". Therefore as a starting point the current applicant would have to address the previous reasons for refusal and overcome a number of constraints, which were significant.

Since the time of the previous applications and subsequent dismissed appeals, the policy context has been further strengthened in favour of the interests of the theatre with the introduction of the 'Agent of Change' principle into paragraph 182 of the NPPF. This is further developed through Policy D13 of the Publication London Plan (2020). Part B. of that policy states, "Development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them". Parts C. and D. go on to discuss measures which may mitigate and manage any impacts. Part E. is clear that development "should not normally permit development proposals that have not clearly demonstrated how noise and other nuisances will be mitigated and managed". We would note that although not formally adopted, with receipt of approval of the plan by the Secretary of State this week we consider these policies carry significant weight. Policy CE6 of the Council's Local Plan (2019) seeks to "control the impact of noise and vibration generating sources which affect amenity both during the construction and operational phases of development". Part a. also requires careful design, and part b. resists development which does not meet relevant standards. Recent appeal decisions have been consistent in upholding those principles through ruling against developments which could compromise existing cultural venues, including against Prior Approvals. Most significantly, a recent Inquiry in which the Trust participated (APP/Q3115/W/20/3249052) dismissed appeals against refusal of residential accommodation adjoining the Corn Exchange in Wallingford, South Oxfordshire District Council.

With previous decisions, recent appeals and Inquiries and strengthened relevant policy in place it would be expected that fresh proposals for this site would have attempted to robustly address and mitigate those issues supported by detailed technical and acoustic reports. It is therefore surprising that such limited information has been submitted by the applicant. On that basis alone, this application cannot be permitted as there are no grounds to reassure the Trust or the

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

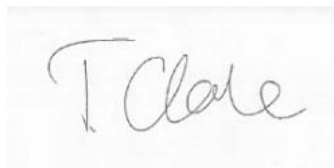
Council that the theatre would be protected and the living conditions and amenity of future residents would be protected.

Furthermore, the loss of ancillary accommodation might also harm the viability of the Finborough Arms pub because a ground-floor self-contained unit is likely to be of less interest to operators unless its rent is adjusted accordingly. Pubs are themselves community and social assets which planning decisions should seek to support and protect and are also covered by Policy HC6.6 of the London Plan. Further, Policy HC7.C of the London Plan specifically deals with and resists development proposals for associated accommodation and facilities within the curtilage of pubs where their operation and viability could be compromised. Regardless of whether the existing accommodation currently forms part of the pub or is let independently – paragraph 18 of the previous appeal decision notes this was in dispute although there does not appear to be a formal change of use and the 2014 appeal included a unilateral undertaking stating it to be ancillary – its existing layout as family accommodation for a pub landlord/operator is quite typical and could be easily reverted. This function and flexibility would be lost with the proposed sub-division so impact on the pub should also be justified to meet policy requirements.

In conclusion we object to this proposal and recommend refusal of planning permission because it is contrary to relevant policies and has failed to demonstrate compatibility with the theatre in terms of noise, vibrations and appropriate living conditions for residents. Therefore it would jeopardise the future operation of the theatre as a community, cultural and social asset for the borough and London as a whole.

In the event the Council is minded to grant permission against our advice despite such clear conflict with policy, please notify the Trust in advance of a decision notice being issued and communicate any date for Committee if relevant. It is essential that robust conditions are attached requiring approval of sufficient acoustic and design protections to protect the theatre from future harmful restrictions and protect the amenity and living conditions of residents. There must also be a requirement for a Deed of Easement being in place which would extinguish the right of future occupants to submit compliant against the theatre. The Trust can work with the Council on appropriate wording.

Please contact us if we may be of further assistance or should you wish to discuss these comments further. We would encourage the applicant to work positively with the Trust, the theatre and the Council should they seek to revise their plans for the site.



Tom Clarke MRTPI
National Planning Adviser

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