

Protecting theatres for everyone



Ref.: TC/1839

19 January 2023

Ms Caron Taylor
Planning department,
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By e-mail: planning@blackpool.gov.uk

Application: 22/0991

Site: 32-34 VICTORIA STREET, BLACKPOOL, FY1 4RA

Proposal: Use of first and second floors as a serviced holiday flat (sui generis use) with roof terrace following replacement of external windows.

Remit:

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 has been brought to the attention of Theatres Trust because it is proposing conversion to short-term accommodation at a site directly adjacent to the Grand Theatre, a form of residential use.

Development of this nature is of great concern to the Trust because residential uses and noise-generating cultural venues including theatres are not necessarily compatible, even when not for permanent residents. Such use has the potential to create negative impacts on the theatre and its operations which could be detrimental to its ability to function should new restrictions, or the threat of restrictions, be imposed. In turn the established activities of the theatre, and those which it could legitimately introduce in future, are likely to cause disturbance to future occupants leading to sub-optimal living conditions. This is particularly the case for the space shown as Bedroom 1 on the proposed first floor plan.

The theatre is a Grade II* listed heritage asset within the Town Centre Conservation Area, considered one of the finest works of renowned theatre architect Frank Matcham. It is an

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Chair Dave Moutrey **Director** Jon Morgan

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important and valued cultural venue for Blackpool, hosting a busy programme which both meets the needs of local people as well as contributing to Blackpool's visitor offer. Paragraph 93 of the NPPF (2021) seeks planning decisions to plan positively for facilities of this nature and to avoid unnecessary loss. Paragraph 3.339 of the emerging Blackpool Local Plan Part 2 (2021) in support of Policy DM37 makes clear the plan seeks to ensure that facilities are protected.

The application site is currently in retail use with the upper levels providing ancillary storage and staff facilities. The Grand Theatre is just a few metres away from the north/north-west elevation of this unit across Matcham Court, a small passageway providing access to the theatre's Stage Door. This area is utilised for 'get-ins' and 'get-outs', in other words the delivery, set-up and removal of sets and equipment. By necessity, particularly where there are touring shows moving on to other locations, this can take place late at night, early in the morning and at weekends. This can be an unavoidably noisy undertaking, and introducing restrictions on hours of work would not be acceptable because it would mean the Grand being unable to accept many shows. This would cause significant harm to the venue's reputation and viability, and reduce access and provision of culture and the arts for local people. Secondly, the proximity of this unit and the age of the theatre also mean there is potential for bleed of noise from performances as well as rehearsals which could also cause disturbance. There is also a risk of activities on the proposed roof terrace in particular disrupting quieter performances at the theatre.

These issues can and have resulted in harmful restrictions and uncertainty being imposed where complaints have been received. At worst this can result in the complete closure of venues, something which has occurred in the past prior to legislation and planning policy in this respect being introduced. 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.

Policy at both local and national level supports and protects facilities such as theatre and states that development should be refused where acceptable living conditions cannot be reached. Paragraph 187 of the NPPF (2021) seeks to ensure that new development can be effectively integrated with existing facilities and that unreasonable restrictions should not be placed on them. It also makes clear that obligations to make development acceptable must fall to the applicant/developer. Emerging Policy DM36.1 only permits development where it can be demonstrated it is compatible with existing adjacent uses and will not lead to adverse effects on health, amenity and operation. With adoption forthcoming this policy carries significant weight.

Presently there is no assessment of the relationship between this proposal and the theatre, including acoustic surveys to ascertain what mitigations such as soundproofing would be required to make development acceptable, or if it would be acceptable at all. This should be undertaken, ensuring it reports on levels arising from different types of activities at the theatre including those which cause greatest disturbance. Without such assessment this application should not be permitted.

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We would note there are now a number of decisions and judgements in favour of protecting the interests and operations of existing venues over introducing potentially incompatible development such as this. Examples include:

- The Trust participated in an Inquiry in late 2020 (APP/Q3115/W/20/3249052 & APP/Q3115/Y/20/3249055) which upheld refusal of planning permission and listed building consent by South Oxfordshire District Council for residential development adjoining Wallingford Corn Exchange due to unacceptable living conditions and risk to the Corn Exchange's activities.
- In 2019 an appeal at 20 King St, Wakefield was dismissed where the appellant sought to overturn refusal of Prior Approval under Class O of the GPDO. The sole issue was whether the proposed development would provide acceptable living conditions for future occupants with regard to noise. The appeal site was next to the Inns of Court public house, licensed to host live music every night. It was concluded by the Inspector that there was a realistic prospect of the proposal disadvantaging an existing business due to complaints of statutory noise nuisance from residents.
- The Wakefield case reflected the outcome of a larger Prior Approval scheme for twenty-one residential units above the 1000 Trades music venue in Birmingham two months previous.
- In 2020 an appeal at 6 Eagle Parade in Buxton was dismissed, relating to a full planning permission for change of use to residential at the rear of the Coco Nightclub. The unit subject to planning condition itself only became vacant as a result of noise complaints from an adjoining residential property. As with the Wakefield case, the Inspector concluded living conditions would be unacceptable due to noise and disturbance.
- A noise abatement order was served against the Star Inn by Guildford Borough Council following complaint by the developer of residential units next door. The order was subsequently quashed at Guildford Magistrates Court on July 1st 2019 but in the meantime the venue could not operate as it should have been able to.
- Relevant examples to go before the Courts are Cemex (UK Operations) Ltd v Richmondshire District & Anor [2018] EWHC 3526 (Admin), albeit that case related to industrial noise rather than from a cultural venue, and Obar Camden Ltd v LB Camden [3] in relation to notable music venue and former theatre Koko.

Currently there is also an ongoing high-profile legal case concerning a noise abatement order served on the Night & Day venue by Manchester City Council.

These examples should afford the Council confidence that refusal of this application on the basis of noise and 'agent of change' concerns, if required, can be justified and defended.

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As this application currently stands we would strongly object to the granting of planning permission because it is contrary to relevant policies and has failed to demonstrate compatibility with the theatre in terms of noise or provision of appropriate living conditions for occupants. Therefore the future operation of the Grand Theatre as a community, cultural and social asset would be jeopardised in turn risking vacancy of a heritage asset of great importance and significance.

In the event the Council is minded to grant permission against our advice despite such clear conflict with policy in the absence of sufficient information and assessment by the applicant, we ask that the Trust is notified in advance of a decision notice being issued and to communicate any date for Committee if relevant. It is essential that robust conditions are attached requiring approval of sufficient acoustic and design protections, and that the applicant or future developer must be responsible for any costs arising whether to the application site or to the theatre. There must also be limits on the maximum consecutive duration of occupancy by a single party to further mitigate against cumulative impact resulting in complaint. The Trust can advise and work with the Council on drafting appropriate wording for any conditions or agreements.

Furthermore construction activity itself poses a risk to the theatre's performances and operations; whilst this is necessary we urge a condition to be in place requiring submission of a construction management plan agreed with the theatre. This would prevent intrusive works taking place during normal performance times to ensure shows and the experience of audiences is not negatively impacted. Again, having had experience of such conditions elsewhere, we can provide the Council with advice.

Please contact us if we may be of further assistance or should you wish to discuss these comments further.

A handwritten signature in black ink that reads "T. Clarke". The signature is written in a cursive, slightly slanted style.

Tom Clarke MRTPI
National Planning Adviser

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