

DEVELOPMENT CONTROL COMMITTEE

Thursday, 15th February, 2018
6.30 pm





DEVELOPMENT CONTROL COMMITTEE

BURNLEY TOWN HALL

**Thursday, 15th February, 2018 at 6.30
pm**

Late correspondence

3 - 8

MEMBERSHIP OF COMMITTEE

Councillor Frank Cant (Chair)
Councillor Arif Khan (Vice-Chair)
Councillor Gordon Birtwistle
Councillor Margaret Brindle
Councillor Trish Ellis
Councillor Danny Fleming
Councillor Sue Graham
Councillor John Harbour

Councillor Marcus Johnstone
Councillor Lubna Khan
Councillor Neil Mottershead
Councillor Andrew Newhouse
Councillor Tom Porter
Councillor Asif Raja
Councillor Andrew Tatchell
Councillor Cosima Towneley

PUBLISHED

Wednesday, 7 February 2018

DEVELOPMENT CONTROL COMMITTEE

Thursday 15th February 2018

Late Correspondence/Verbal Reports

Agenda Item 6b
Pages 23-35

Full Planning Application - APP/2017/0386

Change of use of theatre entrance to cafe and bar (class A3/A4), rebuild front elevation to form new shop front with iron gates, install extractor flue and partial mezzanine floor to use as office

Listed Building Consent - APP/2017/0387

Partial demolition of front elevation and from new shop front with iron gates, install extractor flue, partial mezzanine floor and internal alterations

Additional Consultation Responses:

Theatres Trust

The Trust's ultimate position is that we object to the change of use proposed as per our representation of 31st August 2017, for which detailed justification was set out.

Following amendments to the scheme, the Trust cautiously supported a temporary permission for change of use for a period of two years so as not to compromise the potential to bring the theatre back to use. As we set out in our most recent comments of 22nd January 2018, there is a viable proposition for re-use of the Empire. The Trust felt that a two year permission was a satisfactory compromise so as to improve the street frontage along St James's Street and reduce town centre vacancy in the short term whilst the longer-term future of the theatre for the benefit of Burnley was resolved. However, we would reiterate that any works within 118 St James's Street must be reversible and that potential access to the main theatre building must be maintained.

Therefore, the Trust would be unable to support a temporary permission that extended beyond two years. If a period of greater than two years was to be permitted it would in effect prevent the re-use of the theatre as the St James's Street frontage is required for access and no potential operator could entertain taking on the Empire with the uncertainty as to when full access might become available.

The likely outcome of the current proposal for the Empire, which in the Trust's opinion is realistic and is based on previous models of success, is of a phased return to use. This makes parts of the theatre building accessible at an earlier stage before full restoration and access is restored at a later point. This sustainably raises the profile of the theatre; the venue becomes recognised and people become

accustomed to shows or events taking place. It brings financial income and provides a proof of concept to enable progression to later stages of the project and expansion of the offer. One such current example of this is Leith Theatre.

The current proposal for the Empire requires £2.5 million which may be obtained from public sources such as the Heritage Lottery Fund and the Architectural Heritage Fund. This is to make the building safe and provide safe access to the stage house to enable some smaller-scale events to take place. The timescale for preparing a bid and it being awarded is about six months. However, access to the theatre in any form would not be possible if this proposal was to be permitted and with it the chances of successful funding bids would be severely compromised. Therefore it is essential that any temporary permission does not exceed two years.

We would also note that the Empire presents a tremendous opportunity to help revitalise Burnley's town centre, and if the site is not included within the forthcoming Town Centre Masterplan due to 118 St James's Street being in alternative use for a prolonged period a major opportunity will have been lost. It is also likely that if restoration of the Empire cannot take place within the next ten years, the building will fall into disrepair and would no longer be viable for any kind of use.

Finally, we would also like to highlight that the bridge-link to the main theatre building is in separate ownership to the unit subject to this application, therefore any works on that section would only be able to proceed with the permission of the landowner.

Officer comment: Having considered further discussions with the applicant, whilst we are mindful of the views given by the Theatres Trust, a temporary permission of only two years would not meet the six tests to be considered in relation to Planning Conditions and would be unreasonable. A period of three years for the proposed café/bar would however give sufficient time for any operator to begin and run a business at this locality.

Consideration for Revised Conditions

Based on the above, and with a view that the works to the property are required to be completed within a specific timescale in order to safeguard the building as well as visually improve the locality, the proposed replacement conditions are suggested as set out below.

Page 33 – Revised Conditions for APP/2017/0386

Replace Conditions 2 to 6 with the following plus additional Condition 7

2. The proposed works to the premises as shown on drawing numbers: (STJ) (20)-L-03RevA and STJ 22 P 02RevC, received on 8 January 2018, shall be carried out and completed within 12 months of the date of this permission to the satisfaction of the Local Planning Authority.

3. The use of the premises as a bar/cafe (Classes A3/A4) shall cease on or before three years from the date of the completed external and internal works proposed as part of this permission (Condition 2). The developer shall notify the Local Planning Authority of the completed dates for monitoring purposes.
4. Prior to further works being carried out to the interior of the unit, a building recording consisting of a photographic survey of the interior of the unit shall be carried out and a copy submitted to the Local Planning Authority.
5. No later than the expiry of three years from the date of the completed internal and external works noted under Condition 2, the following re-instatement works shall be carried and completed: the removal of the partition walls between the rear of the unit and the bridge link area of the adjoining building and the re-opening of the passageway between the unit and the remaining theatre building.
6. The bar/café shall not be first brought into use until refuse and recycling storage facilities have been provided in accordance with details which shall be first submitted to and approved in writing by the Local Planning Authority. The approved refuse and recycling facilities shall thereafter be retained for the duration of the use of the premises as a bar/café.
7. No speakers, amplifiers or other sound/music equipment shall be fixed to any part of the exterior of the building.

Replacement Reasons:

2. In order to visually improve the street scene and safeguard the main public entrance to the former Empire Theatre in a timely manner, which may be necessary for the future viability of this Grade II listed theatre, in accordance with Policy E10 of the Burnley Local Plan, Second Review (2006) and Policies HE1 and HE2 of Burnley's Local Plan, Submission Document (July 2017).
3. A temporary permission of no longer than three years is appropriate and necessary in this instance in order to provide the applicant the opportunity to utilise 118 St James Street whilst at the same time safeguarding the main public entrance to the former Empire Theatre which may be necessary for the future viability of this Grade II listed theatre, in accordance with Policy E10 of the Burnley Local Plan, Second Review (2006) and Policies HE1 and HE2 of Burnley's Local Plan, Submission Document (July 2017).
4. To reveal any internal historic features which should be protected and retained in the development, in accordance with Policy E10 of the Burnley Local Plan, Second Review (2005) and Policy HE2 of Burnley's Local Plan, Submission Document (July 2017).
5. To safeguard the main public entrance to the former Empire theatre which may be necessary for the future viability of this Grade II listed theatre, in accordance with Policy E10 of the Burnley Local Plan, Second Review (2006) and Policies HE1 and HE2 of Burnley's Local Plan, Submission Document (July 2017).

6. To ensure convenient storage for refuse and recycling, in the interests of public amenity and to safeguard the appearance of the Town Centre Conservation Area, in accordance with Policy E12 of the Burnley Local Plan, Second Review (2005) and Policy HE2 of Burnley's Local Plan, Submission Document (July 2017).
7. To prevent excessive noise and disturbance in the town centre, in accordance with Policies GP1 and GP3 of the Burnley Local Plan, Second Review (2006).

Page 34 – Revised Conditions for APP/2017/0387

Replace Conditions 2 and 3 with the following plus additional Condition 4

2. The proposed works to the premises as shown on drawing numbers: (STJ) (20)-L-03RevA and STJ 22 P 02RevC, received on 8 January 2018, shall be carried out and completed within 12 months of the date of this permission to the satisfaction of the Local Planning Authority.
3. Prior to further works being carried out to the interior of the unit, a building recording consisting of a photographic survey of the interior of the unit shall be carried out and a copy submitted to the Local Planning Authority.
4. No later than the expiry of three years from the date of the completed internal and external works noted under Condition 2, the following re-instatement works shall be carried and completed: the removal of the partition walls between the rear of the unit and the bridge link area of the adjoining building and the re-opening of the passageway between the unit and the remaining theatre building.

Replacement Reasons:

2. In order to visually improve the street scene and safeguard the main public entrance to the former Empire Theatre in a timely manner, which may be necessary for the future viability of this Grade II listed theatre, in accordance with Policy E10 of the Burnley Local Plan, Second Review (2006) and Policies HE1 and HE2 of Burnley's Local Plan, Submission Document (July 2017).
3. To reveal any internal historic features which should be protected and retained in the development, in accordance with Policy E10 of the Burnley Local Plan, Second Review (2005) and Policy HE2 of Burnley's Local Plan, Submission Document (July 2017).
4. To safeguard the main public entrance to the former Empire theatre which may be necessary for the future viability of this Grade II listed theatre, in accordance with Policy E10 of the Burnley Local Plan, Second Review (2006) and Policies HE1 and HE2 of Burnley's Local Plan, Submission Document (July 2017).

Agenda Item 6b
Pages 37-51

APP/2017/0472 – Proposed erection of 8no. five bedroom detached dwellings at land south of Old Hall Farm

Location Plan: A corrected red edge location plan is being circulated at Committee which takes account of the site's extended frontage onto Oswald Street.

Page 40 - Consultation responses

Burnley Wildlife Conservation Forum

A further letter has been received which maintains their objection to the development, stating that they object to the planting of a buffer zone of native and non-native shrubs within the Biological Heritage Site (BHS).

Officer comment: The applicant agrees to the planting of a native wildflower mix in lieu of shrub planting. Greater Manchester Ecology Unit affirms that this would be suitable mitigation and the mitigation area should be cut once per year. Condition 14 on the agenda report provides for this.

Amended plan

The applicant has submitted an amended plan to show that the proposed ecological mitigation area would be sown with a wildflower meadow mix and cut once a year. This is considered to accord with the recommendation of the Council's Ecology Consultant, GMEU.

Page 46 - Revised Conditions:

Replace Condition 2 within the report with the following;

2. The development hereby permitted shall be carried out in accordance with the following approved plans: A301Rev0, A102Rev0, A201Rev0 and 17/2249/06RevA, received on 23 October 2017; A101Rev0, received on 6 November 2017; Loc1 (1:2500 location plan), 17/2249/09RevB, 17/2249/10RevA, A100RevE, received on 19 December 2017; and, 17/2249/08RevE, received on 15 January 2018; and 17/2249/10 Rev A, received on 14 February 2018.

Replace Condition 3 within the report with the following;

3. No construction work on any dwelling shall take place until the new estate road/access between the site and Oswald Street has been constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level. No walls, fences, vegetation or any other device shall at any time be erected or allowed to grow more than 1.0m in height above the level of the adjoining carriageway forwards of the visibility splays created by the development.

Replace Condition 14 within the report with the following;

14. The mitigation zone for loss of grassland as indicated on drawing number 17/2249/10RevA, received on 14 February 2018, shall be formed by planting a thorn hedge and post and rail timber fence on the northern boundary of the application site. Notwithstanding any details indicated on this plan, the mitigation area shall be planted with native wildflowers only and the area shall be cut once a year. The identified mitigation area shall thereafter be protected and retained in accordance with the approved details at all times.