

Application Recommended for Approval

Daneshouse with Stoneyholme Ward

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

118 ST JAMESS STREET BURNLEY

Background:

The application is for a change of use of the premises from part of a former bingo hall (Class D2) to a use as a bar/café (Classes A3/A4) and to form a new shopfront and folding gates to the front and install a flue to the rear. The initial application also included works to the rear of the unit to form a balcony and external seating area but this part of the proposal has been removed by reducing the red edge of the application site to the part of the property of 118 St James Street which is wholly within the applicant's titled ownership. Some works to the roof of the unit, dismantling of its frontage and works to the rear of the unit have already taken place.



The image below is of the front of 118 St James Street prior to the dismantling of its frontage.

118 St James Street



Rear of building

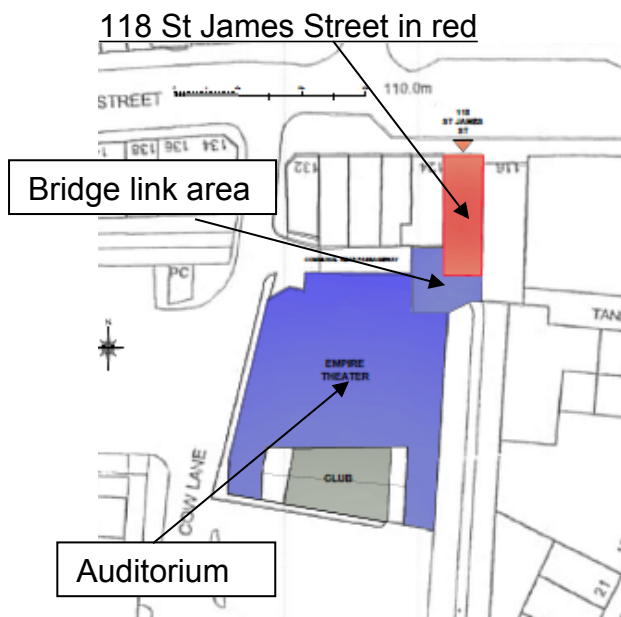


Side of theatre on Cow Lane



Rear of bridge link between 118 St James Street and auditorium

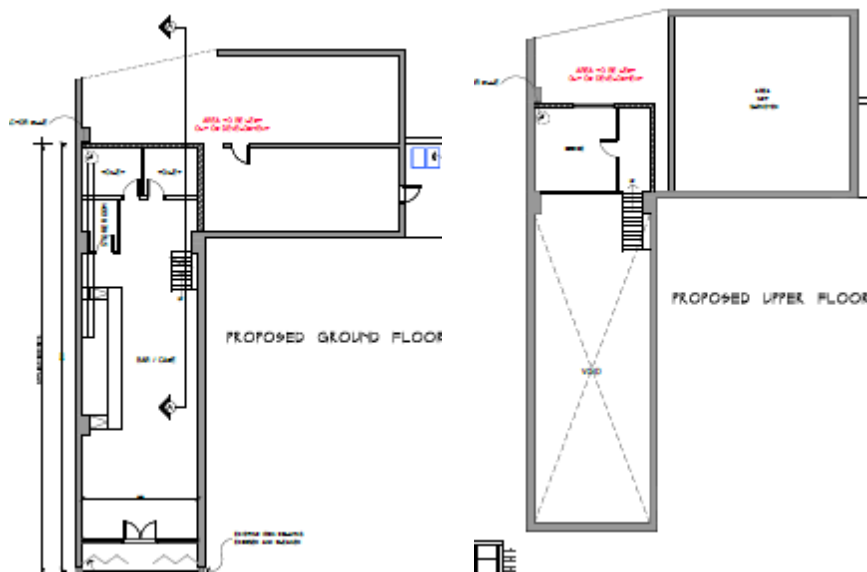




The proposal involves forming a new shopfront which would retain the cast iron columns at the front and form a simple but improved frontage.

Proposed Ground Floor

Proposed Partial Mezzanine Floor



The application no longer relates to the rear side of the building which passes over the River Calder. The proposed ground floor plan indicates that two new internal walls would be constructed which would separate the former passageway from the stairs that lead to the theatre's auditorium. A small mezzanine floor would also be created to form an office.

The foyer building is part of the Empire Theatre which was Grade II listed in 1996. The site also falls within the Town Centre Conservation Area. This report relates to both the application for planning permission and for listed building consent.

Relevant Policies:

Burnley Local Plan Second Review

GP1 – Development within the urban boundary

GP3 – Design and quality

BTC5 – Leisure and tourism development in Burnley town centre

E10 – Alterations, extensions, change of use and development affecting listed buildings

E12 – Development in, or adjacent to, conservation areas

E25 – Shopfronts

Burnley's Local Plan, Submission Document (July 2017)

SP1 – Achieving sustainable development

SP5 – Development quality and sustainability

TC3 – Burnley town centre – primary and secondary frontages

TC8 – Shopfront and advertisement design

HE1 – Identifying and protecting Burnley's historic environment

HE2 – Designated heritage assets

Site History:

12/87/0027 – Erection of internally illuminated box sign with internally illuminated border and motif. Approved April 1987 at Coral Social Club, 118-122 St James Street

12/92/0157 – Erection of internally and externally illuminated fascia signs. Approved April 1992 at Gala Clubs, 118 St James Street

12/98/0041 – Change of use from use within Class D2 to use within Class A3 sale of food and drink. Approved July 1998 at Former Empire Theatre. Not implemented.

19/98/0354 – Change of use to theatre. Approved September 1998. Not implemented.

APP/2003/0378 – Proposed change of use of entrance walkway to shop unit at 118 St James Street. Refused December 2003; appeal dismissed April 2004.

APP/2003/0379 – Listed Building Consent application for proposed erection of blockwork separating wall to rear to form shop unit and shop front timber and glazing renewal at 118 St James Street. Refused December 2003; appeal dismissed April 2004.

Consultation Responses:

Theatres Trust

Objects on the basis that the foyer is essential to the operation of the theatre and its loss will prohibit the restoration and re-use of this Grade II statutory listed heritage asset. The Empire was originally built in 1894 and the auditorium was reconstructed by renowned theatre architect Bertie Crewe in 1911. Converted into a cinema in 1938, and later into a bingo hall, it has been disused since 1995 and is listed on out Theatres at Risk Register which identifies important theatres with community support and the potential to be brought back into active use. The trust advise that the local authority must be absolutely assured that the building is surplus to the cultural requirements for the local community before granting any new use. Once lost, they are virtually impossible to replace.

Burnley Borough Council together with the Theatres Trust, Burnley and District Civic Trust, Burnley College, Burnley Empire Theatre Trust and the University of Central

Lancashire, formed a stakeholders group in 2016 to develop solutions for the Empire and oversaw a study into the future viability of the Empire for cultural and community use. The market appraisal found that while there was insufficient demand for the Empire to operate as a traditional theatre, there was good potential for use as a local music, artist and cultural venue, and as a youth training facility associated with its restoration. The Burnley Empire Theatre Trust (BETT) are now investigating how to move the project forward, including options for funding and grants.

The Theatres Trust therefore object on the basis that the proposal will result in the loss of the Empire's foyer and main entrance which will compromise the future operation of the Empire as a community and cultural facility. This is the only front of house and public space provided in the theatre building and the foyer is the only space available for a box office, bar and audience waiting area, all of which are essential for any of the new uses identified and for generating income. As the main theatre block is landlocked, there is no opportunity to build a new entry elsewhere around the building. The foyer building also provides the theatre with an essential street presence needed to advertise events at the venue. None of the alternative entrance options identified by the applicant are feasible as a main entrance as they either access fire escape stairs or enter directly into the auditorium stalls area with no space for necessary public facilities. The doors would also open directly onto Cow Lane and it would be both impractical and unsafe to expect audience members to assemble, wait and exist directly onto the roadway.

The Trust would expect a statement of significance to identify any original features of the foyer that remain. The Trust also state that if the applications are permitted then they strongly recommend that they are only given temporary approval which would allow the foyer to be used as a bar in the short term while the plans for the wider restoration of the Empire are developed to safeguard the building for beneficial cultural uses in the long term.

Following the submission of amended plans, the Theatres Trust state that they welcome the removal of the disputed 'bridge link building' between the main theatre and the foyer building; on the basis of a permanent change of use, their objection is maintained but affirm that a temporary permission is acceptable in principle so as to safeguard the building for beneficial cultural uses in the long term. This is particularly important in the light of the forthcoming Burnley Town Centre Masterplan where the theatre represents a unique and significant opportunity to contribute to the town's economy and leisure offer. Conditions are recommended to ensure that the access between the foyer and the main theatre is maintained to ensure that significant architectural features within 118 St James Street remain in place.

Burnley Empire Trust Committee

Object. No. 118 St James Street is the established entrance to the Burnley Empire Theatre which was opened in 1894, later known as Gala/Coral Bingo and which has lain vacant for 22 years. Independently redeveloping no. 118 could negate the current work of a Stakeholders group. The building is East Lancashire's only purpose-built Edwardian theatre. It was just one of very few examples left of its kind across the UK, with architecture designed by Bertie Crewe, akin to the Shaftesbury located in the West End of London, designed and built by Crewe in the same year. In 2015, a Stakeholders group was formed who commissioned a viability study in two parts. The first part was funded by Burnley Borough Council and the Theatres Trust and the second by BETT and the Architectural Lottery Fund. The proposed development fails to acknowledge the opportunities available for restoring and reopening Burnley Empire

through a long term venture with partnership and training at its core. Separating 118 St James Street from the Empire would impact significantly on any future project to restore the building to an appropriate, viable and continued use. The area is well served by cafes and bars and it would be inappropriate to forego the community benefits of restoration to put it to this use. There is considerable local community support for the restoration of the building. BETT has confirmed their continued objection to the application following the submission of an amended red edge application site.

Environmental Health

No objections. Recommend conditions relating to constructions hours, noise control and to prevent music etc outside the premises and to require details of refuse/recycling.

Publicity

No comments received.

Planning and Environmental Considerations:

Principle of proposal

The site is located in Burnley town centre within a shopping street which is identified as part of the main shopping area in the adopted local plan (2006) and amongst a secondary shopping frontage within the emerging local plan (Submission Document, July 2017). The application site forms part of the larger Empire Theatre building where Policy BTC5 of the adopted local plan seeks to maintain and enhance leisure and tourism development in the town centre. Policy BTC5/5 states that the Empire theatre is considered to be suitable for re-use as a leisure use. The proposed use as a bar/café (Classes A3/A4) would not fall within the scope of a leisure use and would fragment the allocation of the site as a whole unit. The emerging local plan recognises the contribution of other services such as bars and cafes to the vitality of the town centre and a small bar/café within this location of St James Street where there are a variety of shops, cafes and vacant units would, in principle, represent an acceptable town centre use. However, in this instance, the proposed unit at 118 St James Street differs from its adjoining shop units as it forms an integral part of the Grade II listed Empire Theatre. Consideration should therefore be given to the impact that the proposal would have on the future leisure use of the larger theatre site and on the special interest of this Grade II listed building and the Town Centre Conservation Area.

Loss of grade II listed theatre

Policies E10 and E12 of the Local Plan and Policy HE2 of the emerging local plan seek to protect the character and historic interest of listed buildings and conservations areas. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 confers upon local planning authorities a duty to have special regard to the desirability of preserving the interest of a listed building or its setting and the desirability of preserving or enhancing the character or appearance of a conservation area. The National Planning Policy Framework (the Framework) states that local planning authorities should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. Where development would lead to substantial harm, the Framework indicates that it should be refused, whilst where the proposal would lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The authorised use of the Empire Theatre is for Class D2 (assembly and leisure) uses. A number of previous planning permissions have been granted for a change of use to restaurant (12/98/0041) and then to a theatre (12/98/0354) but these permissions were not implemented. The building was therefore last occupied as a bingo hall which ceased in 1995 and has not been in use since this time. Policy BTC5/5 seeks a leisure use for the building which would be consistent with its current authorised use (Class D2). A previous planning application (APP/2003/0378) and application for listed building consent (APP/2003/0379) to separate no. 118 St James Street from the larger theatre site were refused and upheld on appeal. At that time, the unit at 118 St James Street had become in separate ownership to the main part of the theatre and the applicant wished to block up the opening between the main theatre and the public entrance from St James Street in order to form a shop unit at no. 118. The Inspector stated that it has not been shown that the two parts of the building could operate separately or whether a proper entrance/access could be obtained onto Cow Lane. As such, the Inspector concluded that without a proper inspection of the premises, it was impossible to find out what effect the proposed shop would have on the listed building and it would therefore be wrong to assume that the future use of the listed building would not be adversely affected. Despite the time that has lapsed since this appeal, the Empire Theatre building has remained out of use and no further steps have been made to form any alternative public entrance to the building.

The current application which would utilise the main public entrance to the theatre as a separate unit for bar/café and permanently segregate the two parts repeats the same issues that were considered in 2003/2004. The Theatres Trust (TT) and the Burnley Empire Theatre Trust (BETT) object to the application on the basis that removing the main public entrance to the theatre from St James Street would compromise the future operation of the Empire as a community and cultural facility. The TT and the BETT explain in their objections the anticipation that the former theatre which is currently in a state of disrepair is capable of re-use for arts and community uses and that considerable work has been carried out to form a stakeholders group, to undertake feasibility studies (funded by some of the stakeholders and a lottery fund) to assess the viability of future uses and the building. The second part of the viability study that was issued in May 2017 found that there is potential for a long-term project which could save Burnley Empire through an innovative model with partnership and training at its core and an incremental and phased approach. It refers to a new entertainment/heritage zone in Burnley around the canal and linking to Weavers' Triangle. Whilst there are still uncertainties around the implementation of this, the report states that there would be economic, cultural and heritage benefits that would accrue, making Burnley a better place to live, work, study and visit. The Duchy of Lancaster is currently dealing with the title of the main auditorium and has been liaising with the Theatres Trust over this. The building and its future is therefore a changing situation which at the present time would be adversely compromised if the main public entrance to the building was permanently detached from the theatre.

It is acknowledged that there are no practical alternative means of forming a public entrance, taking into account safety and internal entrance space requirements. A frontage onto St James Street also provides a prominent town centre presence that may be necessary for advertising events and drawing visitors or customers into the venue. Whilst it is unfortunate therefore that the former public entrance foyer to the theatre has fallen into separate ownership to that of the main theatre, it would be premature at this stage to relinquish its use as part of the theatre. The recent Viability

Study, the formation of a Stakeholders group and the possibility of the Duchy of Lancaster transferring title of the main auditorium in the near future, reflect current circumstances which should be taken into account.

The realisation of any benefits and new use of the Empire Theatre building is however still likely to be at least a small number of years. As such, the TT state that they would not object to a temporary use of 118 St James Street subject to the thoroughfare between the unit and the theatre being re-opened at the end of that temporary use and any historic features within the unit being retained. A temporary use would have the benefit of enabling repairs to the structural condition of the unit to be completed and for works to be carried out to form a new shopfront. This is likely to provide an improved appearance to the unit and to the shopping street. On this basis, it is recommended that a temporary permission be granted for up to two years which would enable the applicant to utilise the unit and make improvements to its appearance whilst also ensuring that the function of the unit in providing a main public entrance to the rest of the building can be revisited once the future uses and viability of the theatre are better understood.

In terms of the physical works to the listed building, the proposed new shopfront has been sensitively designed to retain the existing cast iron columns and a glazed shopfront with appropriate proportions and simple folding cast iron gates to protect the forecourt and shopfront. The proposed flue to the rear of the premises would be unseen from St James Street and mainly out of view. These proposed works are necessary to re-establish a shop frontage and to allow the building to be improved. Other works are mainly concerned with repairing and renovating the interior. There is likely to be minimal architectural interest in the interior although any details of interest such as cornicing, should be retained. Conditions are recommended to ensure the retention of any historic features following a recording of the interior of the unit.

Other issues

The unit is bound on one side by a café and on the other side by a vacant shop unit. Given that the proposal represents a town centre use, it is unlikely that the use or the installation of a flue would have any significant effect on amenities. There is no need to limit opening hours in the case of a town centre café/bar which would be dealt with under separate licencing regulations. A condition is required in respect of refuse and recycling storage to ensure that this is dealt with efficiently without unsightly bins in public view.

Conclusion

The application site appears as a vacant and derelict shop unit from St James Street but is the former main public entrance to the Empire Theatre which was last used as a bingo hall in 1995 and has not been in use since this time. The theatre is in a poor state of repair but is a rare example of Edwardian theatre design in Lancashire and is therefore a scarce and unique heritage asset which was Grade II listed in 1996. Steps to bring the theatre back into use have been made, particularly in the last year. This however would be significantly hindered and jeopardised by the loss of the public entrance at 118 St James Street which provides the only public means of entering the theatre as well a street presence for attracting people to the building. Whilst there is uncertainty over the future of the building, it is recognised that the theatre has significant potential for heritage led regeneration that would be beneficial to the culture and heritage of the town centre. A permanent new use for 118 St James Street that separated it from the rest of the theatre building would at this stage therefore lead to

significant harm to the listed building and to the town centre and would not be acceptable. In order to facilitate some repairs and the creation of a new shopfront, a temporary permission for up to two years is justified, after which time the need for the unit to perform as a public entrance to the theatre will be clearer. Permission for a temporary use only would therefore safeguard the future of the Grade II listed theatre and the Town Centre Conservation Area.

Recommendation for APP/2017/0386: Approve with conditions

Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: (STJ) (20)-L-03RevA and STJ 22 P 02RevC, received on 8 January 2018.
2. The use of the premises as a bar/cafe (Classes A3/A4) shall cease on or before two years from the date of this permission.
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 two years from the date of this permission 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.
5. 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.
6. No speakers, amplifiers or other sound/music equipment shall be fixed to any part of the exterior of the building.

Reasons

1. To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.
2. A temporary permission of no longer than two 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).

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).
5. 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).
6. 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).

Recommendation for APP/2017/0387: Approve Listed Building Consent with conditions:

Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: (STJ) (20)-L-03RevA and STJ 22 P 02RevC, received on 8 January 2018.
2. 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.
3. No later than the expiry of two years from the date of this permission 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.

Reasons

1. To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.
2. 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).
3. 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).

JF
6/2/2018