

Application Recommended for Refusal**APP/2018/0144**

Daneshouse with Stoneyholme Ward

Full Planning Application

Change of use of theatre entrance to cafe and bar (class A3/A4), rebuild front elevation to form new shop front with iron gates, form balcony to rear, install extractor flue and partial mezzanine floor to use as office (re-submission of APP/2017/0386)
118 ST JAMESS STREET BURNLEY

Application Recommended for Refusal**APP/2018/0145**

Daneshouse with Stoneyholme Ward

Listed Building Application

Partial demolition of front elevation and form new shop front with iron gates, form balcony to rear, install extractor flue, partial mezzanine floor and internal alterations (re-submission of APP/2017/0387)
118 ST JAMESS STREET BURNLEY

Background:

These applications follow recent applications for planning permission and listed building consent that were made for the change of use and alterations to the unit at 118 St James Street (APP/2017/0386 and APP/2017/0387). These applications have been submitted to enlarge the area subject to the change of use to include the bridge area to the rear of the site, to alter the design of the approved shopfront and to seek a permanent rather than temporary permission.

The application relates to the 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 application also seeks permission for works to the rear of the unit to form a balcony and external seating area. Part of this work has already been carried out and an internal wall has been constructed between the bridge area and access to the main body of the theatre. These proposals are similar to the original applications (APP/2017/0386 and APP/2017/0387) prior to their reduced and improved form. For the avoidance of doubt, the applicant owns the rectangular shaped unit at 118 St James Street but is not the title owner of the bridge area to the rear of this unit which he now seeks to develop as part of the approved café/bar. The bridge area along with the remainder of the theatre building is currently held by the Duchy of Lancaster which is a temporary situation until the Duchy decide on its new ownership. Notably, the applicant claims to have an overriding interest in the bridge area of the theatre but this is a legal matter for the applicant and does not fall into any consideration of these applications. For the purposes of the applications, the applicant has served the requisite notice on the Duchy of Lancaster to make a valid application.

Some of the external works to the shop frontage have been carried in accordance with the details which are now proposed rather than as previously approved.

Application unit



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

118 St James Street



New installed shopfront



Rear of building



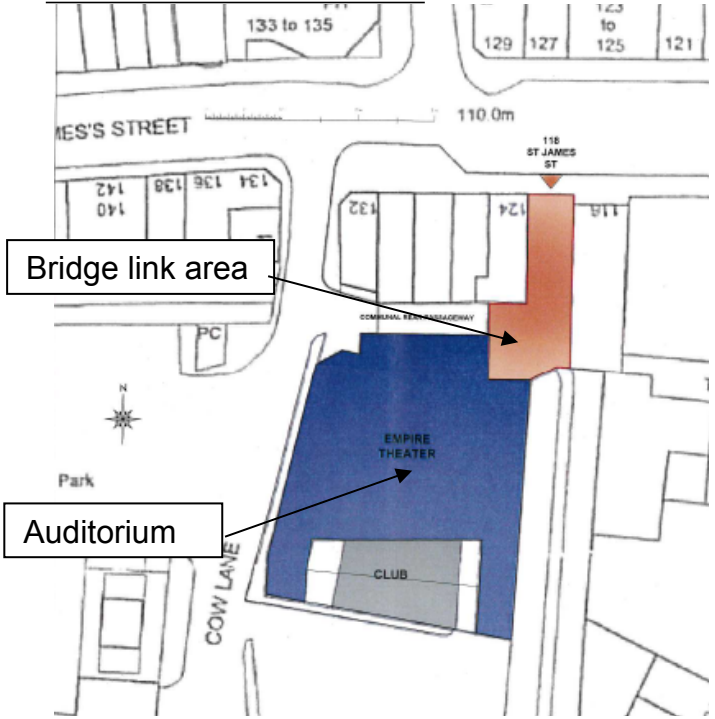
Side of theatre on Cow Lane



Rear of bridge link between
118 St James Street and
auditorium



118 St James Street in red

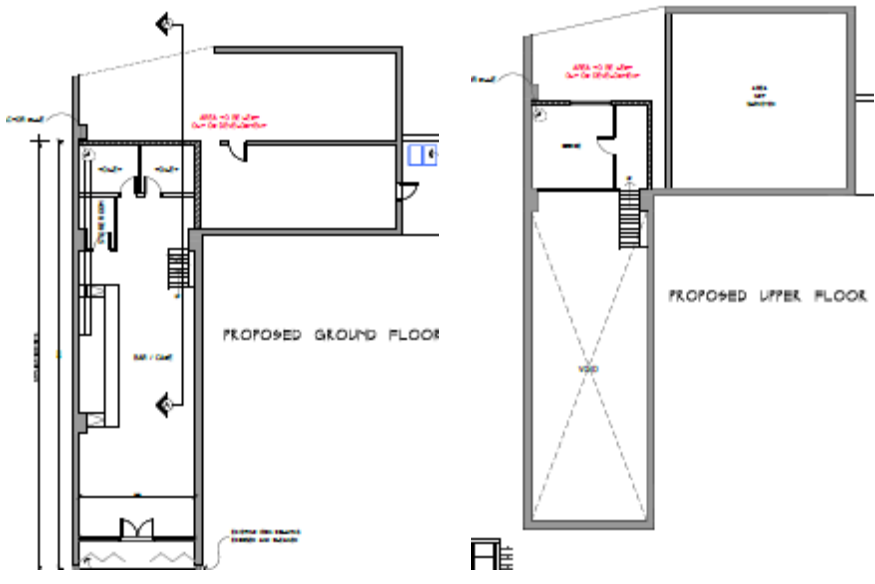


The proposal shopfront is similar to that which was previously approved and still retains the cast iron columns at the front.

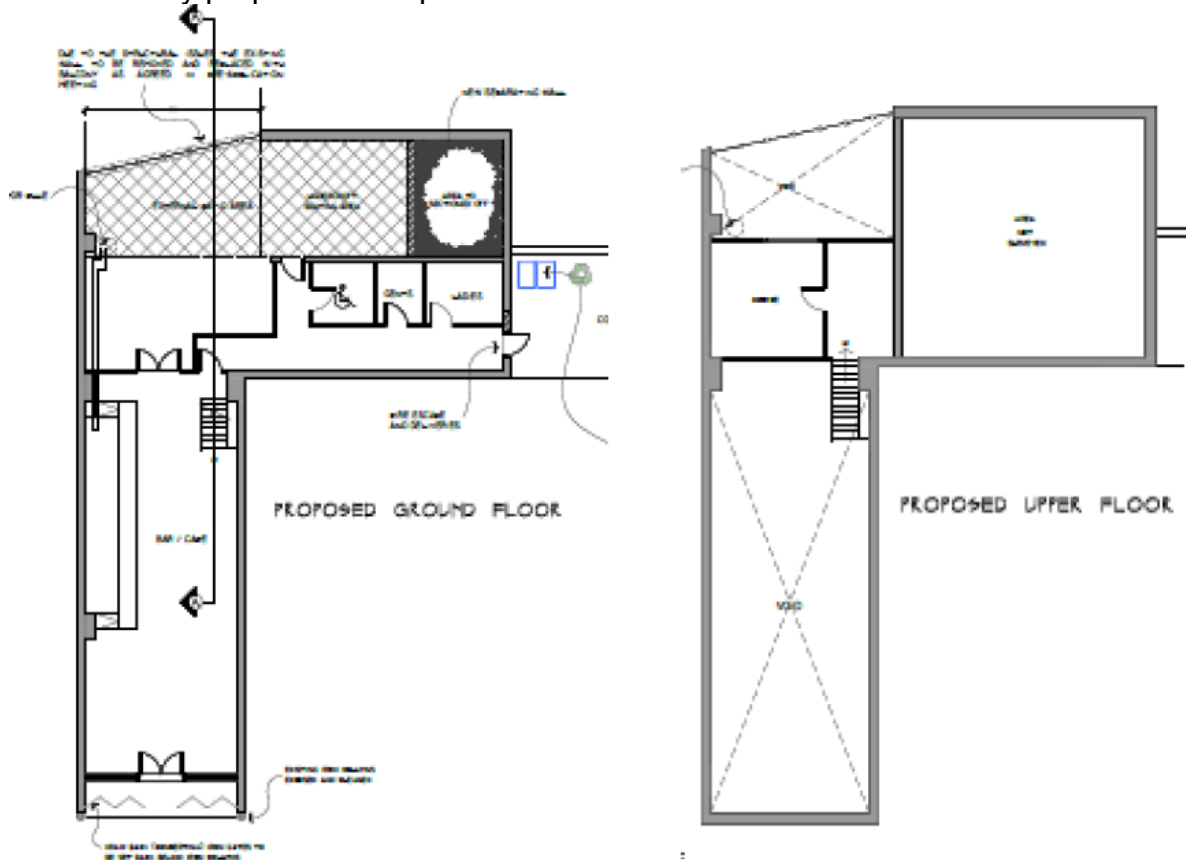
The floor plans below indicate the currently approved scheme:

Approved Ground Floor

Approved Partial Mezzanine Floor



The currently proposed floor plans are shown below:-



The proposed plans area use the part of the theatre which is referred to as the bridge link which crosses the river Calder. The applicant wishes to use this area to site toilet facilities and to from a balcony for sitting out.

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.

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. Approved in February 2018 with a temporary permission granted for 10 years.

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. Approved February 2018.

Consultation Responses:

Theatres Trust

Objected to the previous proposal, making it clear that if a two year permission was granted that future access to the main auditorium building through the application would need to be safeguarded. We were immensely disappointed with the decision to grant a ten year permission. On that basis, we strongly object to this further application to make the existing ten year temporary permission permanent which would prevent access to the Empire Theatre due to the construction of an internal separation wall. This would result in the loss of the Empire Theatre as a cultural and heritage asset; the need to guard against the loss of such facilities is outlined in both the existing and proposed future version of the National Planning Policy Framework.

Should the additional land be included within a permission arising from this application and developed by the applicant it would restrict the ability to access the circle seating (upper level) within the auditorium and limit access and egress from the stalls, thus even reducing further the ability and viability of efforts to restore the theatre to use as to create a new means of access would be incredibly costly, impact significant heritage and reduce capacity at stalls level.

Erroneous information has been submitted in the Design and Access Statement, referring to the site within the curtilage of a listed building rather than a listed building. The potential access points indicated to the theatre are means of escape directly from the auditorium and 'get-ins' for equipment to backstage areas, they are not suitable entrance points as they would not be able to facilitate box offices, waiting areas and other such necessary features.

The Empire Trust also support the comments made by the Burnley Empire Trust Committee (BETT).

Burnley Empire Trust Committee

Object to the application on behalf of the Burnley Empire Theatre Trust.

The Burnley Empire Theatre Trust (BETT) was formed from members of the community and Friends of Burnley Empire in 2015. In 2016 a Burnley Empire Stakeholders group was formed to commission a Viability Study to establish if there was any viable way to restore the Burnley Empire and future uses. The Stakeholders are:

- 1) Theatres Trust: The UK national public body for all theatres within Great Britain.
- 2) BETT: Burnley Empire Theatre Trust
- 3) Burnley Bough Council: Local authority
- 4) Burnley Civic Trust: Historic interest in the town
- 5) University of Central Lancashire (UCLan): One of the UK's largest Universities.
- 6) Burnley College: Further education

Together the Stakeholders commissioned the Study over two parts. The first phase of the study was jointly funded by Burnley Bough Council and Theatres Trust, contributing £5000 each. The second phase of the study cost £8,000 funded by BETT contributing £4000 and a Project Viability Grant awarded by The Architectural Heritage Fund of £4000.

It was agreed that if no viable option for reusing the theatre was found as a result of the Study then BETT would cease and campaign efforts would end.

A viable route was identified to reuse and reopen the Burnley Empire through creative thinking; new ideas with a fresh approach that included education, skill development and the community..

The Burnley Empire Theatre Trust has previously objected to temporary planning permission to develop the entrance of the Grade II historic venue into a cafe/bar by an independent owner on January 19th 2018.

Burnley Councils decision to grant ten years 'temporary' planning permission at the entrance despite solid back and fourth negotiation was hugely undermining to the project and all Stakeholders involved.

Members of BETT found this to be incredibly disappointing along with followers of the project which then highlighted the amount of support backing the project from the public to bring life back into the Burnley Empire.

In my last objection on behalf of BETT, it was very clear that the proposed development failed to acknowledge the opportunities available for restoring and

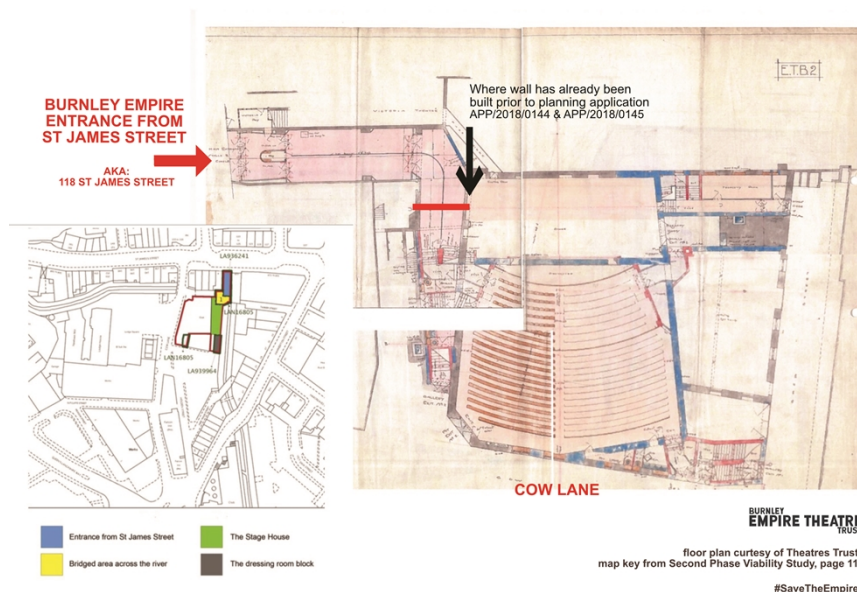
reopening Burnley Empire and the way it functions. The entrance / foyer is essential to the operation of the theatre and its loss places the revitalisation of the theatre at further risk and will prohibit the restoration and reuse of this Grade II statutory listed heritage asset.

I therefore again echo that the entrance part of the building where development proposals have been submitted should be considered very carefully; Independently redeveloping could further negate the current progress of the Stakeholders group created to determine a plan of action for East Lancashire's only purpose built Edwardian theatre. Theatres Trust has listed the Empire as a top theatre on the Theatre Buildings at Risk Register 2017 / 2018, highlighting theatre buildings at risk or threat across the whole of the UK. The Burnley Empire is just one of very few examples left of it's kind across the UK, akin to the sister theatre Shaftesbury located in the West End of London, designed and built by Crewe.

The Empire opened in 1894, later known as Gala / Coral Bingo and which has lain vacant for over 20 years. The theatre was originally designed by local architect G. B. Rawcliffe, who had previously designed the Victoria Opera House situated next door. The theatre opened on Monday the 29th of October 1894 and could originally seat 1,935 people. It was in 1911 the Burnley Empire was redesigned by the renown theatre designer and architect Bertie Crewe who trained under Frank Matcham who designed venues such as Tower Ballroom and Circus in Blackpool. Since the redesign in 1911, the established entrance for the Burnley Empire theatre is indeed 118 St James Street.

If 'permanent' planning permission is granted for independent development at the entrance of the Burnley Empire, therefore allowing the entrance to the auditorium to be permanently separated and cut off; This would obviously jeopardise any potential for future use of the town's heritage building.

In regards to permanently separating the entrance and auditorium, it has come to light that the applicant has already built a wall within the Grade II Listed building, without consent and without detailing this within the current application. Please study the following floor plan:



The wall has been erected on land under no ownership of the applicant before it is evident of planning permission, listed building consent or landowners consent.

The submitted 'Design & Access Statement' contains a substantial amount of misleading information and an extremely unclear form of diagram to illustrate the 'Proposed Ground Floor' & 'Proposed Upper Floor' plans.

As this application follows on from the previously submitted APP/2017/0386 & APP/2017/0387 application, it is important to highlight that developments that have been previously approved and the developments that have been carried out since approval are not in line with the granted plans.

I can see no alternative plans or evidence of why the applicant has gone against the original plans that were approved. Nor is there an explanation in the current planning application or evidence of change of developments that have already been carried out.

In terms of heritage policy, section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on Council to have a special regard to the desirability of preserving listed buildings or any features of special architectural or historic interest which they process. Paragraph 131 of the National Planning Policy Framework (NPPF) also notes the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, and that great weight should be placed on its conservation (paragraph 123). The National Planning Policy Framework (NPPF) includes extensive directions and guidance on the importance of safeguarding cultural assets to benefit local communities.

Although the applicant has identified a number of alternative entrance options, none of these are feasible as an alternative main entrance, as they either access fire escape stairs or enter directly into the auditorium stalls area, with no space for public facilities. Please take note that the doors open directly onto the Cow Lane roadway and it would be both impractical and unsafe to expect audience members to assemble, wait and exit directly onto the roadway. The application/plans do not take into account practicalities or show supportive evidence that relates to the actual layout of the theatre. There is not enough detail of the importance of the redesign and layout of the theatre and entrance.

Strongly object to any further planning permission. Especially without appropriate time to develop partnerships to take the project forward. There are and have been important parties keen to see the Burnley Empire's future use evolve and relationships are being developed.

We are currently in discussions with UCLAN regarding student involvement with developing architectural impressions of a restored Burnley Empire.

Supporters are:

- Actress, Caroline O'Hara
- Burnley Orchestra
- British Designer, Wayne Hemingway MBE
- Antiques Expert, Eric Knowles
- Singer and Actress, Anne Nolan

There has also been recent BBC coverage of 'When Burnley was Britain's theatre capital' which talks about the importance of the Victoria Opera House that was next to the Empire.

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

Comments have been received from Burnley Orchestra and two individuals which object to the proposal in order to support the future of the theatre. Reference is made to Colne and the support for its municipal hall. The objections state that there is a viable new use for the theatre and it would positively impact on the town by creating cultural, economic and heritage benefits whilst retaining quality design and celebrating a historic legacy.

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 would differ from the recent approval by including the bridge link and the application also seeks a full permission. The changes to the shopfront are relatively minor and would not significantly affect the character of this part of the building on the St James Street frontage. The inclusion of the bridge link area into the temporary café/bar would, however, further fragment the theatre. These issues were considered at appeal 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 permanently 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.

Conclusion

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 permanent 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.

Recommendation:

That the application be refused for the following reason:

1. The proposed development would permanently fragment a Grade II listed building by removing it's only means of public entrance which without any appropriate alternative provision would significantly jeopardise its ability and scope for re-use as a theatre in the future, contrary to Policies E10, E12 and BTC5 of the Burnley Local Plan, Second Review (2006) and the National Planning Policy Framework.