

## **DELEGATED REPORT**

|                                  |                                   |                                                                    |
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| <b>Report by</b> Jennie Townsend | <b>Date of report:</b> 11/06/2024 | <b>Ref:</b> 70639/LBC                                              |
| <b>Registration:</b> 28/03/2024  | <b>LDfC:</b> 10/05/2024           | <b>Expiry Date:</b> 23/05/2024                                     |
| <b>Site Visit:</b> 10/05/2024    | <b>Site Notice:</b> 18/04/2024    | <b>Press Date:</b> 18/04/2024                                      |
| <b>Objections:</b> 0             | <b>Con Area:</b> BURY             | <b>Adv Type:</b> LBCA                                              |
| <b>Reason for Delay:</b><br>N/A  |                                   | <b>EIA:</b> NA<br><b>Dec Level:</b> DEL<br><b>Stat Class:</b> LBAL |

**Proposal:** Listed building consent to create four staff WC/changing cubicles in an undeveloped space on the first floor from new stud walls and the refurbishment of the existing staff room; Addition of a condenser to the rear elevation

**Location:** The Art Picture House, Haymarket Street, Bury, BL9 0AY

### **Description**

The application site is a Grade II listed former 1920s built cinema, now in use as a public house, sited within Bury town centre conservation area. A brick clad steel frame construction with a faience frontage to Haymarket Street. The rear elevation is of brick construction with white glazed brick above half way.

It is considered to be one of the most elaborate and complete examples of early 1920s cinema in England. Its built heritage significance is derived in part from the historic and architectural completeness of its interior and the architectural interest of its front façade. The surrounding land use is commercial/civil with offices, Textile Hall, The Athenaeum Club and the Library being the adjacent premises.

For the avoidance of doubt the description refers to an undeveloped space on the first floor. The whole of the area of that first floor area has been adapted for staff facilities and the "undeveloped space" refers to the area within that space where the WCs will be sited.

The proposal is for existing staff facilities on the first floor of the building to be improved with the creation of four WCs and a minor storage area. This will involve the installation of stud wall for the creation of the WCs and storage area.

A small condenser is proposed to be installed on the rear elevation of the building at first floor level. The size of the unit would be approximately 800mm x 500mm. The unit would serve the upgraded internal staff area.

### **Relevant Planning History**

51714 - Listed building consent for internal refurbishment and repairs; repair and maintenance to external elevation including new signs - retrospective - Refused 13/11/2009  
51760 - Replacement signage including externally illuminated fascia sign and one externally illuminated projecting sign - Approve with Conditions 22/10/2009  
51761 - Change of use to drinking establishment (Class A4) - Approve with Conditions 05/11/2009  
52528 - Listed building consent: Redecorate the existing fascia to Haymarket Street; Fix a dress curtain to the existing bulkhead within the proscenium arch; Remove the full height screen across the first floor balcony; Redecorate and repair the existing ceiling; Enclose the existing heating plant and existing associated ductwork - Approve with Conditions 04/08/2010  
57863 - Installation and relocation of external extraction fan and duct riser at the rear - Approve with Conditions 13/10/2014

57864 - Listed building consent for installation and relocation of external extraction fan and duct riser at the rear - Approve with Conditions 10/10/2014

70642 - Erection of additional condenser on the rear elevation - 16/5/24

### **Publicity**

Letters sent on 15/4/24 to 7 properties.

Site notice posted 18/4/24.

Press advert 18/4/24.

No formal responses received as a result of the publicity.

### **Statutory/Non-Statutory Consultations**

**Conservation Officer** - No objection

**Listed buildings - National Amenity Societies** - No response received.

**National Theatre's Trust** - No objection

**Pre-start Conditions** - Not relevant

### **Development Plan and Policies**

NPPF      National Planning Policy Framework

EN1/2      Townscape and Built Design

EN2/1      Character of Conservation Areas

EN2/2      Conservation Area Control

EN2/3      Listed Buildings

Area      Bolton Street/Market Place

BY3

JP-P2      Heritage

### **Issues and Analysis**

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within the adopted Bury Unitary Development Plan (UDP), together with other relevant material planning considerations.

The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP and PfE Policies will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

**Equality Act 2010:** All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

**Human Rights:** All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

**The Crime and Disorder Act 1998** imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities in the exercise of their planning functions to have regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

EN2/3 - Listed Buildings.

The Council will actively safeguard the character and setting of Listed Buildings by not permitting works, alterations or changes of use which would have a detrimental effect on their historical or architectural character and features. Proposals for demolition will be opposed and will only be considered where it is demonstrated conclusively that the building(s) cannot be retained. In considering applications for Listed Building Consent, the Council will have regard to the following criteria:

- a) the impact of the proposal on the historic fabric of the building;
  - the relationship of any extension to the Listed Building in terms of its height, size, design, and roofscape;
- the need to protect the setting of the Listed Building;
- the impact of associated ancillary facilities and infrastructure works.

Paragraph 203 of the National Planning Policy Framework (NPPF) states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 205 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The proposed staff facilities would be reversible and would not affect any part of the historic fabric of the building as the new stud wall partitions that would create the new WCs and storage space would be affixed to non-historic flooring and existing stud partition wall and as such would not cause any loss of or harm to the significance of the listed building. The proposed condenser unit would also be reversible and as such would not represent any loss of or harm to the significance of the building.

The proposal would either comply with or not be contrary to adopted UDP policy EN2/3 - Listed Buildings, paragraphs 203 and 205 of the NPPF and policy JP-P2 of Places for Everyone.

**Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015**

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

**Recommendation:** Approve with Conditions

**Conditions and Reasons:**

- 1 The development must be begun not later than the expiration of three years beginning with the date of this permission.  
Reason - Required to be imposed pursuant to Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 2 This decision relates to drawings -  
Red edge site location plan received 2/4/24  
Proposed site plan PN6264-07 AP01  
Existing rear and side elevations PN6264-07 AS05  
Proposed rear and side elevations PN6264-07 AV01-A  
Existing ground floor plan PN6264-07 AS01  
Existing first floor plan PN6264-07 AS02-A  
Proposed first floor plan PN6264-07 AL02-A  
Proposed locker room detail PN6264-07 AD03  
Proposed staff room plan PN6264-07 AL04-A  
Proposed lobby demolition detail PN6264 AD04  
Design and Access Statement dated 28.03.24  
Heritage Statement dated 28.03.24  
and the development shall not be carried out except in accordance with the drawings hereby approved.  
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
|---------------------|-------------|-------------------------|-------------|
| JT                  | 11/6/24     | DM                      | 12/06/2024  |