

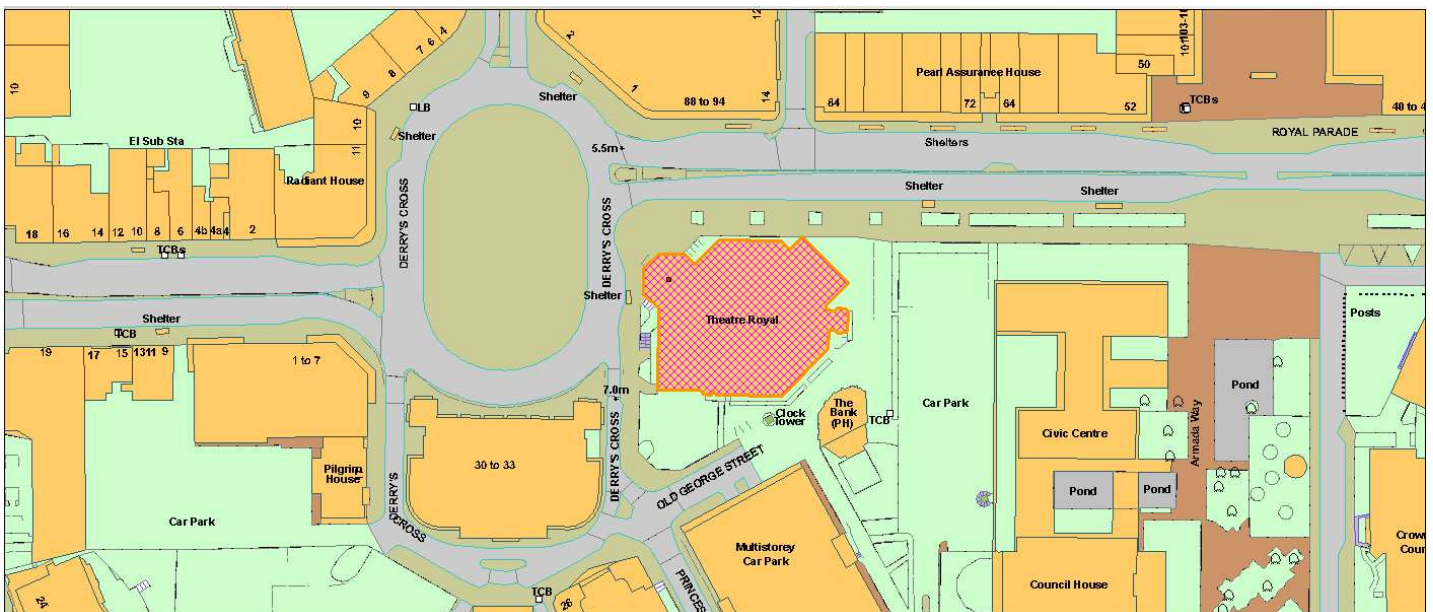
# PLANNING APPLICATION REPORT



<b>Application Number</b>	16/02248/FUL
<b>Date Valid</b>	18.11.2016

<b>Item</b>	07
<b>Ward</b>	ST PETER AND THE WATERFRONT

<b>Site Address</b>	Theatre Royal, Royal Parade Plymouth PL1 2TR		
<b>Proposal</b>	Installation of statue		
<b>Applicant</b>	Theatre Royal Plymouth		
<b>Application Type</b>	Full Application		
<b>Target Date</b>	<b>13.01.2017</b>	<b>Committee Date</b>	<b>09.02.2017</b>
<b>Decision Category</b>	Member Referral		
<b>Case Officer</b>	Mr Mike Stone		
<b>Recommendation</b>	Grant Conditionally		



**This application has been called before the Planning Committee by Councillor Aspinall.**

### **1. Description of Site**

The Theatre Royal is a landmark city centre building located at the junction of Royal Parade and Derry's Cross.

### **2. Proposal Description**

Installation of statue. The proposed sculpture would be located on the public highway outside the main entrance on the east side of the building. The sculpture would be 7.1 metres high with a 5.7 metres wide with a clearance of 2.5 metre for pedestrians to pass underneath; it would be made of bronze.

### **3. Pre-application enquiry**

16/01865/MIN - The local planning authority's preferred option would be for a location that did not require the removal of any of the Royal Parade street trees. If this were not possible the proposal would be supported if it could be demonstrated that it would result in an improvement to the public realm on Royal Parade.

### **4. Relevant planning history**

13/00532/FUL - Refurbishment and redevelopment of the public areas including:

1. A new creative Learning Space in the existing basement
2. The replacement of the existing aluminium cladding
3. An extension to the main entrance area of the existing theatre
4. The renovation and alterations to the existing internal front-of-house areas
5. The reconfiguration of the landscaping around the building, together with variation of condition 2 (list of approved plans of planning permission 11/02008/FUL) to allow addition of glazed lobby to main entrance.

Granted conditionally.

11/02008/FUL - Refurbishment and redevelopment of the public areas including:

1. A new creative Learning Space in the existing basement
2. The replacement of the existing aluminium cladding
3. An extension to the main entrance area of the existing theatre
4. The renovation and alterations to the existing internal front-of-house areas
5. The reconfiguration of the landscaping around the building.

Granted conditionally.

### **5. Consultation responses**

Historic Environment Officer – acceptable with a condition on further details of materials, no archaeological conditions would be required.

Economic Development - supportive of this proposal in this important City Centre location but with a concern about the loss of a significant street tree which should be compensated for by an equivalent city centre environmental gain reflecting the

important range of roles performed by urban trees of this scale.

Local Highway Authority – no objection in principle subject to a condition and informatives.

Natural Infrastructure Officer – object – loss of an important tree contrary to policy CS18.4.

Public Arts Officer – a condition on the provision of an educational programme to maximize the learning experience of the project is recommended.

## **6. Representations**

Twenty letters of representation have been received; thirteen letters were received after the public consultation had closed. One letter is in support of the application and eight object to it. The letters of objection raise the following points;

Unattractive appearance

Eyesore/Monstrosity

Loss of an important tree

Wrong location

Inappropriate

Lacks meaning

Degrading to women

Expense

The money could be better used inside the theatre

Out of keeping with design of the building.

The letter of support states that the city needs more public art.

## **7. Relevant Policy Framework**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007).

The development plan is currently being reviewed as part of the Plymouth Plan. The Plymouth Plan-Part One was approved by the City Council in September 2015. The Plan, which incorporates draft development plan policy, has been prepared following a consultation process. As such it is a material consideration for the purposes of planning decisions.

The policies contained in National Planning Policy Framework (the Framework) and guidance in National Planning Practice Guidance (NPPG) are also material considerations which should be taken into account in the determination of planning applications. Due weight should be given to relevant policies in existing and emerging plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The Framework provides that the weight to be given to an emerging draft plan is also to be determined according to:

- \* The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given). The Plymouth Plan is at a relatively early stage of preparation.
- \* The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given).

At the heart of the Framework is a presumption in favour of sustainable development. In the context of planning applications, this means approving development proposals that accord with the development plan without delay but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- \* Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or
- \* Specific policies in the Framework indicate development should be restricted.

Additionally, the following planning documents are also material considerations in the determination of the application:

- \* Development Guidelines Supplementary Planning Document.
- \* City Centre and University Area Action Plan.

## **8. Analysis**

1. This application has been considered in the context of the development plan, the draft Plymouth Plan, the Framework and other material policy documents as set out in Section 7.
2. The primary planning considerations in any future application would be the impact on the character and appearance of the area, the impact on listed buildings and the impact on the public highway. The application would be considered in the context of the Adopted Core Strategy of Plymouth's Local Development Framework 2006-2021, the City Centre and University Area Action Plan, the draft Plymouth Plan and the National Planning Policy Framework.
3. The application turns upon policies CS02 (Design), CS03 (Historic Environment), CS18 (Plymouth Green Space), CS28 (Local Transport Considerations) and CS34 (Planning Application Considerations) and Area Vision 3 of the Core Strategy. The following parts of the City Centre and University Area Action Plan are also relevant; Strategic Objective 2: Placemaking and policy CC03, City Centre Public Realm.

#### **4. Impact on listed buildings.**

The statue would be located near to three Grade II listed structures; the Bank public house, Derry's Clock and the former Civic Centre. The case officer in consultation with historic environment colleagues considers that, given the distances of these buildings from the site, the statue would not have a substantially adverse impact on the setting of any of these heritage assets.

#### **5. Impact on the public highway.**

There are no defensible Highway reasons why the street tree should be retained, and subsequently the application refused. Once the tree and its tree-pit are removed the applicant has indicated that they intend to make good the highway using materials to match the surrounding areas. The paving around the basepoints of the statue will need to be re-instated and tactile paving, to assist partially sighted pedestrians, is proposed around the statue.

6. The statue will be supported on two pads to minimise the impact on underground services. The applicant has liaised with the statutory utilities to identify any services that could be affected by the proposal.

7. As part of the 2013 theatre refurbishment project the streetlighting design underwent full highways approval. The statue will give rise to issues of shadowing and will change the lighting arrangements in the area. It is noted that architectural lighting is proposed but a review of the streetlighting will be required. The issue of the impact on the streetlighting was not referred to in the original pre-application report but is mentioned now for completeness.

8. The case officer recommends that these matters should be addressed through a condition requiring further details of a streetlighting review, foundation details; surfacing details and tree pit re-instatement.

9. As the installation will take place on the public highway in a location with high footfall the case officer considers that it would be appropriate for the applicant to submit a code of practice during construction, with a view to safeguarding passing pedestrians. An informative to this effect is recommended along with a standard informative on obtaining consent before any work is undertaken on the highway.

10. Should planning permission be granted, the applicants will need to obtain a separate license agreement with the Local Highway Authority that will also indemnify the authority against claims made as a result of the statue. This will need to be done prior to the installation or any works taking place on the highway.

11. Subject to the above condition and informative there are no highway objections to the proposal.

**12. Impact on the character and appearance of the area.**

The Theatre Royal is located at the western end of Royal Parade and opened in 1982. In 2013 planning permission was granted for refurbishment and redevelopment of the building and the landscaping around the east elevation entrance. Royal Parade is one of the principal avenues of the city centre and was part of the original 1943 Abercrombie Plan for the post-war reconstruction of the city. The avenue runs in a straight line, east to west, for over 400 metres and features a double row of mature Lime trees for the majority of its length on its southern side. These trees would appear to date from the time when the avenue was originally laid out, in the early 1950's. The proposal would see one of these trees removed.

13. The adopted Core Strategy sets out its vision for the city centre in its Area Vision 3. This is "To reinforce the City Centre's role as a vibrant and thriving regional destination, providing high quality shopping, recreation, cultural, civic, education and commercial facilities, well connected to surrounding neighbourhoods, as well as being a safe place of quality in which to live."

14. The City Centre and University Area Action Plan (AAP) compliments the Core Strategy and offers more detailed guidance and sets out the planning authority's ambitions for the city centre up to 2021.

Strategic Objective 2 of the AAP is;

"To create a modern, enlivened City Centre which successfully integrates its historic assets with its new developments, and which uses attractive and innovative public spaces to create high quality settings for key buildings. New developments and public realm schemes use the latest sustainable construction methods and facilitate the use of Combined Heat and Power throughout the City Centre. This will be achieved by:...

4. Creating a high quality, attractive and enlivening public realm, with a range of public spaces, enriching activities and sights which will generate interest.

15. Policy CC03 (City Centre Public Realm) of the AAP states that;

"The City Centre's public realm will be improved to create a succession of safe, attractive,

inclusive and innovative linked spaces, places and features which enliven the City Centre whilst respecting its unique Beaux Arts character. Public realm improvement schemes should:

- Use high quality, durable and sustainable designs and materials.
- Facilitate movement and promote permeability through the City Centre precinct for pedestrians and cyclists.
- Provide flexible design solutions which support the future development options suggested within this Area Action Plan.
- Provide a variety of spaces both in terms of scale and character, including:... 5. Use innovative designs to improve the identity and legibility of the City Centre such as public art, sculpture, planting, water features and lighting.

## 16. Plymouth City Centre Strategic Masterplan

The Plymouth City Centre Strategic Masterplan forms part of the evidence base that informs the Plymouth and South West Devon Local Plan It contains a short section on public art. The document states that;

17. "Public art should be distinctive to place and play its part in the shaping the future of Plymouth by helping the town to assert its individuality with bold design and high quality materials. Overt reference to the past should be avoided in favour of an imaginative and forward looking interpretation of local history which helps to forge a new and distinctive image for the city."

18. The main planning issues are the loss of the mature street tree and the visual impact of the statue. The applicant has carried out preliminary surveys to determine the position of services under the highway. They have concluded that the proposed location is the only viable one, given the requirement to maintain access to the underground utilities.

19. The trees are not the subject of a Tree Preservation Order because they are under local authority control. In their consultation response the Natural Infrastructure Officer has commented that this particular tree has matured and is an integral part of the street scene and setting of this part of the city centre. They have added that the removal of one of the trees from the row would disrupt the regular spacing and would diminish the impact of the avenue as a whole and as such could have a negative impact on public amenity of such a high profile setting. Their view is that it would be possible to move the statue slightly to the west to allow the tree to be saved and the statue to be erected. The statue would still be visible to all pedestrians approaching the Theatre along Royal Parade and only distant views would be affected by the presence of the tree and then only for 6 months of the year when the tree is in full leaf.

20. In their letter of representation the Plymouth Tree Partnership has also objected to the loss of the tree. They have raised the following concerns; removing the trees will be contrary to the

City Centre Masterplan, it won't contribute to creating an attractive sense of place, it will reduce shade, there is no assessment of the trees value and there are other spaces available.

21. Set against this is the argument that important civic-cultural buildings such as the Theatre Royal ought to have a more visible presence on the street to aid its legibility and act as a landmark. To mitigate the loss of the tree there is the opportunity for the Theatre to activate the public realm at its entrance. The space left by the removal of the tree will need to be replaced with a complementary paving scheme similar to the one delivered as part of the 2013 planning permission. As mentioned above a condition on further details of the proposed landscaping materials is recommended by the case officer. There is also a longer term opportunity for the Theatre to take advantage of this new public space that will be created to provide a more engaging area for performances, events, exhibitions etc. and extending the public realm to the kerb alongside Royal Parade.

22. As part of the mitigation for the loss of the tree the applicants have agreed to install a lighting scheme and interpretation details of the work. The Natural Infrastructure Officer has requested that a new specimen tree should be provided in a prominent public realm area of the city centre. Conditions to this effect are recommended along with a condition relating to the maintenance and cleaning of the statue.

23. A number of letters of objection have mentioned the physical appearance of the statue itself. While the aesthetics of the actual statue is not a material planning consideration the visual appearance of the statue in its relationship to its surroundings is. This can include materials, height, scale, and massing.

24. In terms of its size the statue would be very large but in this location, adjacent to the theatre, case officers do not consider that it would appear dominant or over bearing. The material used would be bronze. This is a high quality material that has a long history of use for statuary and is known to weather well, an important consideration given the exposed location and climate.

25. The Council's Arts Officer has requested a condition be added requiring the Theatre to provide an educational programme to run alongside the process of construction and installation of the statue. This condition is not considered necessary to make the development acceptable but the Theatre has agreed to it.

26. The case officer considers that the proposal complies with policy and is in accordance with the ambitions for the development of the city centre set out in the Core Strategy Vision and the AAP. The application, with the conditions on further details of materials, street lighting, the lighting and interpretation scheme and maintenance is recommended for approval.

## **9. Human Rights**

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed



against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

### **10. Local Finance Considerations**

Under the present Community Infrastructure Levy charging schedule no CIL contribution is required for this development.

### **11. Planning Obligations**

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

No planning obligations have been sought in respect of this application.

### **12. Equalities and Diversities**

There are no equalities and diversities issues with this application.

### **13. Conclusions**

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal accords with policy and national guidance and specifically policies CS02 (Design), CS28 (Local transport considerations) and CS34 (Planning applications considerations) and paragraph 14 of the NPPF which states that development proposals that accord with the development plan should be approved without delay. The application is recommended for approval.

### **14. Recommendation**

In respect of the application dated **18.11.2016** and the submitted drawings it is recommended to **Grant Conditionally**

### **15. Conditions**

1) **CONDITION: COMMENCE WITHIN 3 YEARS**

The development hereby permitted shall be begun before the expiration of three years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

2) **CONDITION: APPROVED PLANS**

The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Landscape Public Realm Proposals Plan, Existing and Proposed Site Plan, Statue Views and Site Plan, 3D Render Image.

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61-66 of the National Planning Policy Framework 2012.

3) **CONDITION: FURTHER DETAILS**

PRE-COMMENCEMENT

No development shall take place until details of the following aspects of the development have been submitted to and approved in writing by the Local Planning Authority, viz: Full review of Streetlighting; Foundation details; Surfacing details; Tree pit re-instatement, a sample panel showing the finished colour and texture of the statue. The works shall conform to the approved details.

Reason:

To enable consideration to be given to any effects of changes in the drainage regime on landscape features in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 94 and 100-103 of the National Planning Policy Framework 2012.

4) **CONDITION: LIGHTING AND INTERPRETATION SCHEME**

Within three months of the date of this decision notice the applicant shall submit to and have approved in writing by the Local Planning Authority a detailed lighting and interpretation scheme. The scheme shall provide information on how the statue will be illuminated as well as details of an information programme that will help to interpret the development for the public. The works shall conform to the approved details.

Reason:

To ensure that these further details are acceptable to the Local Planning Authority and that they are in keeping with the standards of the vicinity in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006- 2021) 2007.

5) **CONDITION: MAINTENANCE**

The statue shall be maintained in a condition that does not impair the visual amenity of the area and shall be maintained in a condition that does not endanger the public

Reason:

To ensure that the development is maintained in keeping with the standards of the vicinity in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007. Core Strategy (2006- 2021) 2007.

6) **CONDITION: REPLACEMENT TREE**

To mitigate for the loss of the street tree another tree of size and species to be specified in writing by the Local Planning Authority shall be planted at a location and time to be agreed with Local Planning Authority.

Reason:

To ensure that street trees are replaced and retained in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and paragraphs 61,109 and 118 of the National Planning Policy Framework 2012.

7) **CONDITION: EDUCATION PROGRAMME**

Within 3 months of the date of this decision notice, the applicants shall submit an educational programme to and approved in writing by the Local Planning Authority. The programme should provide information on shadowing, mentoring and internship opportunities for students and artists working in the sector, links to relevant courses at Plymouth University and Plymouth College of Art, artist studio visits, artist talks and regular updates. The applicants should liaise with the City Council's Art Officer to explore how this can be delivered most effectively.

Reason:

To ensure that the experience and the learning potential of this important scheme is maximised to inform future public art projects in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

## **Informatives**

1) **INFORMATIVE: CONDITIONAL APPROVAL NO NEGOTIATION**

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

2) **INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION**

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

3) **INFORMATIVE: CODE OF PRACTICE**

The management plan shall be based upon the Council's Code of Practice for Construction and Demolition Sites which can be viewed on the Council's web pages, and shall include sections on the following:

- a. Site management arrangements including site office, developer contact number in event of any construction/demolition related problems, and site security information;
- b. Proposed hours of operation of construction activities and of deliveries, expected numbers per day and types of all construction vehicles and deliveries, routes of construction traffic to and from the site (including local access arrangements, timing of lorry movements, and weight limitations on routes), initial inspection of roads to assess rate of wear and extent of repairs required at end of construction/demolition stage, location of wheel wash facilities, access points, location of car parking for contractors, construction traffic parking, details of turning facilities within the site for site traffic and HGVs, and a scheme to encourage public transport use by contractors; and
- c. Hours of site operation, dust suppression measures and noise limitation measures.

4) **INFORMATIVE: PUBLIC HIGHWAY APPROVAL**

This planning permission does not authorise the applicant to carry out works within the publicly maintained highway. The applicant should contact Plymouth Transport and Highways for the necessary approval. Precise details of all works within the public highway must be agreed with the Highway Authority and an appropriate Permit must be obtained before works commence.