

# **The Black Cap:**

**certificate of lawful use (application 2023/5228/P)**

**submission by**

**Black Cap Community**

## **Introduction and summary**

1. The Black Cap is a unique and vital institution. It has been part of Camden Town since the eighteenth century when our neighbourhood was just a small cluster of buildings by the road to Hampstead. It has been part of London's, and the UK's, LGBTQ+ life and culture since the late 1950s or early 1960s, before our history could safely be recorded. That unique history is expressed in the unique and distinctive ways this striking Victorian building has been used by its occupiers and the communities it serves.
2. Black Cap Community (BCC) represents the grassroots #WeAreTheBlackCap campaign to protect and re-open the Black Cap, which began even before venue's closure in April 2015 and has continued unabated since then, drawing support from tens of thousands of people in Camden and around the world. We have direct experience of the Black Cap as customers and performers over a number of decades. We also have a broad and deep understanding of the Cap and its history and workings from nearly nine years of conversations with a huge range of people connected with the venue and of gathering information from many sources.
3. We warmly welcome the decision of the owners, Kicking Horse 3 (KH3), to bring forward plans to re-open the Black Cap and their collaborative approach in working with us and other community groups. We broadly support the plans they have outlined in this application and we look forward to working with them further to refine and develop their plans so that the Black Cap can re-open in a sustainable way that will be true to its spirit and history and will best serve all our LGBTQ+ and Camden communities.

4. The re-opening of the Black Cap is urgently needed for many reasons. Pubs and LGBTQ+ venues across London are continuing to close faster than new ones open. Homophobia and transphobia are increasing and becoming more open and aggressive. New housing developments will soon be bringing more residents to the Camden area, and improvements to local public transport may lead to an increase in visitors as well. In this context it is an unconscionable waste to leave a well-loved, always successful community venue closed for no good reason, undermining the area's reputation for culture, performance, and diversity. Every day the Black Cap remains closed is not only a missed opportunity for wonderful experiences and the enrichment of community but also contributes to the deterioration of the building and its vulnerability to accidental and deliberate damage, all of which makes re-opening more costly and difficult. We applaud KH3 for recognizing this and we know they are as keen as we are for the Black Cap to re-open without delay.
5. In our view their proposals are consistent with the Black Cap's existing *sui generis* use as certified by the Council on 3 July 2019. In many important ways the proposals keep the Black Cap just as it was before it closed: the cabaret stage, the long ground floor bar, the cosy first floor bar and the roof terrace, all well-loved features of the Cap, will be unchanged. Where there are changes, many of them are undoubtedly beneficial and support the Black Cap's core purposes. In particular we welcome several changes that will improve the experience of cabaret performers at the Cap. There are some points where we would welcome further detail and discussion as set out below and we look forward to continuing to work with KH3, Camden Council, the Greater London Authority, and members and supporters of our campaign to explore and resolve these points.

## **Second and third floor accommodation**

6. The Black Cap's closure in 2015 took place in the context of the owners' plans at the time to turn the second and third floors into luxury flats (and indeed, at one stage, to build additional floors on top of the building for further flats). Even as recently as 2018 there have been efforts to classify the upper floors as a separate planning unit rather than as ancillary to, and indivisible from, the Black Cap as a pub, nightclub, cabaret, and community space. The creation of flats above pubs and clubs is well known to lead, in a large proportion of cases, to the

closure of the pub or club soon afterwards. In this context, any proposal to use the second and third floors of the Black Cap for accommodation needs careful scrutiny and we know a number of campaign supporters are concerned about this.

7. On the other hand, it's important to remember that those parts of the building were often used for staff accommodation throughout the Cap's modern history, as demonstrated by many submissions made in response to application 2018/4031/P (the previous application for a certificate of lawful use). This is clearly ancillary and beneficial to the Black Cap. We understand that KH3 propose to have a manager living full-time on the premises, which we welcome. The availability of accommodation to other members of staff is also valuable and positive.
8. Providing overnight or other short-term accommodation to visiting performers is less well-established as part of the way the Black Cap operated in the past, but we have heard anecdotal evidence that this did happen informally at times. We very much support making it a more formal part of the Black Cap's business model. Working as a cabaret performer (or indeed a freelance technician, stage manager, &c.) is becoming harder and harder. Having to travel home after a gig, sometimes still in drag, late at night can be exhausting, expensive, and even dangerous. The expense of coming to and staying overnight in London can also be prohibitive for performers who live out of London. Providing subsidized accommodation for performers will help attract the best talent to the Black Cap from all over the country, make it easier for emerging and marginalized artists to work and develop their craft, create good will towards the Cap among cabaret professionals, and keep people safe. Since the provision of accommodation will be directly linked to the Black Cap's central function as a cabaret venue, it would be squarely within the realm of ancillary uses and would not threaten to lead to a change of use or undermine the current *sui generis* classification.
9. KH3 also propose to make the accommodation available to *'paying customers on a bed and breakfast-type basis i.e. short-term. This accommodation would not be physically separated from the remainder of the property i.e. it would continue to be accessed internally via the main entrance and it would not be self-contained; there is a reasonable prospect that any such occupiers would also be patrons of the bar (on the ground floor) and/or the pub (on the first floor); and any income from use of the accommodation would be invested in securing/protecting the viability of the use of the property'*. They clarify that *'The use of the accommodation proposed*

would be prioritised for performers... save for at least one room proposed to be reserved for staff use at all times'. Similarly James Strachan KC in his opinion submitted by KH3 says that the accommodation would only be offered to the general public 'when not in use by performers and/or staff'.

10. This is probably the most novel aspect of the proposals and we aren't aware of the building being used in quite this way before. But we think in principle it is a sensible and acceptable extension of the Black Cap business, so long as it can be done without departing from the *sui generis* use or paving the way for full-blown residential redevelopment. Our conversations with KH3 and their proposed operator have given us reassurance about this and we believe the operator would not want the upper floors to become dominated by paying guests who have little or no connection to the Black Cap. We hope KH3 are right to predict that people choosing to be paying guests at the Cap would normally be customers of the venue and would choose to stay there precisely because it is the famous Black Cap, but to be on the safe side we feel it will be important to make it very clear to paying guests, both for their own sake and for the comfort and safety of customers, staff, and performers, that the building they are staying in is emphatically an LGBTQ+ environment and a working nightlife venue and that they, like anyone who comes to the Cap, are here on those terms. We hope we can work with KH3 to put measures in place to make a success of this aspect of the plans.
11. We would like to hear more from KH3 about how, in practice, they propose to make sure that performers (and staff) always get priority for use of the accommodation and don't find that they can't stay at the Cap because rooms are occupied by bed-and-breakfast guests. We're also interested in KH3's thinking about whether their plans allow enough 'office' type space for staff to do administrative work, take breaks, &c. And we would like to understand the thinking behind reducing the size of some of the bedrooms and increasing the number, and to know more about KH3's projections of the costs and income of the accommodation as compared to other aspects of the business. But we do think that in principle these proposals can work and enhance the Black Cap and become a positive and supportive part of the business.

## Facilities

12. We very much welcome the proposal to enlarge the performers' dressing room and provide it with a dedicated toilet and shower. This is certainly consistent with the Black Cap's central role as one of London's leading cabaret venues and will help encourage artists to want to perform at the Cap.
13. The option of having a substantial meal at the Cap is a feature that sets it apart from many London LGBTQ+ venues and was always valued by many customers and performers. In our 2022 survey we found that about half of potential customers wanted to see substantial meals available. In this context we would be interested to hear more about KH3's plans for food at the Cap in light of the reduced size of the proposed kitchen.
14. We hope to be able to continue these discussions with KH3 and facilitate their engagement with the wider community on these more detailed operational aspects of their plans.

## **Accessibility**

15. KH3 have started from the premise that the re-opened Black Cap should be as close as possible to what it was before, and we think that is a very positive starting-point. That said, the Cap has a strong tradition of inclusiveness, and was already among the most accessible LGBTQ+ venues in London, so re-opening provides a good opportunity to consider how to better enable disabled people to enjoy everything the venue offers.
16. We welcome the plan to add an accessible toilet on the ground floor. We lack the expertise to determine from the floor plans alone whether it conforms to the best accessibility standards and whether the route between the street and the toilet is fully navigable and passable by wheelchair-users, but KH3 have told us that all aspects of the renovation will meet modern standards. A number of campaigner supporters have stressed to us the importance of making sure the toilet is genuinely accessible, including being large enough for a wheelchair to turn round in. The ground floor of the Black Cap was mostly level-access before closure and we trust this will remain true, ensuring that customers who use wheelchairs can benefit from everything on the ground floor. Wheelchair-users can be cabaret performers too, and we would like to discuss with KH3 how the stage and dressing room can be made accessible as well.

17. One of the most obvious physical barriers to access is the fact that the basement and first, second, and third floors can only be reached by stairs. This means that customers who use wheelchairs can't use the first floor bar or roof terrace, that performers who use wheelchairs can't benefit from the performers' accommodation, and very much limits the possibilities for wheelchair-users to work as staff at the Cap. Our community engagement work has shown that access to the upper floors is something many supporters of the Black Cap would welcome. We appreciate that installing a lift is a costly and disruptive undertaking but if it can't be done for re-opening we would like to help KH3 develop a plan to work towards doing so in due course.
18. Of course wheelchair-users are far from the only disabled people who will want to visit, work at, or perform at the Black Cap. Most other disabilities don't call for changes to the layout of the building or material changes to its use and so aren't relevant to this application but can be covered by steps like staff training and the availability of various aids and facilities. We have raised the wider issue with KH3 and look forward to working with them to try to make the Black Cap as accessible as possible for neurodiverse, disabled, and deaf customers, staff, and performers.

## Community uses

19. Camden Council's decision notice in application 2018/4031/P described the *sui generis* use of the building as 'mixed use of the premises as a cabaret/dance venue, club, bar/ **community space** and as a public house' and specifically mentioned 'use of the ground floor as cabaret dance club with bar and live performances and **community uses**... and use of the first floor as a bar and **community space**'. This reflects the evidence submitted by many customers and staff of the Black Cap in comments on that application, which showed that uses and activities for the benefit of LGBTQ+ and Camden communities are a core part of the Black Cap. Examples include:
- a. providing meeting space for grassroots community groups such as the Camden LGBT Forum (now forum+), the Metropolitan Community Church, FTM London (now Transmasculine London), the Leftfooters, London Lesbian Kickabout, the Frontrunners, Opening Doors London, and London Gay Symphonic Winds;

- b. hosting outreach and information activities by public and voluntary organizations on subjects like community safety and sexual health;
  - c. use of the ground floor outside opening hours for a wide range of events including funeral receptions and wakes, performance rehearsals and performing skills based and other relevant workshops;
  - d. hosting fund-raising performances and parties for a variety of charitable and voluntary causes.
20. We're very pleased that the plans submitted by KH3 don't seem to involve any alterations that would make such community uses more difficult. The application materials make clear that no change to the community uses as set out in the 2019 decision is intended, which we welcome.
21. Beyond that, there's no detail in the proposals about how KH3 intend to foster such community uses. We assume that's because the focus is on the planned physical changes to the building and that, beyond what's described in the application, there's no intention to make material changes to the operation of the Black Cap as a bar, club, cabaret, or community space. As the project of re-opening progresses we look forward to further discussion with KH3 of their operational plans, including community uses of the space.

## Conclusion

22. This application is a great step forward and we warmly welcome and applaud many aspects of it, especially KH3's commitment to keeping as close as possible to the history and spirit of the Black Cap with appropriate improvements for the 2020s and beyond, their efforts to stay true to the *sui generis* use of the building, and the proposed modest changes that will support staff and performers. In our view the proposals are consistent with the existing use of the building, especially if the points made above are taken into consideration as plans move ahead. We look forward to working further with KH3, Camden Council, and other organizations and the wider community to make the re-opened Black Cap the best LGBTQ+ pub, club, cabaret, and community space that it can be.