



Report of the Chief Planning Officer

PLANS PANEL WEST

Date: 2nd December 2010

Subject: APPLICATION 10/03249/FU – Variation of Condition 4 of approval 09/04364/FU relating to opening hours for a place of worship at Lyric House, 113-115 Tong Road, Leeds 12

APPLICANT

Mr T Ndebele

DATE VALID

16 July 2010

TARGET DATE

10 September 2010

Electoral Wards Affected:

Armley

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: Following a resolution to refuse the proposed development at the previous meeting, the Panel is invited to consider the suggested reason for refusal:

The Local Planning Authority considers that the increase in opening hours in relation to the use as a place of worship is unacceptable due to the detrimental impact on the residential amenity for nearby residential properties, by reason of noise and disturbance from the use of the premises and associated comings and goings and associated vehicle movements (particularly during late evening hours). The proposal is therefore considered contrary to policies GP5 of the Unitary Development Plan Review (2006) and guidance contained in Planning Policy Statement 1 - Delivering Sustainable Development (2005).

1.0 SUMMARY

- 1.1 Members will recall that this application was considered by Plans Panel at the meeting on 4th November 2010. Members were concerned regarding the potential for noise disturbance from the comings and goings associated with the use of the premises especially in the evening and the impact of this noise on the residents who live across the road from the site. Members, therefore, resolved to refuse the

application and instructed the Chief Planning Officer to refer the application back to the next meeting with the proposed reason for refusal. For information the original report is attached.

2.0 RECOMMENDATION

- 2.1** Members are requested to endorse the suggested reason for refusal and refuse the application.



Leeds
CITY COUNCIL

Originator: Carol
Cunningham
Tel: 0113 247 8017

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RECOMMENDATION

GRANT PERMISSION subject to the following conditions:

1. Use to be discontinued on 30 November 2011
2. Use for Apostles of Muchinjikwa as place of worship
3. Rear car park to be available at all times when use in operation
4. Proposed opening hours
5. No operation of amplified speakers
6. No consumption of alcohol outside the premises within the confines of the site
7. Noise management plan to be submitted for 24 hour opening

1.0 INTRODUCTION:

- 1.1 The Chief Planning Officer considers that this application should be referred to the Plans Panel for determination following requests from Ward Members (Councillor Lowe and Councillor Harper) and Rachel Reeves MP.

2.0 PROPOSAL:

- 2.1 Planning permission was granted under delegated powers for the conversion of an existing garage to a place of worship on 18th December 2009. Condition 4 of this approval stated that the opening hours for the use were 0900 to 1700 Monday to Friday (except on Maundy Thursday where they are extended to include 2100 to 0300), 0900 to 1600 on a Saturday and 0900 to 1700 on a Sunday. This application was originally to vary that condition to 24 hour use 7 days a week. This was considered to be unacceptable and the hours of opening have been negotiated by officers to now be the following:
0800 to 2100 on a Monday, Tuesday, Wednesday, Thursday and Friday
0900 to 2100 on a Saturday and Sunday

There are also two instances when twenty four hours use is proposed - these being from 9am on 31st December to 9am 1st January and 9am on the 6th August to 9am 7th August. These relate to important dates within their religious calendar.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site is an existing large building which historically was used as a cinema. Its immediate previous use was a garage. The building is located on the south side of Tong Road amidst a variety of industrial and commercial buildings. The property is set back from the highway to the front and has a small area of parking. There is a large car park to the rear which is accessed down the side of the building and there is a gate to this car park. Beyond this car park is a railway line. On the other side of Tong Road are residential properties. Tong Road is busy in terms of pedestrian and vehicular traffic during the day.

4.0 RELEVANT PLANNING HISTORY:

09/04364/FU – Application for a change of use from garage and to place of workshop Approved 18th December 2009.
24/255/79/fu – change of use of cinema to wholesale and furniture warehouse/storage approved 25/6/79
24/741/75/fu – change of use of cinema to bingo hall approved 1/12/75
24/688/75/fu – change of use of cinema to storage and maintenance of car vehicles approved 22/12/75

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Planning permission for a change of use of a garage to a place of worship was granted planning permission in December 2009. Complaints have been received that the use was operating outside of the opening hours condition. This planning application was submitted in response to the complaints. The hours originally applied for were 24 hours 7 days a week. Officers considered that 24 hour use was not acceptable and the hours in front of you today were in response to negotiations between officers and the applicant.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 Councillor Lowe – Does not support an extension of hours application under any circumstances. Clear they are letting the building for a concert and party venue. The constituents need to sleep at night and believe their human rights will be breached if permission given.

Councillor Harper – Agrees with Councillor Lowe's comments

Rachel Reeves MP also supports the Councillors and Local Residents objections and requests the item is considered by Panel not officers.

Eleven letters of objection to the application for 24 hour use 7 days a week.

Concerned with the following:

- Been very disruptive all night parties at the venue recently
- Disturbed by loud music, shouting in street, breaking bottles, children playing.
- Go on through the night till 5am and beyond
- Doesn't look like 'religious or charitable activity'
- Similar noise and disturbance at their previous premises at St Bartholomews Church Hall
- Loss of sleep impacting on daily activities
- Car parking inadequate for the number of visitors
- Members sleeping on the premises overnight
- Permission should be cancelled not extended

There have been a further 4 letters regarding the revised opening hours which state

- Occupiers have been clearly breaching their planning conditions
- One all night event was a commercial concert with tickets for sale on the internet.
- Premises being used for a nightclub not a place of worship
- Due to previous behaviour do not expect them to comply with new conditions
- Due to previous behaviour local residents should not be subject to a 1 year experiment
- Most nights there are still people there in an evening and overnight
- If given consent to use building later it will be a green light for them to do whatever they want
- Say one thing to council officials then act as they please

7.0 CONSULTATIONS RESPONSES:

Highways – Conditional approval to revised hours subject to one year temporary consent

Environmental Protection Team – There have been a number of complaints regarding activity at these premises at out of hours times with people attending various events and antisocial behaviour. Noise from people arriving and in particular leaving cannot be controlled so would support a refusal. However, if planning permission was issued then conditions should be attached for opening hours 0900 to 2100 hours and no operation of amplified speakers. There has been further consultation regarding the proposed one year temporary permission with revised hours. Environmental Health strongly objects to the proposed two twenty four hour periods and requests that there shall be no operation of amplified speakers and for each 24 hour period there should be

- 28 days notice shall be given to nearby residents
- No amplified speakers
- No consumption of alcohol
- Noise management plan for each of the 24 hour periods to be submitted to Environmental Protection Team 28 days before each event

Site notice posted 21 July 2010 expires 11 August 2010.

8.0 PLANNING POLICIES:

Development Plan

The land is unallocated in the Unitary Development Plan. There are a number of relevant policies as follows:

GP5: Development should resolve detailed planning considerations.

T2: Development to be capable of being served by highway network.

T24: Parking provision.

9.0 MAIN ISSUES

1. Principle of development
2. Highway safety
3. Residential amenity
4. Drainage
5. Impact on wildlife
6. Representations

10 APPRAISAL

1. The main consideration in relation to the extension of hours application is the impact of the extended hours on the residential amenity of the properties which are situated across the road from the site. Tong Road is a very busy during day time hours and creates significant background noise. This noise is generated by traffic noise and the industrial premises which operate on the same side of the road as Lyric House. The level of noise created from the use of the application site as a place of worship during these times should not create a level above the existing background noise which will have a detrimental impact on residential amenity. The original application was for 24 hour use 7 days a week. This was considered to be unacceptable as Tong Road is quiet overnight and the comings and goings of people and vehicular overnight would create noise and disturbance which will impact on the residential amenity of the surrounding residential properties.

The revised hours now to be considered involve 0800 to 2100 for five days during the week and 0900 to 2100 at weekends. As these hours tend to be when there will be existing background noise and residents tend to be up and about it is not considered that there should be a detrimental impact on residential amenity.

The applicant requested an opening to 3am on a Thursday night as this is considered to be leading up to the Sabbath day which is a Friday. Officers could not support these additional hours as the area becomes quiet after 9 pm and any coming and goings from the premises after this time would not have a detrimental impact on residential amenity.

The application also involves two overnight openings within the one year permission. These intend to be starting at 9am one morning to 9am the following morning and are on a Friday or Saturday night. As weekend opening is 0900 to 1700 the request would mean that the premises is used from 9am on one day till 1700 the next day. The two dates in question are on New Years Eve through to New Years day and one Saturday in August (6th) through to 1700 on the 7th. The

overnight opening on New Years Eve is considered to be acceptable as the level of background noise will be higher than normal and residents will generally be up later on this day. In terms of the night in August this will be for one night only and will allow for the level of noise overnight to be assessed for any future planning application. Environmental health have suggested conditions for no amplified speakers, no consumption of alcohol on the 24 hour opening and a noise management plan to be submitted at least 28 days before the overnight events. In terms of alcohol consumption, a place of worship does not require any licence for the consumption of alcohol. It would be unreasonable and difficult to enforce a complete ban of alcohol on the premises. The antisocial behaviour at this premises during the summer months involve groups of people drinking alcohol outside of the premises which caused noise and disturbance to surrounding residents. For this reason it would be appropriate to ban the consumption of alcohol outside of the premises.

There have been several discussions between the applicants and council officers regarding the events during the summer. The applicants have been advised that the previously disregard of planning conditions is unacceptable and the applicant has excepted this. They have also been advised that any further breach will not be tolerated and would result in a stop notice and breach of condition notice as well as no renewal of this permission.

Due to the previous problems in relation to antisocial behaviour and noise and disturbance overnight the permission is for one year only so that the impact of the extended hours can be monitored before a formal permission can be issued.

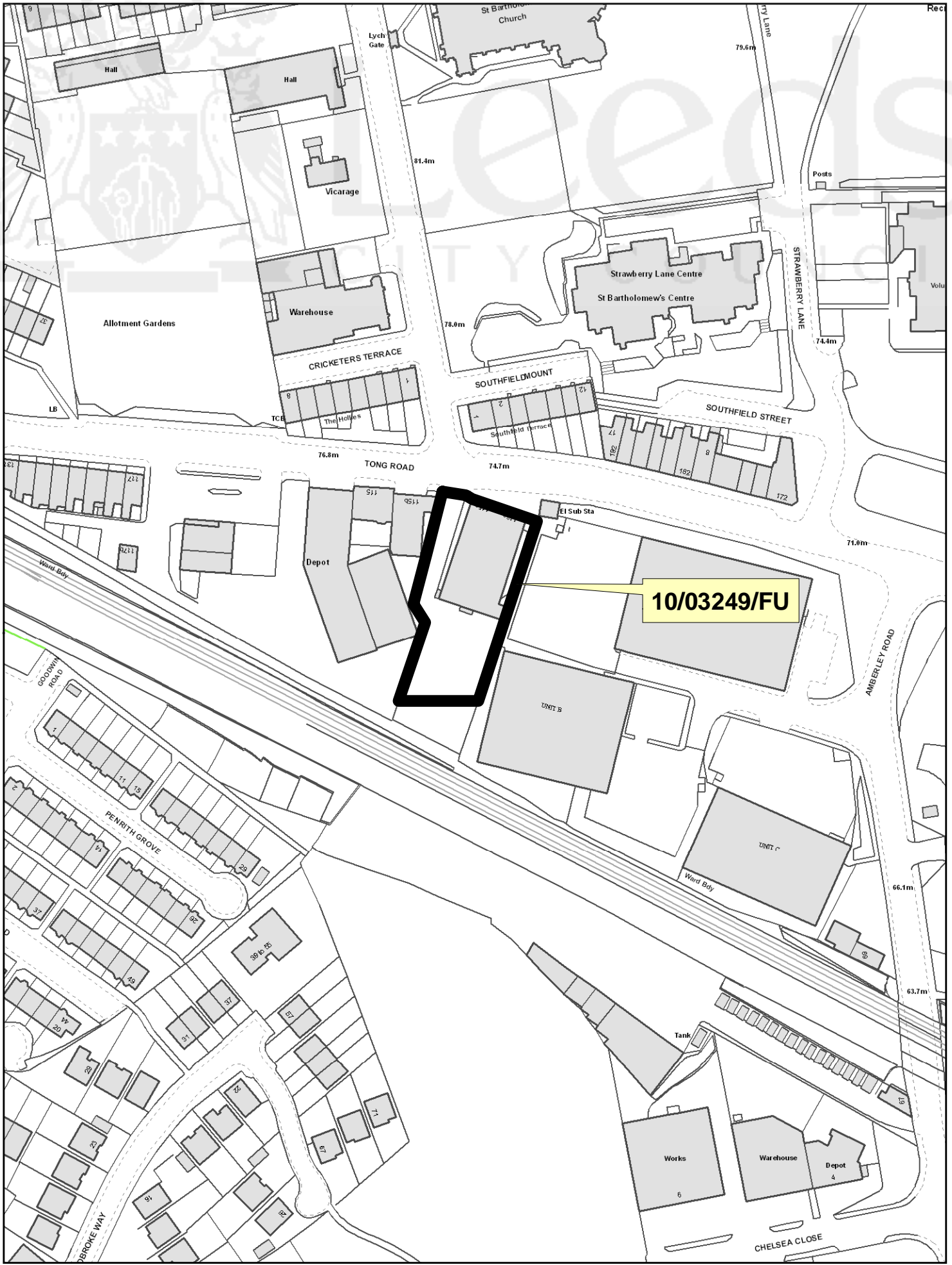
Overall it is considered that the one year permission for the suggested hours will be a reasonable period to determine if the disturbance will or will not have a detrimental impact on residential amenity in terms of noise and disturbance and can be supported

2. The property has a large car park to the rear. Further information has been submitted by the applicant detailing the number of members to the church and their mode of transport. The level of car parking is more than adequate for the numbers of members. The one year consent allows the use to be monitored in terms of overspill onto the highway network and any potential impact on the safe and free flow of traffic.

3. The majority of issues raised in the representations have either been covered above or have been addressed by the reduction of hours. There is concern by the residents that why should their hours of use be extended when they have not complied with the previous hours. It is believed that the occupiers were not the applicants to the previous application. Their worshipping needs require longer hours, in fact as mentioned earlier they would prefer even longer hours. The opening till 2100 hours is a compromise between the approved hours and the applicants required hours. A temporary stop notice has been issued on the premises and if the new hours are not complied with a full stop notice and breach of condition notice can be served.

Background Papers:

Application file: 09/04742/fu



WEST PLANS PANEL

