



**Report of the Chief Planning Officer**

***PLANS PANEL CITY CENTRE***

**Date: 10<sup>th</sup> March 2011**

**Subject: APPLICATION 10/04792/FU – CHANGE OF USE OF VACANT BUILDING TO CHURCH (USE CLASS D1) AT 62-64 NORTH STREET, LEEDS, LS2, 7PN**

<b>APPLICANT</b>	<b>DATE VALID</b>	<b>TARGET DATE</b>
UCKG Help Centre – Ms A Faria	13/12/10	7/2/11

**Electoral Wards Affected:**

City & Hunslet

No

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity  Y

Community Cohesion

Narrowing the Gap

**RECOMMENDATION: REFUSE for the following reason;**

**The Local Planning Authority considers the proposed change of use to a D1, church, would result in an unacceptable impact on the amenities of the occupiers of nearby premises, particularly the residents in Merchants house. The applicant has not sufficiently demonstrated there will be no adverse impact from structural borne noise transference whilst the hours of use and potential number of people visiting the premises could adversely impact upon the general amenity of the area. For the reasons outlined above the application is considered contrary to policy GP5 of the Leeds Unitary Development Plan (Review 2006).**

**1.0 INTRODUCTION:**

1.1 This application seeks full planning permission for the change of use of 62-64 North Street from A1 to D1, church. The application has received a significant number of letters of support and objection, including objection letters from Hilary Benn MP and Cllr Monaghan, a resident in the flats above the application premises. Due to the level of public interest, the application is reported to Panel for determination.

## **2.0 PROPOSAL:**

- 2.1 Full planning permission is sought for the change of use of the vacant 62-64 North Street. The application site comprises of the ground and basement floors of two former retail units fronting North Street and the ground floor of the former warehouse building behind. A change of use is proposed from the former A1 use to a D1, church, use. There are no external alterations proposed.
- 2.2 Access is provided through the two units fronting North Street and into the large congregation space to the rear. One of the units, no.62 will incorporate a small book shop whilst number 64 will incorporate a font and ancillary café. The basements to numbers 62 and 64 would provide toilet and storage facilities, another font and an office.
- 2.3 The congregation space will accommodate an alter and seating for around 176 people, another office plus classroom and prep room. There will also be a sound system serving this space.
- 2.4 The proposed hours of opening are 0630-2230 during which times there will be a pastor present to assist any visitors. There are normally four services a day with the main service on a Sunday morning. Services are informal and interactive, the congregation are encouraged to say their prayers out loud. It is understood the congregation currently stands at around 80 people. Outside the normal opening hours a pastor will be present to answer any phone calls from the congregation and to provide additional security, visitors to the premises will not be permitted. The venue may also host some large (perhaps national/international) events as instructed by the churches headquarters.
- 2.5 The applicant, the United Church of the Kingdom of God (UCKG) is a Pentecostal church formed in 1977 in Brazil and active in 176 countries. There are UCKG churches and church groups in various parts of London and throughout the UK. The UCKG currently operate from a temporary base in Malmarc House, 116 Dewsbury Road, a listed building that formerly operated as a library and police station.
- 2.6 The application is supported by the following documents:
- Design and Access Statement.
  - Travel Statement.
  - Travel Plan.
  - Noise Impact Assessment.
  - Noise Management Plan.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application relates to the ground and basement levels of units 62 and 64 North Street plus the former warehouse building at the rear. The premises are part of a large three storey building that incorporates a row of commercial units at ground floor fronting North Street with former warehouse facilities behind and residential flats to the upper two floors and roof space.
- 3.2 The site is located within the City Centre boundary and the frontage to North Street is designated as an 'other protected frontage'. The Unitary Development Plan (Review 2006) (UDPR) identifies North Street as an important pedestrian corridor and it forms part of the strategic highway network.

- 3.3 The floors above the application premises (two floors plus roof space) have been converted to residential flats, known as Merchants House. The communal entrance to the flats is immediately adjacent to the entrance to no.64. Half of the flats have a basement parking space accessed from Brunswick Row.
- 3.4 There are further residential properties around the site plus other commercial premises, Lovell Park public open space and a public car park. The surrounding streets provide on-street metered parking.
- 3.5 The commercial units fronting North Street are primarily in retail use but also include the Reliance bar and Hansas restaurant. Numbers 62 and 64, the application premises, have been empty for approximately one year.

#### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 None.

#### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 There were no pre-application discussions. The issues regarding noise have been discussed with the applicant whilst the application has been under consideration.

#### **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 Site Notices were erected around the site on 17/12/10 and 5/1/11. However, on both occasions these were removed after a short time therefore a letter was sent to the Chair of the North Street Residents Association for circulation. The case officer also attended a public meeting with the residents and local businesses on 17/1/11.
- 6.2 57 letters of support have been received from members of the HCKG congregation. 53 are from Leeds addresses with 4 from elsewhere within Yorkshire. The letters highlight the positive influence the church has had on their lives and identifies the application site as being a much more accessible location than their existing temporary premises on Dewsbury Road. The letters state the UCKG church will provide significant benefits to the local community and city of Leeds through their charitable activities and support.
- 6.3 31 letters of objection have been received. This includes letters from Hilary Benn MP, 2 of the commercial units on North Street (the Reliance and Mountain Intelligence Ltd), 23 residents of Merchants House, 2 residents of other properties nearby and 2 letters from residents elsewhere in Leeds.
- 6.4 The concerns raised are summarised as follows (responses are provided briefly in *italics* or in greater detail within the appraisal section below):
- Use: The use is not appropriate for a residential area.
  - Economic impact: The loss of two retail units along this parade would have a detrimental impact on the viability of the parade. The loss of retail units further down North Street has already had a negative impact on this part of the city centre. When the Arena and Eastgate developments are operating North Street would be an attractive retail destination. These small, affordable units are essential to providing an appropriate mix of unit size in the city centre.

- Amenity: The long hours of opening, potential attendance of 176 people, use of amplified music and people gathering outside will significantly impact upon the amenity of residents. This is exemplified by the building construction not originally including sound proofing and residents stating they already suffer from noise/vibration disturbance from the existing commercial units and between flats, which has already been reported to Environmental Health. Sound proofing introduced at the Reliance is not sufficient. Residents of nearby properties also believe they will be adversely affected by the noise generated. There has not been a proper noise survey carried out as testing has not taken place in the flats above the application premises. There is no air conditioning in the flats so windows would be open in the summer permitting greater noise transference. If the church operated 24hours a day this would be made even worse.

- Parking: Parking is limited in the area and residents, their guests and the existing commercial units often struggle to find spaces. This could result in visitors to the commercial units choosing to shop elsewhere. The area is already identified as overspill parking for the arena and parking is particularly problematic on Sunday mornings during the Salvation Army services.

- Safety: The entrance to the church is immediately adjacent to the entrance to the flats and could create problems. There have been issues regarding the security of the building in the past and the increase in people around the entrance to the flats could exacerbate this problem. Have the Police been consulted? *Response: The amenity impact of the proximity of the entrance to the church is discussed in the appraisal section. The Police Architectural Liaison Officer has been consulted and states there have been no reported incidents at the churches current premises but that there is the potential for noise disturbance that may create some conflict between residents and congregants. It is considered that the introduction of a church into the application premises would not unduly increase the potential for security and safety problems within the area. This is a mixed use area within the City Centre and significant numbers of people already pass the site throughout the day. The popularity of the area with passing vehicles and pedestrians is considered to largely assist with safety through natural surveillance.*

- Nature of the applicant: Some of the objectors also raise concerns regarding the controversy surrounding the legality of the operations of the church and concerns about its congregation as many of the letters of support highlight attendance by former drug users and people suffering from mental health issues. Objectors believe this could lead to an increase in social problems in the area and highlight that many of the letters of support do not come from the local community but from other areas of Leeds and Yorkshire. *Response: Issues regarding amenity, safety and general social issues are discussed in the appraisal section. The church is open to anyone and seeks to improve peoples lives; this is substantiated by the letters of support. The planning application is for the change of use to a church and the associated operational issues are being considered in this report. However, no comment can be made on the alleged illegal activities of the church. The applicant would be required to operate within the law as covered by other, non-planning, legislation.*

- Lack of fire exits: Egress is only possible from the front of the building, this does not seem sufficient for a significant number of people. *Response: This issue would be covered by the Building Regulations.*

- Application description: The description of the application relating to a 'vacant building' is inaccurate; the remainder of the building is occupied. *Response: The application premises are vacant, it is accepted by all concerned that the remainder of the building is occupied.*

- Alternative locations: There are more suitable locations within the city centre but away from residential properties. *Response: The application must be determined as submitted. As discussed in the appraisal section, there is no in principle objection to a proposed church in this part of the City Centre.*

- Environmental issues: There is no provision for waste storage and smoking. *Response: There is sufficient space within the building to store waste and the applicant has stated waste would be collected by private contractor on an agreed day. The issue of people congregating outside the premises is discussed in the appraisal section below.*

- Loss in value of property: The proposal could reduce the value of the residential properties. *Response: The courts have established that the potential impact of a development on property values is not a material planning consideration.*

## **7.0 CONSULTATIONS RESPONSES:**

7.1 Non-statutory.

7.2 Access: As there are no physical alterations, no objection.

7.3 Highways: The single yellow line waiting restriction on North Street should be able to accommodate all deliveries. A refuse bin area should be identified. The staff parking demand should be similar to the previous demand when the retail units were open. However, the proposal will create an additional demand from congregants (currently around 80 but with a capacity of around 176). Similar uses generate around 50% car use. The peak use of the proposal is expected to be outside of the peak generated by the other commercial units in the area therefore the parking need of the congregation can be accommodated in the existing pay and display bays on-street and in the adjacent car park. *Response: The applicant has confirmed bin storage will be provided within the building, it is considered there is ample space for the necessary storage. Parking is discussed in more detail in the appraisal section.*

7.4 Neighbourhoods and Housing: Objection. The hours of opening and potential numbers of visitors could give rise to significant disturbance to the residential flats above. Noise mitigation measures (suspended ceilings etc) could reduce the impact of airborne noise into the flats above but may not be sufficient to address the structural transmission of noise from foot stomping etc. *Response: This issue is covered in more detail in the appraisal section below.*

7.5 NGT/Public transport: The development falls below the threshold for a public transport contribution.

7.6 Police Architectural Liaison Officer: Without significant noise remediation there could be conflicts between residents and the church. If the application is to be approved, consideration should be given to a 12 month temporary permission.

7.7 Transport Policy (Travel Wise): The development falls below the threshold for seeking a travel plan. However, the voluntary travel plan submitted is accepted and further advice can be provided.

## **8.0 PLANNING POLICIES:**

8.1 Regional Spatial Strategy (RSS): The RSS for Yorkshire and Humber was adopted in May 2008. The vision of the RSS is to create a world-class region, where the economic, environmental and social well-being of all people is advancing more rapidly and more sustainably than its competitors. Particular emphasis is placed on the Leeds City Region. There are no RSS policies of particular relevance, all issues are covered by the UDPR policies identified below.

8.2 UDPR Designation: The North Street frontage is identified as an 'other protected frontage' and as a pedestrian route to be improved. North Street forms part of the Strategic highway Network.

### **Relevant UDPR Policies:**

**GP5:** Proposals should resolve detailed planning considerations including amenity, danger to health or life.

**T2:** Development proposals should not create new, or exacerbate existing, highway problems.

**SA8:** Promotes 'access for all'.

**SA9, SP8:** Promote development of City Centre role and status.

**CC11:** Seeks the enhancement of pedestrian corridors.

**CC22:** Refers to shopping frontages.

**SF1A:** Changes of use from A1 within shopping frontages must maintain a ground floor window display, maintain the general appearance of the frontage and maintain or establish access to the upper floors where applicable.

**SF6:** Within 'other protected frontages' proposals for change of use from retail to A2 or A3 may be acceptable where the proportion of the retail frontage remains sufficient to retain the retail function.

8.3 National Planning Guidance:  
PPS1 General Policies and Principles.  
PPS4 Planning for Sustainable Economic Growth.  
PPG13 Transport.  
PPG24 Planning and Noise.

## **9.0 MAIN ISSUES**

1. Principle of use within the City Centre and location within, and viability of, the 'other protected frontage'.
2. General amenity.
3. Parking.
4. Equality.

## **10.0 APPRAISAL**

10.1 Principle of use within the City Centre and location within, and viability of, the 'other protected frontage'.

- 10.2 The application premises are located within a part residential, part commercial area of the City Centre. There is no in principle policy objection to the location of a D1, church, use in this area.
- 10.3 The commercial units from numbers 54-78 North Street, from Trafalgar Street to Lower Brunswick Street, are designated as an 'other protected frontage'. Within the City Centre there are four types of designated shopping frontage that provide a hierarchy for the City Centre's retail function. The primary frontages are located in the core parts of the City Centre shopping area and seek a minimum of 80% A1 retail occupation, the secondary frontages surround the core area and primary frontages and seek 50% retail occupation, whilst designated fringe frontages are located outside the Prime Shopping Quarter but on its fringe and provide a greater mix of retail and non-retail uses. The other protected frontages (54-78 North Street and 162-182 Woodhouse Lane) lie outside the Prime Shopping Quarter and its fringes and generally form a small group of shops providing a valuable local service. Under policy SF6 the UDPR aims to retain these groups of shops but allow for additional complimentary retail uses provided the retail content remains sufficient to retain the retail function of the parade.
- 10.4 Policy SF6 specifically refers to alternative uses to retail as being A2 (financial and professional) or the former A3 uses (now split into A3 restaurants, A4 drinking establishments and A5 hot food take aways). However, the clear hierarchy of the frontages and the general aims and objectives of the policy highlight that additional complementary non-retail uses will be permitted and it is considered a D1 church could be considered acceptable in principle within this frontage for the reasons outlined below.
- 10.5 The two units at 62 and 64 North Street have been empty for approximately a year. Whereas this would normally be considered a significant period of time, in the current economic climate this is given less weight but still considered a material consideration. A new occupier in these units, including the proposed church, would attract additional visitors to the area and therefore potentially improve the viability of the parade.
- 10.6 The existing retail occupation of the parade (including the application premises) is at 68%. The 32% non-retail occupation is taken by the Reliance pub, Hansas restaurant and the entrance to the residential units. The proposed change of use would increase the non-retail to 46.67% and therefore decrease the retail occupation to 53.33%. This is not considered to be a significant change and a retail occupation of 53.33% is over the 50% sought in the Secondary Shopping Frontages surrounding the retail core. It is considered A1 occupation of 53.33% is sufficient to sustain the retail function of this other protected frontage.
- 10.7 For the reasons outlined above the principle of the loss of two retail units and introduction of a D1 use is considered acceptable.
- 10.8 General amenity.
- 10.9 The application proposes to create a church with a seating capacity of around 176 and ancillary café and book shop uses. The premises will provide a number of approximately one hour services during the opening hours of 0630-2230 with the main service on a Sunday lasting around an hour and a half. In addition to the services, associated meetings, training and youth work will take place. A sound system will aid the Pastor giving the service. There may also be larger events organised by the UCKG headquarters.

- 10.10 The applicant has submitted a Noise Impact assessment and Noise Management Plan. The noise impact assessment took measurements at a Sunday service at the churches existing premises when around 50-60 people were present. It also explores the existing construction of the building and proposes measures to reduce noise transference. Sound testing from within the flats above has not taken place. The separating floor construction is believed to consist of timber floor boards, separating timber joists and plasterboard ceiling; there is no ceiling cavity. The walls are constructed in brick thought to be 200mm thick with wider supporting columns. Neither the walls or ceiling are in perfect condition and there are a number of gaps and other imperfections.
- 10.11 In order to achieve the Sound Reduction Indices (SRI) agreed with the Environmental Health Officer (EHO) it is proposed to repair the existing ceiling and introduce an additional timber joist system with new ceiling and insulation. In order to control flanking noise, walls will be repaired, lined with plasterboard on timber battens and insulated. All gaps between the new floors and ceiling will be filled with acoustic mastic. Central support columns and pipes will be boxed in. In addition, a noise limiter will be installed to the proposed sound system to control low frequency noise. A secondary glazing system is proposed to be installed to prevent noise transference through the windows.
- 10.12 Provided the mitigation measures highlighted above can be introduced and on the basis of the speculative assessment of the existing noise levels in the upper floor flats, the EHO agrees with the applicant's noise consultant that airborne noise transference can be controlled to an acceptable level. The applicant has committed to monitor noise emitting from the premises on a 3 month basis and these recordings could influence further mitigation if necessary.
- 10.13 Whereas the mitigation measures identified above are considered sufficient to prevent unacceptable airborne noise transference, it is considered there is no guarantee that these measures will be sufficient to prevent the possibility of the structural transmission of noise from foot stomping etc from within the premises. The Acoustic Consultant believes the integral mass of the existing structure will prevent structural borne transmission but also proposes to install a floating floor with insulation to further alleviate concerns. It is accepted that these measures identified should reduce the potential for the structural transmission of noise. However, without detailed sound tests from within the flats above it cannot be confirmed that this will definitely solve the problem. The EHO considers this to be an important issue and recommends refusal on the lack of evidence to confirm that structural transmission of noise can be reduced to an acceptable level.
- 10.14 If the application was to be approved the EHO strongly recommends a sound test from within the flats be carried out when the works are complete.
- 10.15 A Noise Management Plan submitted with the application aims to demonstrate how the UCKG aim to control noise created outside the premises in addition to that from within the building. The management plan gives authority to the Pastor to control people and intends to keep a log of any unacceptable incidents. The plan states congregants will be reminded to keep noise levels down when entering and leaving the premises and to find a place away from the entrance to smoke. Whereas the applicant has stated their commitment to keeping noise levels generated by visitors to an acceptable level, this is very difficult to control and enforce. The potential for around 176 visitors would make managing the comings and goings of the congregation extremely difficult. Due to the potential number of congregants and



hours of use it is considered that there could be an unacceptable impact on the amenity of the residents of the flats above, other residents nearby and occupiers of the commercial premises. This is exacerbated by the proximity of the entrance door to the flats of Merchants House being immediately adjacent to the entrance to unit 64. Whereas the hours of use of 0630-2230 are largely within the more sociable hours of 0700-2300 identified in PPG24 'Planning and Noise', there is the potential for regular disturbance across this whole time period that would have a significant and unacceptable impact on the amenity of nearby residents.

#### 10.16 Parking.

10.17 The site does not provide any dedicated parking but there are pay and displays bays on the streets surrounding the site and there is a public car park to the rear of the site. Similar uses generate around 50% car use therefore around 88 cars may be expected to visit if the church was operating around capacity, or 40 cars in respect of the current size of the congregation. Information provided by the applicant regarding car use at other sites across the country highlight peak car use on a Sunday morning and weekday evenings at 1930. A similar peak usage at this site would see the demand for car parking by the UCKG outside the peak demand for parking by the existing business premises in the area. Whereas it is accepted that only half of those residents in Merchants House have allocated parking and there is a demand from other residential properties nearby, it is considered that the parking demand of the UCKG could be met by the existing on-street bays and adjacent car park. There are sufficient on-street parking controls to ensure there would be no adverse highway or public safety issues generated by the increase in demand in the area and Highways Officers believe a highway objection would be difficult to justify.

10.18 In the applicant's Travel Plan, submitted voluntarily, they have identified an ambition to encourage non-car modes of transport. Both the applicant and the congregation in their letters of support state the proposed location in the City Centre makes the site much more accessible by public transport. The site is served by buses along North Street and other nearby routes and is within close proximity of the bus station and walking distance of the train station.

#### 10.19 Equality

10.20 The Council has a general duty under s.71 of the Race Relations Act 1976 to have regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups. The Equality Act 2010 requires public bodies to have due regard to eliminate discrimination and to advance equality of opportunity, this is evident in UDPR policy SA8.

10.21 Although the church is open to everyone and intends to provide benefit to the local and wider community, it is also accepted that the church appears to currently represent a distinct Christian group and would provide a new, more accessible, meeting space for this group. However, as stated above, the proposal raises a number of amenity concerns that are considered to outweigh the potential benefits of the proposal.

### **11.0 CONCLUSION**

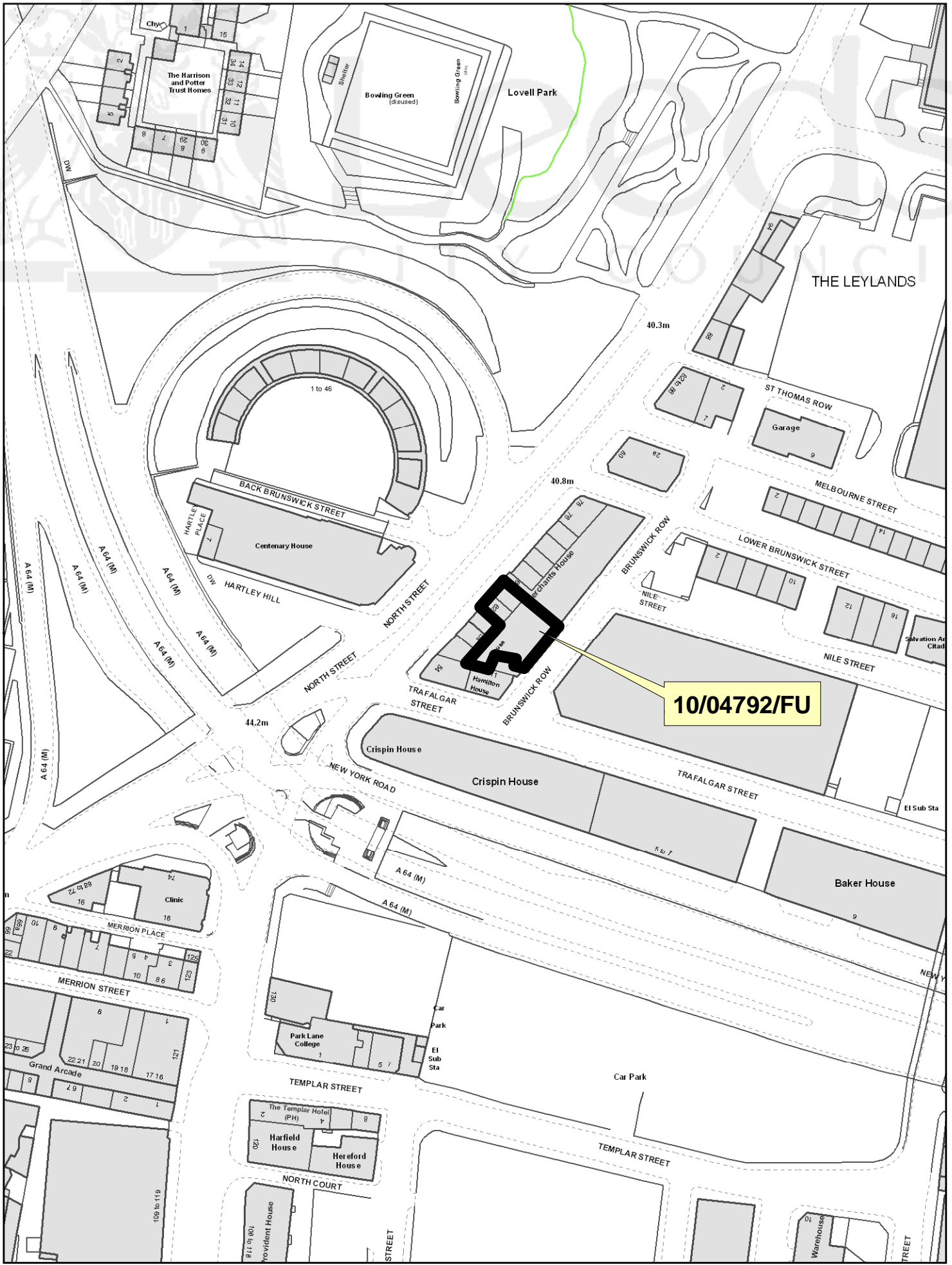
11.1 The UCKG currently operates from a site on Dewsbury Road and is seeking to relocate to a more central location. The site at 62-64 North Street would provide with a more central and accessible location. The site does not raise specific

highway safety concerns and mitigation measures could limit the airborne noise transference to the flats above. However, the proposed mitigation measures are not guaranteed to overcome concerns relating to the structural transmission of noise and the impact on the amenities of the local community from the general comings and goings of what would be significant numbers of people. As such it is considered that this is not an appropriate building for the proposed use therefore the application is recommended for refusal.

**Background Papers:**

Application file 10/04792/FU.

Notice has been served on Wasdon (Leeds) Ltd, Carlton House, St James's Square, London, SW1y 4JH.



# CITY CENTRE PANEL