

Address:	264 Belsize Road London NW6 4BT	
Application Number:	2009/2500/P	Officer: John Sheehy
Ward:	Kilburn	
Date Received:	29/05/2009	
Proposal: Retrospective permission for change of use of the premises from office use (Class B1) to non-residential institution (Class D1).		
Drawing Numbers: Site Location Plan; Site Plan; Ground Floor Plan; First Floor Plan; First Floor Sound Insulation Layout; Covering Letter Dated 21/05/09 from Sanette Gower @ City Sound; Product details for Foam Sound Absorption Tiles and Wood Sound Absorption Panels dated 28/05/09 from Kina & Vago; Premises Management Plan; Covering Letter dated 29/05/09 from Giles Arnold @ International Gospel Community; Noise Impact Assessment prepared by Practical Acoustics, dated 6th August 2009, ref. 3286.NIA.01; email from Sergio Dutra of International Gospel Community dated 10th September 2009.		
RECOMMENDATION SUMMARY: Granted		
Applicant:	Agent:	
International Gospel Community Mr Sergio Dutra 31 Noel Coward House 65 Vauxhall Bridge Road LONDON SW1V 2SW	Stewardship PO Box 99 Loughton ESSEX IG10 3QJ	

ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	B1a Business		624m ²
Proposed	D1 Non-Residential Institution		624m ²

OFFICERS' REPORT

Reason for Referral to Committee: Clause 3 (ix), where the Director of Environment has referred the application for consideration after briefing Members.

1. SITE

- 1.1 The application relates to an office building located behind the frontage buildings on the northern side of Belsize Road and the eastern side of Kilburn High Road. The premises has an authorised use as B1a Office; however it is currently used by the International Gospel Community Church (Class D1).

- 1.2 In its use as a church, the commercial unit at the street frontage serves as a reception area and leads to the 2-storey main building to the rear.
- 1.3 The main building has a substantial footprint; measuring 27.0m x 13.75m. The entire premises measures 624m².
- 1.4 The surrounding buildings vary in height from 3- to 5-storeys. These are generally in commercial use at ground floor level with residential and other uses in the upper floors. The neighbouring buildings within the urban block range in height from 2- to 4-storeys. Many of these buildings are attached to or serve the nearby commercial uses.
- 1.5 The site is located in Kilburn Town Centre. It is not located in a Conservation Area and the building on the site is not listed.

2. THE PROPOSAL

- 2.1 Retrospective permission for change of use of the premises from office use (Class B1) to non-residential institution (Class D1).
- 2.2 No external alterations to the building are proposed.

3. RELEVANT HISTORY

- 3.1 **May 2009** Application [ref. 2009/0538/P] for change of use from office use (Class B1) to non-residential institution (Class D1). Withdrawn by the applicant on officer advice, as no information was provided on the specific hours of the most noise-generating activities, no form of noise attenuation was proposed to the building and no technical report was provided to demonstrate the extent of the noise generated and whether it would meet the Council's noise standards.

4. CONSULTATIONS

- 4.1 Site notice displayed on the street outside the property.

4.2 Adjoining Occupiers

	First Consultation Period	Second Consultation Period
<i>Number of letters sent</i>	26	26
<i>Total number of responses received</i>	2	3*
<i>Number of electronic responses</i>	1	1
<i>Number in support</i>	0	0
<i>Number of objections</i>	2	3*

* Two of the objectors wrote in twice, once on the original consultation and once on the second consultation

- 4.3 *Originally the consultation period expired on 21/07/2009. The Council received an additional Acoustic Report and neighbours were re-consulted. The second consultation period expired on 31/08/09.*
- 4.4 Cllr John Bryant, a neighbouring occupier, objected to the application in a personal capacity. His objections are summarised as follows:
- 4.5 "This church has been operating since November 2008 without planning permission. I note that belatedly the new application refers to some secondary double glazing to reduce the noise emanating from the services taking place, but this is not the only nuisance caused by this organisation.
- 4.6 The premises have been office space for over ten years. I moved into the second floor flat at 264 Belsize Road in July 1998 and the previous owner talked of it being offices for many years before that. Living in a mixed commercial and residential area has its drawbacks and that I accept. But for the most part the commercial activities do not extend into the evening on a Sunday, our one evening of relative peace. The church services attract dozens of worshippers and this has three effects.
- 4.7 1) Worshippers on leaving the premises at 9.00pm on a Sunday spill out onto the narrow pavement and are very noisy.
2) Members of the church continue to harass those walking past (especially my neighbours in the street) to encourage them to come inside.
3) After weekend events the amount of rubbish in bin bags deposited outside the premises (and elsewhere on the street) exceeds by about four times what is usually placed there. On environmental health grounds this is a serious menace.
- 4.8 These premises were designed as offices. They work well as offices and have never up to now created any kind of nuisance. Those living in residential property here have the noise nuisance of the nearby railway to contend with and therefore open their rear windows for ventilation, especially in the summer. So even muted noise from these premises will make it difficult for residents to live in peace. Let the use remain as office space."
- 4.9 *Cllr Bryant wrote again in a personal capacity on 13th August objecting to the application having examined the acoustic report.*
- 4.10 "I accept that the report appears to suggest that the abatement measures might bring the noise to one decibel inside the target, but I do not accept that this is fool proof. The report was commissioned by the applicant and not the Council and so clearly is not independent.
- 4.11 The achievement of the target noise reduction depends on the church not opening any windows and those of us who live nearby only opening ours a fraction for ventilation.
- 4.12 The activities of the church have taken place without planning permission now for 9 months. Besides the regular Sunday services they occur midweek as well. The

rubbish that accumulates on the street after a Sunday service dwarfs all of the black bags from other activities. The numbers attending on a Sunday create pedestrian congestion [and disturbance] outside in the street. Sunday evenings used to be the only time of the week when residents got any peace and quiet. Now the church has ended that.

4.13 I continue to object to the change of use. Office workers do not make noise. They do not congregate out on the street on a Sunday. They do not leave excessive rubbish behind on a Sunday evening. A change of use is inappropriate and diminishes the amenity for local residents.”

4.14 The occupier of 272 Belsize Road objected to the application initially and after studying the acoustic report. The following points were raised:

- The church use creates “congestion and noise as people come and go from the building”.
- “Loud gospel music is played every Sunday and some mid-week nights, which disturbs the neighbourhood and people in their homes should not be subjected to this”
- “The building is not suitable as a church”

“As the church runs some sort of catering establishment there is extra rubbish on the pavement, which is very dangerous for the general public”.

4.15 The occupier of 266 Belsize Road objected to the application and raised the following points:

- The noise levels from the church use are unacceptable and disturbing;
- The use creates a lot of extra traffic and rubbish and is inappropriate for an area with so many residents.

5. POLICIES

5.1 Replacement Unitary Development Plan 2006

London Borough of Camden Replacement UDP 2006

SD6 Amenity for occupiers and neighbours

SD7B Noise/vibration pollution

SD8 Disturbance

E2 Retention of existing business uses

C1a New Community Uses

Appendix 1 Noise and Vibration Thresholds

5.2 Other Relevant Planning Policies

Camden Planning Guidance 2006

6. ASSESSMENT

6.1 The principal considerations material to the determination of the application are:

- the acceptability of the proposal in land use terms; and
- the impact on the residential amenity of neighbouring occupiers.

Land use

- 6.3 Policy E2 of the UDP states that the Council will not grant planning permission for development that involves the loss of a business use on a site where there is potential for that use to continue. However, in exceptional circumstances, where a site is not suitable for the continuation of any business use other than B1(a) offices, the Council may allow a change to residential or community uses.
- 6.4 The officer dealing with this application carried out a site visit and concluded that the building is not readily suitable for flexible business use. It does not have the appropriate specifications (for example goods lifts, high floor-to-ceiling heights, feasible access arrangements for delivery and service vehicles) to be suitable for continued business use other than in Class B1(a).
- 6.5 In order to support the application from change of use from Class B1a office accommodation, information regarding the marketing period was provided. The information came from Castle Trading, the owner of the site, and provides details of the Estate Agents who marketed the property. Officers have contacted a number of the estate agents referred to in the correspondence from Castle Trading, and they have verified that the information provided with regard to the marketing period is accurate.
- 6.6 When the property became available in April 2005, it was marketed as Class B1a offices but there was limited interest, partly because of the site constraints, with no natural light on the ground floor and the location of a bus stop directly outside the front door. The rent at which the property was marketed was £100,000 per annum which equates to £160 per m² or £14 per ft². Typical Central London locations charge anything up to and above £40 per ft² for office premises, and, whilst they aren't comparable in type and location to this site, it suggests that the applicants in this case have not set the proposed rent at an artificially high level.
- 6.7 Nevertheless, the estate agents failed to secure a Class B1a tenant and, because there was some interest in Class D1 use, the owner started considering such users as potential tenants. The premises were let to the current church occupiers in November 2008. These occupiers then applied for planning permission to retain the Class D1 use under this application (and the previously withdrawn application).
- 6.8 Camden's Employment Land Review dated June 2008 states that the area around Kilburn High Road is not a strategic office location and went on "it does not have the potential to become a strategic office location in a wider London context it has no track record in this respect, and lacks specific locational advantages such as closeness to an arterial road or a Central London rail terminus." [section 4.76, p.48].

- 6.9 Because of the evidence provided regarding the marketing period and the strong possibility of the premises remaining vacant for a period of time had the current use not occupied the premises, the loss of the B1a use is considered acceptable in this instance.
- 6.10 Turning to the proposed use, Policy C1a of the UDP states that the Council will grant permission for the development of community uses (which a place of worship is considered to be) in suitable locations. Facilities with a local catchment should be located close to the community they serve and/or be easily accessible by public transport.
- 6.11 Para.8.10 provides supporting information and states that sites within predominantly residential areas may be acceptable for community uses provided the proposals meet a local need and would not harm neighbouring amenity, and would not cause or contribute to local traffic problems.
- 6.12 Class D1 is a broad use class and includes uses such as Health Centres, Art Galleries, Exhibition Halls and Non-Residential Education Centres. Many of these uses have impacts on neighbouring occupiers which the church use currently under consideration would not have. The activities associated with these uses could stretch over a different time period than the church use, operating up to and over 18 hours per day on weekdays and weekends. If the Council was to grant permission for a general unrestricted Class D1 use, this would allow the premises to be occupied by some of these uses without any requirement for new planning permission to be secured. In order to ensure that the premises would be used solely as a Place of Worship and for no other purposes within Class D1 a condition is attached to the decision notice such that any changes within Class D1 use would require a new planning application.
- 6.13 In land use terms the proposals are broadly acceptable in the context of the requirements of Policy C1a.

Amenity

- 6.14 A previous version of this application was withdrawn by the applicant on officer advice (see relevant history section). The Council had received a number of strong objections from neighbouring occupiers, specifically with regard to the noise disturbance caused to neighbouring occupiers as a result of the services held in the Worship Area in the upper floor of the main building. This is the most noise-generating activity which is carried out as part of the church use.
- 6.15 No information was provided with the previously withdrawn application on the times of the services in the Worship Area; no form of noise insulation was proposed to the building; and no technical report was provided to demonstrate the extent of the noise generated and whether it would meet the Council's noise standards.
- 6.16 The applicant has provided all of the above information as part of this application.
- 6.17 *Hours of the most noise-generating activities:* the applicant has provided a "Premises Management Plan" under which the premises would be operated. The principal features of this plan are as follows:

- The ground floor (which is sealed and has no windows) would be used from 9am to 9pm Monday to Friday for Meetings and Training Sessions, including musicians' rehearsals on Tuesday and Thursday from 6pm to 9pm.
- The upper floor of the building would host the main religious services on Wednesday at 7pm, Saturday at 7pm and Sunday at 6.30pm. Each of these services would last for 2 hours with music played for 25 minutes early in the service and for 10 minutes at the end.

- 6.18 *Sound insulation measures:* the applicant has provided details of the sound attenuation measures that would be integrated into the Worship Area. These are illustrated in the Sound Insulation Layout provided. The sound insulation measures are made up of secondary double glazing to the existing side windows (which are already double glazed) and to the rooflight; non-flammable foam absorption tiles located above the stage area; and wood sound absorption panels on the inside at the eastern internal wall of the worship area.
- 6.19 *Technical Report:* the applicant has submitted a noise impact assessment prepared by Practical Acoustics, an independent acoustic engineering company. This report demonstrates that Camden's noise standards would be met at all times following the installation of the proposed sound insulation measures. Camden's Environmental Health Advisor has considered the report and confirmed that the details of the application meet the Council's Noise Standards.
- 6.20 In order to safeguard neighbour amenity, a condition has been attached to the decision notice to ensure that the Worship Area is not used for religious services or other activities in which music is played or performed until the Council has confirmed in writing that it is satisfied that the sound insulation measures have been fully installed.
- 6.21 The acoustic report demonstrates that Camden's noise standards would be met. However, given that the site is located in an area which contains residential use and there is potential for the loss of residential amenity, it is considered necessary to attach a condition to the decision notice to restrict the use of the Worship Area to services with music playing or being performed to the hours set out in the Premises Management Plan; i.e. from 7pm to 9pm on Wednesday, from 7pm to 9pm on Saturday, and from 6:30pm to 8:30pm on Sunday. Because of the location in a residential area the Council's standard noise and music conditions have also been attached to the decision notice and a further condition has been attached to ensure that the windows of the Worship Area are shut during services.
- 6.22 Concerns were raised by objectors about the general disturbance caused in the area by users of the church. The front entrance is located at a narrow area of pavement with a bus stop. As such there is considered to be very limited scope for large groups congregating outside the premises and causing noise and disturbance to passers-by or nearby residents. In response to these concerns, the applicant has written to the Council to state that they are committed to keeping the levels of noise produced by their members to a minimum: the church has given a written commitment to display posters within the property both in English and Portuguese (the principal languages used) reminding their members that they are in a

residential area and therefore should control the noise and disturbance produced by children and families leaving and entering the premises.

- 6.23 The site is located in Kilburn Town Centre and is approximately 50m to the east of Kilburn High Road. While it is located in an area which contains residential use, other uses in the immediate vicinity include Retail (Class A1), Office (Class B1), Restaurants and Cafes (Class A3), Hot Food Takeaway (Class A5) and Financial and Professional Services (Class A2). The close proximity to Kilburn Overground Station and numerous bus routes on Kilburn High Road and Belsize Road result in significant street activity all through the day and evening both during weekdays and at the weekend. It is recognised that the activity in the evening during weekends may be reduced compared to more busy periods of the week, nevertheless the proposal is considered to be in keeping with the vibrant mixed use nature of development in the area.

Refuse storage

- 6.24 Objectors to the application stated that the church use has generated a significant amount of rubbish which is deposited in black bags outside the premises.
- 6.25 Camden Planning Guidance states that the 1m³ of refuse storage is required for every 300m² to 500m² of commercial space (no guidance is provided in relation to Class D1 uses). The applicant has provided 105m³ of general storage at rear ground floor level for a Class D1 premises which measures 624m². It is considered that this storage area can provide refuse storage well in excess of the Council's standards. Whilst it is recognised that a large quantity of refuse bags may be deposited on the public highway on the days of collection, this is a temporary occurrence and is not considered to constitute a reason for refusal. Sufficient details have been provided with regard to storage capacity and location and no further details are required by condition.
- 6.26 There are considered to be no further amenity implications as a result of the proposed change of use.

Transport

- 6.27 Camden's Transport Planning Officers have commented on this application and have raised no objection.

7. CONCLUSION

- 7.1 Given the evidence from the marketing period together with the site constraints, there would appear to be potential for the property to remain vacant for a period of time if permission for change of use to Class D1 or another use is not granted. With regard to the proposed use of the premises as a Place of Worship within Class D1, this is consistent with the Council's land use policies set out in the Unitary Development Plan. Sufficient information and evidence has been provided by the applicant to demonstrate that the use of the premises as a Place of Worship within Class D1 would not have a detrimental impact on the amenity of neighbouring occupiers. In addition, a number of conditions have been attached to the decision

notice to ensure that the use of the premises as a Place of Worship will not harm the amenity of neighbouring occupiers. It is therefore recommended that planning permission be granted.

7.2 Planning Permission is recommended subject to a S106 Legal Agreement.

8. **LEGAL COMMENTS**

8.1 Members are referred to the note from the Legal Division at the start of the Agenda.