

Decision Maker: PLANS SUB-COMMITTEE NO. 1

Date: Thursday 6 February 2014

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **KINGSWAY INTERNATIONAL CHRISTIAN CENTRE,
25 CHURCH ROAD, ANERLEY, SE19**

Contact Officer: Philip Spiteri, Planning Enforcement Officer
Tel: 020 8461 7751 E-mail: Philip.Spiteri@bromley.gov.uk

Chief Officer: Chief Planner

Ward: Crystal Palace;

1. Reason for report

To ascertain the views of Members as to whether enforcement action should be taken against KICC for an alleged material change of use of the premises in breach of planning control.

The issue is whether an event which took place at the premises on 31 December 2013 and fell outside of the lawful permitted use constitutes a material change of use of the premises.

2. **RECOMMENDATION(S)**

- 2.1 That it is not expedient or proportionate to take further action based on the use of the site at this stage.
- 2.2 The monitoring of the use be continued with a further report to the committee if circumstances change.
- 2.3 The owners be requested to submit a planning application for intended use.

3. COMMENTARY

- 3.1 Members may be aware of the recent concerns from local residents regarding the “Watchnight” event organised by KICC at 25 Church Road on 31 December 2013. Over 70 complaints were received from local residents.
- 3.2 The relevant background is summarised below.
- 3.3 When the concerns about use of the premises were reported to the Plans Sub Committee on 17 October 2013 two events had been held by KICC at the premises in 2013 – an education conference in February and the ‘Night of Joy’ in July. Council officers attended both events and it was concluded that the first fell within Class D1 (Non-residential Institutions including places of worship) and the second within the lawful Class D2 use (Assembly and Leisure, which includes use as a cinema, bingo hall, concert hall and dance hall).
- 3.4 As the conference was a one-off event it was decided that it did not involve a material change of use. Members of the Sub-Committee resolved to take no further action based on the low level of use and the nature of the events which had so far been held. It was also resolved that the use of the building should continue to be closely monitored.
- 3.5 When details of the “Watchnight” event on 31 December 2013 emerged, KICC claimed that it fell within the lawful Class D2 use. However there were local concerns that the proposed event would take the form of a religious service which would fall within Class D1 and outside the lawful Class D2 use.
- 3.6 In view of the number of local complaints and the lack of information about the format and content of the event a Notice was issued under S330 of the Town and Country Planning Act 1990. This required further information to be provided before the event took place to enable an informed decision to be made as to whether the use was within Class D2.
- 3.7 A response to the S330 Notice was received on 28 December 2013 in which KICC described the event as a New Year celebration including music, dance and drama as well as the countdown to the New Year. They stated that no alcohol would be on sale but snacks and soft drinks would be provided. KICC also confirmed that there would be no preaching at the event and stated that the event would not take the form of a religious service.
- 3.8 Planning officers met with the Council’s solicitors and Licensing Officers before the event to discuss the response to the S330 Notice and the most appropriate course of action. However it was considered that the response to the S330 Notice did not provide any additional evidence that there had been a material change of use. 3.9 Three officers from Planning and Licensing attended the event on 31 December 2013 in order to witness the proceedings at first hand. They were able to assess the extent of any religious content and whether the event satisfied Licensing requirements. The event took the form of a New Year celebration involving song and dance featuring amplified music and a gospel choir, and included praise and worship. A short drama performance was presented by the Children’s Church.
- 3.10 The Head of Licensing was able to confirm that in view of the religious content this was not a licensable event under the Licensing Act. Regulated Entertainment, which includes music, singing dance, is a licensable activity but the Act makes a specific exemption for entertainment provided as part of, or incidental to a religious meeting or service (Para. 9a Schedule 1 Part 2 (Exemptions) Licensing Act 2003). Based on the nature of the words, music and performance observed the Licensing Officers were satisfied that the “Watchnight” event was a form of worship and therefore came within the exemption as being a religious meeting or service.

- 3.11 KICC have also stated their intention to submit a planning application for a mixed D2/D1 use but no further details are known at this stage.
- 3.12 Expediency; Under national guidance and practice, the council needs to consider the expediency of taking planning enforcement action. The site appears to have been used as a place of religious worship on two occasions in 2013. Whether there is a material change of use is a question of fact and degree. In this instance the land still retains its general characteristics in appearance. The extent of the usage is limited, to two days in a year. There is little evidence of harmful noise or disturbance to local residents. Overall there is insufficient evidence of a material change of use that causes harm and it does not appear expedient to take action at this stage. The use should be monitored and the owner invited to submit a planning application.
- 3.13 A legal view has been sought on this matter, the advice given is that the activity in itself did not constitute a material change of use, taking into account the effect of the activity to local amenity and the frequency of the events held at the premises. It is suggested that the owners submit a planning application to deal with on-going issues between themselves and local residents.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	