

Agenda Item A11	Committee Date 28 September 2009	Application Number 09/00787/VCN
Application Site Former Cinema King Street Lancaster Lancashire	Proposal Variation of condition number 24 on 08/01129/FUL to extend opening hours from 08:30 to 22:00 daily to 06:00 to 23:00 daily	
Name of Applicant Gala Lancaster	Name of Agent Phil Robinson	
Decision Target Date 10 November 2009	Reason For Delay N/A	
Case Officer	Mr Andrew Drummond	
Departure	No	
Summary of Recommendation	Approve the variation of Condition 24	

1.0 The Site and its Surroundings

- 1.1 The application site is located on the corner of King Street and Spring Garden Street. The old cinema building is constructed of red brick with faience panels to the King Street façade. The Spring Garden Street elevation is of solid brick, and is only currently broken up by a billboard.
- 1.2 Both King Street and Spring Garden Street are one-way roads, with the former forming part of the city's gyratory systems. On the opposite side of Spring Garden Street is a small, surface public car park, and diagonally across King Street lies the cobbled and 'tree-scaped' triangular area known as Queen Square.
- 1.3 The properties visible from the site to the west and south are predominantly 3-4 storey Georgian terraces built in the eighteenth century with traditional stone and large sash windows. The properties immediately to the north of the site along King Street, that form a 2-storey terrace that arcs round into Common Garden Street, are inter-war construction.
- 1.4 The site falls within the City Centre Conservation Area and within the City Centre as defined by the Local Plan in relation to retail development and uses. Though there are numerous Listed buildings in the vicinity of the site, there are no Listed buildings actually adjacent to the building that currently occupies the site, namely the old ABC cinema and bingo hall.

2.0 The Proposal

- 2.1 The purpose of this application is to vary condition 24 attached to planning permission 08/01129/FUL (the planning permission to demolish the cinema/bingo hall and erect a 6-storey building accommodating a hotel with retail below) to extend the opening hours of the retail space from 08.30-22.00 daily to 06.00-23.00 daily.
- 2.2 This application does not seek to change the design, scale, form, floorspace or materials of the approved building, nor does it seek to change the access or servicing arrangements of the approved building.

3.0 Site History

3.1 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
08/00146/CON	Demolition of existing bingo hall and cinema complex	Granted
08/01129/FUL	Construction of a 6-storey development with A1 retail use at ground and first floors with a 115 bedroom hotel at second to fifth floors	Granted
09/00628/VCN	To vary Condition 17 attached to planning permission 08/01129/FUL to allow the retail space to be used by open A1 uses (including food retailers)	Withdrawn

4.0 Consultation Responses

4.1 The following responses have been received from statutory and internal consultees:

Consultees	Response
County Highways	No objection.
Police	No objection.
Environmental Health	No objection.

5.0 Neighbour Representations

5.1 1 piece of correspondence of objection has been received. The reasons for opposition include the following:

- Creation of unfair and unnecessary noise and disturbance to local residents;
- Concerns that the applicant, if successful in varying this condition, will seek to vary servicing hours, resulting an unacceptable levels of disturbance earlier and later in the day and night.

6.0 Principal Development Plan Policies

6.1 National Planning Guidance

PPG24 (Planning and Noise) - local planning authorities are encouraged to use their planning powers to minimise the adverse impact of noise. The guidance outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise. It explains the concept of noise exposure categories for residential development and recommends appropriate levels for exposure to different sources of noise.

6.2 Lancaster District Core Strategy - adopted July 2008

Policy **E1** (Environmental Capital) - to safeguard and enhance the District's environmental capital by applying national and regional planning policies and (amongst other things) resisting development which would have a detrimental effect on environmental quality and public amenity.

7.0 Comment and Analysis

7.1 The reason for condition 24 was to control the opening hours of the proposed retail floorspace at the former cinema site, so that local residents would not be disturbed by customers accessing and exiting the retail units both late at night and early in the morning. However, the applicant has submitted a Noise Assessment as part of this application that concludes that the prevailing ambient noise levels (i.e. the existing background noise which is mainly generated by traffic) in the mornings between 0600 and 0830 and at night between 2200 and 2300 exceeds any noise generated by customers coming and going for the stores. Noise levels start to pick up from as early as 0500 and

do not decline until the pubs, bars and takeaways close after midnight. Hence the movements of customers from what is a relatively quiet use such as retail will not have a detrimental effect on local residents. The Authority's Environmental Health Service agrees with this conclusion and as such they do not object to the extended opening hours. Similarly, the Police and County Highways have no concerns in terms of the impacts upon the highway network or community safety. Therefore they have no objections.

7.2 Servicing and deliveries will remain controlled by condition between 08.00 and 20.00 hours.

8.0 Conclusions

8.1 In light of the above analysis and the lack of objections from the consultees, it is recommended that the condition is amended as proposed.

Recommendation

That planning permission **BE GRANTED** to amend Condition 24 attached to Planning Permission 08/01129/FUL to state the following:

24. No operations or activities shall occur within the ground and first floor retail space outside of the hours of 06.00 and 23.00 without the prior approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

Human Rights Act

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

Background Papers

None.