

WINDSOR DEVELOPMENT CONTROL PANEL

21 January 2009

ITEM: 8

Application No.:	08/02829/FULL
Location:	1 To 3 High Street Sunninghill Ascot SL5 9NQ
Proposal:	Installation of plant equipment comprising 3 no. free standing air conditioning units and associated twin fan condenser (duplicate of 08/02760)
Applicant:	Tesco Stores Limited
Agent:	Mr Chris Brocklebank - CGMS Consulting
Parish/Ward:	Sunninghill And Ascot Parish

If you have a question about this report, please contact: on 01628 685729 or at marcus.sturney@rbwm.gov.uk

1. SUMMARY

- 1.1 Two identical applications have been submitted for the installation of 3 air conditioning units and associated twin fan condenser, this application ref. 08/02829 and 08/02760. This report deals with both applications, although application 08/02760 has now been appealed against on the grounds of non-determination within the 8 week target period.
- 1.2 The proposed siting of the plant, at the rear of no. 1-3 High Street in a car parking area, is close to the residential gardens of three neighbouring properties. Whilst a Noise Impact Assessment has been submitted during the course of consideration of the application, no information has been submitted to demonstrate that there would not be any harm to the amenity of these garden areas from the noise that would be generated by the plant.
- 1.3 The siting of the plant would result in the loss of 2 car parking spaces within an area of parking for about 5 cars at the rear of the premises. This would increase the already substantial on-site parking deficiency in an area that has a high demand for parking and which would adversely affect road safety and the free flow of traffic.

It is recommended the Panel resolves that permission would have been refused for application ref. 08/02760 and refuses application ref. 08/02829 for the following summarised reasons (the full reasons are identified in Section 9 of this report):

- | | |
|---|---|
| 1 | The Local Planning Authority is not convinced that there would not be significant harm caused to neighbouring residential gardens arising from noise from the proposed plant. |
| 2 | The loss of parking on the site and the resulting increase in the on-site parking deficiency to serve the premises would lead to on-street parking in an area that has a high demand for parking and significantly harm highway safety in the area. |

2. REASON FOR PANEL DETERMINATION

- At the request of Councillor Hilton (on application ref. 08/02760) who advises that:

"I wish to call this planning application in at the request of the Sunninghill and Ascot Parish Council. The Parish Council objects to the application as the air conditioning condensers are for an enlarged ground floor, permission for which is the subject of a Public Inquiry and has not yet been granted, this application is therefore premature. Also, the location of units will reduce on-site parking and turning space. Although the units would be used only during opening hours, those hours are long and would result in noise and lack of amenity to neighbours. No information is submitted as to noise level and this should be tested by Environmental Health against NAP3".

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The site measures some 0.07 hectares in area and lies to the west of Sunninghill High Street at its junction with School Road. Lying just within the Small Settlement Commercial Area identified in the Local Plan, nos. 1 - 3 High Street comprises a two storey building. The ground floor is vacant and was last used as a shop with an internal access leading to a two bedroom flat, a self-contained office and chiropractors premises at first floor level. The gardens of residential properties abut the site on its northwestern and western boundaries (to the side and rear in School Road and The Terrace respectively), with commercial lying property to the south (along the High Street).

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

07/01586	Reconfiguration of ground floor retail floor space with rear and side extensions plus reconfiguration of first floor office and flat with rear extension (1-3 High Street only)	Refused 24/07/07 Appeal withdrawn
08/01012	Reconfiguration of ground floor retail floor space with rear and side extensions plus reconfiguration of first floor office and flat with rear extension and creation of dedicated servicing/car parking area	Refused 12/06/08 Appeal withdrawn
08/02350	Reconfiguration of ground floor retail floor space with rear and side extensions plus reconfiguration of first floor office and flat with rear extensions, creation of dedicated servicing/car parking area	Refused by Panel 31/10/08 Currently at appeal by way of a Public Inquiry in February 2009
08/02353	Alterations to ground floor retail unit	Approved by Panel 04/11/08
08/02354	Advertisements (ground floor retail unit)	Consent granted by Panel 05/11/08
08/02355	Alterations to ground floor retail unit	Approved by Panel 05/11/08
08/02356	Advertisements (ground floor retail unit)	Consent granted by Panel 05/11/08

- 4.1 This application is submitted in connection with the applicant's proposed occupation of the ground floor premises and the nature of its retail operation in that unit.
- 4.2 The proposed works comprise the installation of 3 stand-alone air conditioning units and an associated twin fan condenser unit. The plant would be located to the rear of the premises, about 10.8m from the rearmost wall of the building and towards the rear of an open area that is currently laid out as a car park. The location of the plant would necessitate the removal of some of the land that is currently laid out for car parking and resulting in the loss of 2 car parking spaces.

5 MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

Berkshire Structure Plan and Royal Borough Local Plan

- 5.1 The main strategic planning considerations applying to the site and the associated policies are:

	Within settlement area
	✓
Structure Plan	DP5
Local Plan	DG1, NAP3, P4

Local Strategies or Publications

5.2 Other Strategies or publications relevant to the proposal are:

- RBWM Parking Strategy – view using link at paragraph 5.4

More information on this document can be found at:

http://www.rbwm.gov.uk/web/pp_supplementary_planning.htm

6. EXPLANATION OF RECOMMENDATION

6.1 The key issues for consideration are:

- i the noise generated by the equipment and its impact on neighbouring residential amenity;
- ii the impact of the reduction in off-street car parking to serve the premises on highway safety in the area; and
- iii the impact of the works to install the equipment on a Sycamore tree in one of the residential gardens abutting the site's western boundary and any consequent impact on the visual amenities of the area.

Noise and its impact on Neighbours

- 6.2 The applications are accompanied by a Noise Impact Assessment (NIA) which is based upon British Standard BS4142:1997 requirements. This information is required to enable an accurate assessment of the likely noise impact of the proposal on neighbouring residential amenity.
- 6.3 The NIA describes the type of equipment that is proposed to be installed, the methodology and criteria used in the assessment, site details, the calculation of noise levels, assessments and a conclusion. Importantly, it identifies what it considers to be the most relevant physical point of assessment, which is at the façade at the first floor window of no.1 School Road, the residential property abutting the northwestern boundary of the site. The façade at this point is about 12m away from the proposed location of the equipment.
- 6.4 The NIA has been thoroughly reviewed by the Council's Environmental Protection Officer and, in the context of the above locational criteria, has been found to be robust with the justified conclusion that there would not be any noise nuisance arising from the development. However, there are also noise-sensitive locations elsewhere other than the nearest noise-sensitive façade of no.1 School Road, notably the garden areas to no.1 and those of the dwellings in The Terrace that abut the western boundary of the site. In particular, the gardens of nos. 1 School Road, 20 and 22 The Terrace immediately abut the application site and would be much closer to the new equipment, albeit separated by an existing low wall with a fence above. From anecdotal evidence it is clear that these gardens are well used private amenity areas serving those properties.
- 6.5 The NIA does not contain any assessment information about the impact of the equipment on the garden areas. These garden areas may be most vulnerable to noise at weekends and in the evenings and your Officer's need to be convinced that the proposal would not give rise to an unacceptable level of noise disturbance to those gardens. The Council's Environmental Protection Officer concurs with this view. In the absence of such information at this time, it is

considered that it would be inappropriate to grant permission for the proposal and that, even if only as a precaution, Officer's concerns over the impact on the neighbour's gardens goes towards the unacceptability of the proposal. In considering this matter Members are advised that the planning test of harm is based on the impact on amenity is a lesser test than whether or not the impact constitutes a statutory noise nuisance.

Parking and highway Safety

- 6.6** The installation of the equipment would result in the loss of 2 off-street car parking spaces. The existing parking area can accommodate about 5 cars in accordance with the adopted standards for a parking layout. The Highway Officer advises that the existing uses on the site generate a requirement for 26 off-street car parking spaces (the existing uses provide approximately 246m² of retail (Class A1); 100m² of office (B1) and 56m² chiropractor's premises (D1), and a two bedroom flat.
- 6.7** Both the retail/commercial and residential areas of Sunninghill are heavily parked. It is therefore considered essential that new development does not significantly exacerbate the current situation. It is clear that the existing parking area to the rear of the premises is not large enough to accommodate even the operational parking for the existing uses within the premises and, with parking in the area apparently close to saturation, the loss of even part of the existing off-street parking would be significant.
- 6.8** The existing uses are substantially underprovided with off-street parking facilities, even on an operational basis. The reduction in this provision by 2 car parking spaces would place further burden on the heavy demand for parking in the area and is likely to lead to a deterioration in road safety in the area.

Trees

- 6.9** There are no trees within the parking area itself. There is a Sycamore tree in the neighbouring garden to the rear of the application site which overhangs the site by about 2.5m. The tree is on higher land with the application site separated by a retaining wall and a fence above. There is unlikely to be any significant disturbance to the tree's root system and with branch clearance above the ground level of about 5m, there is no indication that the tree would need to be pruned back to allow the equipment to be installed. In any event the tree has been heavily crown reduced in the past and is in a structurally poor condition. In view of these matters it is not considered that there are any grounds for concern regarding the impact of the equipment on the tree or the visual amenity of the area.

Other Material Considerations

- 6.10** The drawings submitted with application 08/02760 include a site layout that shows a single-storey rear extension and other works to the existing building, with the proposed equipment being positioned immediately at the rear of the rear extension. The extension (and other works that are indicated on the submitted plan) is the subject of the appeal against the refusal of permission for the extension and does not form part of the current application. Another drawing has been submitted that deletes these to ensure that there is no ambiguity in what is being applied for, and the position of the proposed equipment remains unchanged.
- 6.11** Whilst local concerns over the application are understood, and it might appear that the application for the equipment is predicated by both the nature of the operation of the store by the applicant and the desire for the rear extension, these matters are not relevant to the assessment of the applications which ought to be determined on the basis of what is submitted in the application and not what may be the future intentions of the applicant. Also, planning legislation does not give any authority to the Council to decline to determine, or delay determination of the application, because of the outstanding appeal for the extension to the premises.

7. CONSULTATIONS CARRIED OUT

Comments from interested parties

7 occupiers were notified directly of the application.

No letters were received in support of the application.

3 letters were received objecting to the application, summarised as:

Comment		Where in the report this is considered
1.	Lack of noise information and so unable to assess noise impact on neighbouring properties [3]	Para's. 6.2 – 6.5 inc.
2.	Continuous noise disturbance will impact unreasonably on homes and gardens, at times when quietness may reasonably be expected [3]	Para's. 6.2 – 6.5 inc.
3.	The close proximity of the plant to a rear garden would result in an unacceptable level of noise that would harm the enjoyment of that area and information should be submitted to demonstrate the impact [1]	Para's. 6.2 – 6.5 inc.
4.	Loss of parking when existing off-street level is only sufficient for the first-floor occupiers and not for the store – will exacerbate demand for already inadequate on-street parking [2]	Para's. 6.6 – 6.8 inc.
5.	Application appears to relate the proposal to the previous applications for an extension to the store; therefore, the size and location is inappropriate for the current store and the decision should be delayed until the Public Inquiry [into the refused extension] [3]	Para's. 6.10 – 6.11 inc.

Statutory consultees

Consultee	Comment	Where in the report this is considered
Sunninghill & Ascot Parish Council	[Both applications] - Applications are premature, as they are for plant and equipment associated with the enlargement of the premises, currently the subject of a Public Inquiry - Loss of parking and turning space - Noise/lack of amenity to neighbours – no noise information submitted	Para's. 6.10 – 6.11 inc. Para's. 6.6 – 6.8 inc. Para's. 6.2 – 6.5 inc.

Other consultees and organisations

Consultee	Comment	Where in the report this is considered
Society for the Protection of Ascot and Environs (SPAEE)	- Loss of existing parking i) Pre-judges outcome of appeal ii) - Plant should be located as far away from the residential properties as possible, preferably within the store.	Para's. 6.6 – 6.8 inc. Para's. 6.10 – 6.11 inc. Para's. 6.2 – 6.5 inc.

8. APPENDICES TO THIS REPORT

- Appendix A - Site location plan

9. REASONS RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED:

- 1 The application is accompanied by a Noise Impact Assessment that does not include any information or assessment to demonstrate that the noise generated by the proposed air conditioning units and associated condenser would not result in an unacceptable level of noise disturbance to the private rear garden areas of neighbouring residents close to the application site. In the absence of this information, the Local Planning Authority is not convinced that the proposal would not result in an unacceptable level of noise disturbance to the use of those garden areas to a degree beyond that which those neighbours might reasonably expect to enjoy. As such the proposal is contrary to saved Policy NAP3 of the Royal Borough of Windsor and Maidenhead Local Plan, 1999 (Incorporating Alterations Adopted in June 2003) and to saved Policy DP5 of the Berkshire Structure Plan 2001 - 2016 (Adopted in July 2005).
- 2 The proposal would lead to the loss of 2 off-street car parking spaces within an existing car parking area for the premises. With the premises already being substantially deficient in off-street car parking and the surrounding area being the subject of heavy demand for car parking, the loss of the 2 car parking spaces would add to the pressure for on-street car parking provision and lead to an unacceptable reduction in highway safety in the area contrary to the aims of saved Policy P4 of the Local Plan and to the Council's Parking Strategy, May 2004.