

Application Number	15/1045/FUL	Agenda Item	
Date Received	4th June 2015	Officer	Michael Hammond
Target Date	30th July 2015		
Ward	Coleridge		
Site	Marque House 143 Hills Road Cambridge Cambridgeshire		
Proposal	Retrospective installation of 1 no. condenser unit over car park entrance, on the side of the parapet wall within the area leading down to the basement parking.		
Applicant	Mr P.O Box 53 New Century House Manchester M60 4ES United Kingdom		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ul style="list-style-type: none"> - The condenser unit does not detract from the character of the area. - The condenser unit does not visually harm the amenity of any neighbouring properties. - The condenser unit would not result in unacceptable levels of noise and so the amenity of neighbouring properties will not be harmed.
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

1.1 The application site, Marque House, is a large multi-storey building occupied by residential properties and retail uses on the ground floor levels.

- 1.2 The proposal site relates specifically to the internal basement car park ramp which is accessed via Hills Road. The ramp is used by occupiers of the residential properties within Marque House for car parking. On the ground floor level there is a large internal courtyard area and a footpath runs through the site from Cherry Hinton Road to Hills Road which runs alongside the basement car park ramp.
- 1.3 There are no site constraints.

2.0 THE PROPOSAL

- 2.1 The application seeks retrospective planning permission for the installation of 1 condenser unit over the basement car park entrance, situated on the side of the parapet wall within the area leading down to the basement parking. The condenser has been erected in place but is not operational at present.
- 2.2 The condenser unit is 2.3m in height and 4m in width and is situated 3.1m from the ground level of the basement car park entrance. The condenser is designed within an enclosure with timber cladding externally.
- 2.3 An acoustic noise report was produced on 3rd June 2015 to demonstrate the levels of noise that the condenser would produce. However, following discussions with the Environmental Health Team, it was concluded that the distances the applicants measured in the report did not take account of the nearest window which is situated 7.5m away from the condenser unit and serves a living room. As a result, further noise assessments were conducted on site on 25th June 2015 and the results of this have been published in the letter dated 2nd July 2015 from Acoustic Control Consultants Limited.
- 2.4 The application has been called in for determination at planning committee by Councillor Herbert due to the inadequacy of detail on the noise impact of the condensers particularly at night, the absence of any assessment of the best location, and the presence of errors in the application such as distances from the condenser to the nearest windows.

3.0 SITE HISTORY

Reference	Description	Outcome
15/1113/ADV	Illuminated fascia box sign along with an illuminated projecting sign.	Pending Consideration.
15/1112/FUL	Installation of a shopfront.	Pending Consideration.
15/0749/ADV	Sign 1) Aluminium fascia with acrylic The Co-operative food text with vinyl face. Internally illuminated. Sign 2) No.2 Aluminium blank fascia. Sign 3) Aluminium fascia with backed up acrylic Opening Hours text with vinyl face. Internally illuminated. Sign 4) Aluminium projection sign with acrylic The Co-operative food text with vinyl face. Internally illuminated. Sign 5) Wall mounted Remember your bags sign. Aluminium panel with applied vinyl text and image.	Permitted.
15/0490/FUL	Installation of extract grill above shop front for ventilation purposes	Permitted.
15/0046/ADV	1x Fascia sign, 1x projecting sign (both internally illuminated) and canvas awning.	Withdrawn
14/1943/FUL	Change of use of part of vacant Class A1 unit to a Costa Coffee shop (mixed Class A1/A3) and new shopfront	Permitted.

14/1846/FUL	Installation of plant pack with cage, and 1no. condenser over car park entrance, all within basement.	Application Returned
14/1481/FUL	Installation of plant pack with cage, 2no. AC condensers in cycle store, and 1no. condenser over car park entrance, all within basement.	Application Returned
14/1445/NMA	Non material amendment on applications 06/0007/OUT & 08/0505/REM for the relocation of the cycle parking present along the Hills Road frontage	Withdrawn.
14/0595/ADV	External hanging sign (non-illuminated).	Permitted.
13/0233/FUL	Proposed Change of Use of the ground floor retail units from a retail use (A1) to A1 shops, A2 (financial and professional services), and/or a sui generis Car Showroom (in the alternative)	Withdrawn.
06/0007/OUT	Residential development, ground floor retail (Class A1) uses, and related ancillary elements including car parking, cycle parking, new means of access and landscaping (Outline Application).	Permitted.

4.0 **PUBLICITY**

4.1	Advertisement:	No
	Adjoining Owners:	Yes
	Site Notice Displayed:	No

5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2006 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN	POLICY NUMBER
Cambridge Local Plan 2006	3/1 3/4 3/7 3/11 4/13

5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework March 2012 National Planning Policy Framework – Planning Practice Guidance March 2014 Circular 11/95
Supplementary Planning Guidance	Sustainable Design and Construction (May 2007)

5.4 Status of Proposed Submission – Cambridge Local Plan

Planning applications should be determined in accordance with policies in the adopted Development Plan and advice set out in the NPPF. However, after consideration of adopted plans and the NPPF, policies in emerging plans can also be given some weight when determining applications. For Cambridge, therefore, the emerging revised Local Plan as published for consultation on 19 July 2013 can be taken into account, especially those policies where there are no or limited objections to it. However it is likely, in the vast majority of instances, that the adopted development plan and the NPPF

will have considerably more weight than emerging policies in the revised Local Plan.

For the application considered in this report, there are no policies in the emerging Local Plan are of relevance.

6.0 CONSULTATIONS

Cambridgeshire County Council (Highways Development Management)

6.1 No objection.

Head of Refuse and Environment

6.2 The application is supported, subject to condition.

6.3 The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

7.0 REPRESENTATIONS

7.1 The owners/occupiers of the following addresses have made representations:

7 Marque House	9 Marque House
11 Marque House	15 Marque House
17 Marque House	18 Marque House
22 Marque House	23 Marque House
25 Marque House	26 Marque House
30 Marque House	32 Marque House
33 Marque House	36 Marque House
40 Marque House	42 Marque House
43 Marque House	48 Marque House
51 Marque House	56 Marque House
62 Marque House	63 Marque House
64 Marque House	78 Marque House
82 Marque House	85 Marque House
86 Marque House	87 Marque House
89 Marque House	Vitry, 14 Gazeley Road
149 Glenalmond Avenue	2 Elan House, 20 Cherry

	Hinton Road
8 Coppice Avenue, Great Shelford	

7.2 The representations can be summarised as follows:

- Noise disturbance on neighbouring properties.
- Noise disturbance on neighbouring courtyard/ garden.
- The proposal is contrary to policy 4/2 (Open Space) of the Local Plan
- The proposal is not in keeping with the character of the area.
- Visual intrusion.
- The proposal is contrary to policies 6, 35, 55, 56, 57 and 58 of the Cambridge Local Plan 2014.
- There is no need/ demand for a supermarket in this location.
- Increased traffic and disturbance from deliveries for supermarket.
- Increased car parking due to supermarket.
- Increase in anti-social behaviour due to sale of alcohol from supermarket.
- The proposal is unlawful and planning permission should have been sought prior to implementation.
- Safety of condenser unit in this position.
- Maintenance of condenser unit could block residents from entering/ leaving car park.
- The location of the condenser unit is poor and an alternative location should be sought.
- Air pollution disturbance from fumes.
- The noise assessment report is inaccurate.
- The plant equipment, even with planning conditions, is unlikely to meet the required noise guidelines.
- The proposal is contrary to NPPF paragraph 123.
- The proposal is contrary to the test of Statutory Nuisance set out in nuisance law.
- The proposal is contrary to the IOR/BRA 'Guide to Good Commercial Refrigeration Practice Part 2' and 'REALZero guide 'Designing out Leaks: Design Standards and Practices'.
- The proposal is contrary to objectives 1,2,3 and 13 of the Cambridge Local Plan 2014.
- The applicant was advised not to erect the condenser by the Local Planning Authority but ignored this.
- No consultation with local residents took place prior to the erection of this condenser.

- Heat generated from condenser could harm amenity of neighbouring properties.
- The increased noise disturbance would have a negative impact on the health of residents.
- The proposal is contrary to guidelines from the WHO, NHS, European Union and Case Law.

7.3 The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

8.0 ASSESSMENT

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Principle of Development
2. Context of site, design and external spaces
3. Residential amenity
4. Third party representations

Principle of Development

8.2 It is noted that several objections have been raised in relation to the siting of the ground floor supermarket in this location. However, the use of this ground floor area for the purposes of a supermarket (A1) was determined under the original planning permission for this site (06/0007/OUT). This application solely refers to the retrospective installation of the condenser unit and the use of the ground floor area for the purposes of a supermarket (A1) is not a consideration in the determination of this application.

Context of site, design and external spaces

8.3 The condenser unit is not visible from the street scene of Hills Road or Cherry Hinton Road, but would be visible from the public footpath that runs through the site between these two roads. It is positioned on the parapet wall that forms the back wall of the basement car park entrance ramp. Timber cladding is proposed on the side of the unit facing the car park entrance.

- 8.4 It is identified that representations have been made regarding the visual intrusion of the condenser unit on the internal garden courtyard area and how it appears out of character with the area.
- 8.5 The existing parapet wall and basement car park entrance does not have any architectural merit or contribute positively to forming the character of the area. The condenser unit would only marginally protrude beyond the glazed screening that runs along the entrance to the car park adjacent to the footpath. While I note that there are no other condenser units visible within this garden area, I do not consider that the condenser unit in this position appears so out of context that it visually harms the character of the area. The condenser unit is partially recessed below ground floor level and is positioned within an area of the site that is subject to frequent traffic and is not highly visible from views into and out of the garden area, and so I am of the opinion that the proposal does not harm the character of the area.
- 8.6 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7 and 3/11.

Residential Amenity

Impact on amenity of neighbouring occupiers

- 8.7 The position and size of the condenser unit means that there is no harm to the amenity of neighbouring properties in terms of visual enclosure, overshadowing or loss of light.
- 8.8 The main consideration is the impact of the condenser unit on nearby residential properties in terms of noise disturbance.
- 8.9 Concerns have been raised by residents regarding the inaccuracy of the original noise report dated 3rd June 2015 prepared by Belair Research Ltd (ref B3269/CB3174). The inaccuracy refers to the distance that the noise levels were taken from the condenser, specifically the lack of reference to the nearest neighbouring window serving a residential unit which is 7.5m away from the condenser, as well as the location of the original noise survey (approximately 40m from the location of the closest receptors). The Environmental Health

officer also identified these inaccuracies and requested additional noise readings and clarification on this.

8.10 In response, as explained in paragraph 2.3, the applicant has provided an amendment to the original report in the form of a letter dated 2nd July 2015 prepared by Acoustic Control Consultants Ltd. This new letter includes calculations from the nearest noise sensitive living room window (7.5m from condenser), the nearest bedroom window (10m from condenser) and the nearest external amenity space (3m from condenser).

8.11 The Environmental Health officer has assessed these noise calculations and considers that based on the results of this noise report, the noise levels are acceptable and would not significantly harm the amenity of residential properties or users of the adjacent garden/ courtyard area. A condition has been recommended to ensure that the noise levels of the condenser unit do not exceed those stated in the report (45db in the day time and 35db in the night time). I agree with this advice and have attached the condition accordingly.

8.12 In my opinion, subject to condition, the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that it is compliant with Cambridge Local Plan (2006) policies 3/4 and 3/7.

Third Party Representations

8.13 The third party representations have been addressed in the table below:

<u>Representation</u>	<u>Response</u>
Noise disturbance on neighbouring properties.	See paragraphs 8.9 - 8.11
Noise disturbance on courtyard/ garden.	See paragraphs 8.9 - 8.11
The proposal is contrary to policy 4/2 of the Local Plan.	The application site is not designated as a protected open space. In any case, I do not consider that the condenser would be harmful to or lead to the loss of this space due to its limited visibility and siting of the

	condenser, as well as the acceptable levels of noise to be emitted.
The proposal is contrary to policies 6, 35, 55, 56, 57 and 58 of the Cambridge Local Plan 2014 or objectives 1,2,3 and 13.	The Cambridge Local Plan 2014 is not formally adopted yet and the application is assessed under the policies in the 2006 Local Plan. The application has been assessed against these 2006 policies and is deemed to be acceptable.
There is no need/ demand for a supermarket in this location.	See paragraph 8.2
Increased traffic and disturbance from deliveries for supermarket.	See paragraph 8.2
Increased car parking due to supermarket.	See paragraph 8.2
Increase in anti-social behaviour due to sale of alcohol from supermarket.	See paragraph 8.2
The proposal is unlawful and planning permission should have been sought prior to implementation.	The condenser unit at present is technically a breach of planning control. The purpose of this retrospective application is to regularise the proposal and for the local planning authority to determine whether the proposal is in accordance with local plan policies. The application has been assessed in the same manner as any other planning application and the retrospective nature does not alter the way that the application is determined.
Structural safety of condenser unit in this position.	The safety of the condenser from a structural perspective is not a planning consideration and is a building regulation matter.
Maintenance of condenser unit could block residents from entering/ leaving car park.	This is a civil matter between users of the car park and the applicant.
The location of the condenser unit is poor and an alternative location	The applicant has requested for the condenser unit to be

should be sought.	assessed in its present format and so an assessment has been made. I do not consider the current location to cause any harm to the character of the area or neighbouring properties.
Air pollution disturbance from fumes	The condenser unit would only emit air and no fumes are involved in this process. The Environmental Health officer has not raised any objections regarding fumes.
The noise assessment report is inaccurate.	See paragraphs 8.9 – 8.11
The plant equipment, even with planning conditions, is unlikely to meet the required noise guidelines.	If noise levels exceed those stated within the acoustic assessment and the accompanying letter then the applicant is liable to planning enforcement action for a breach of condition.
The proposal is contrary to NPPF paragraph 123	I consider the proposal to be in accordance with NPPF paragraph 123 for the reasons set out in the main body of this report.
The proposal is contrary to the test of Statutory Nuisance set out in nuisance law.	Statutory Nuisance law is not used in the determination of planning applications and so is not a planning consideration.
The proposal is contrary to the IOR/BRA 'Guide to Good Commercial Refrigeration Practice Part 2' and 'REALZero guide 'Designing out Leaks: Design Standards and Practices'.	These guidelines are not used in the determination of planning applications and so is not a planning consideration.
The applicant was advised not to erect the condenser by the Local Planning Authority but ignored this.	The fact that the condenser unit has been erected without the benefit of planning permission does not have any bearing on the assessment and determination of this application.
No consultation with local residents took place prior to the	This is a civil matter between the applicant and residents.

erection of this condenser.	
Heat generated from condenser could harm amenity of neighbouring properties.	The level of heat/ fire safety of a development is not a planning consideration.
The increased noise disturbance would have a negative impact on the health of residents.	The level of noise is deemed to be acceptable by the Environmental Health Team and I am minded to agree with their assessment in terms of noise disturbance.
The proposal is contrary to guidelines from the WHO, NHS, European Union and Case Law.	These guidelines are not used in the determination of planning applications. The Environmental Health officer is satisfied that the proposal would not harm the amenity of nearby residents.

9.0 CONCLUSION

- 9.1 The condenser unit does not detrimentally impact the character of the area and would not harm the amenity of residential properties and is therefore acceptable.

10.0 RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice.

Reason: In the interests of good planning, for the avoidance of doubt and to facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the requirements of section 51 of the Planning and Compulsory Purchase Act 2004.

3. No construction work or demolition work shall be carried out or plant operated other than between the following hours: 0800 hours and 1800 hours on Monday to Friday, 0800 hours and 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the adjoining properties.
(Cambridge Local Plan 2006 policy 4/13)

4. The noise rating levels from the plant shall not exceed those stated within the Acoustic Assessment prepared by Belair Research Ltd dated 3/6/2015 (ref B3269/CB3174), as amended by the letter prepared by Acoustical Control Consultants Ltd dated 2/7/2015 (ref13879/RAC/hr). The mitigation measures stated within the report shall be fully implemented, maintained and retained as such hereafter.

Reason: To protect the amenity of the adjoining properties.
(Cambridge Local Plan 2006 policy 4/13)