

Recommendation: Conditional approval	
20140332	90-96 CLARENDON PARK ROAD
Proposal:	2 x CONDENSER UNITS; 3 x AIR CONDITIONING UNITS AT REAR OF SHOP (CLASS A1)
Applicant:	TESCO STORES LTD
App type:	Operational development - full application
Status:	Minor development
Expiry Date:	16 May 2014
TEI	WARD: Castle



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Summary

- The application is before committee as more than five objections have been received.
- The application relates to a former bank on the corner of Queens Road and Clarendon Park Road.
- The main issues are the impact of the plant on residential amenity and on the use of the yard at the rear of the building.
- The application is recommended for approval.

Consideration

The application relates to a former bank in the Queens Road local centre. The original part of the building on the junction of Clarendon Park Road and Queens Road is under consideration for inclusion on the council's new Local List of heritage assets.

The application is one of six applications relating to the site.

Background

Outline permission (026029) was granted in March 1973 for the demolition of numbers 92, 94 and 96 Clarendon Park Road and the rebuilding as an extension to the original bank with flats at first floor level. The reserved details application (19760406) was granted approval in June 1976.

The condition attached to this approval required that the car park at the rear be incidental to the enjoyment of the dwelling of the flat or the use of the bank and that no vehicles other than private cars and small commercial vehicles be allowed to use the area.

Conditional approval (20101611) was granted in November 2010 for the change of use of a first floor flat to professional services (Use Class A2).

The lawful use of the ground floor is Class A2. The applicant intends to use the building as a retail shop (Use Class A1). This change is permitted under Part 3 of the General Permitted Development Order.

There are five other current applications that relate to the building.

The Proposal

The proposal is for two condenser units and three air conditioning units at the rear of the shop. They will be placed at the southern end of the service yard and will be surrounded by a 2.4 metre high timber fence.

Policy Considerations

Development plan policies relevant to this application are listed at the end of this report.

Consultations

Environmental Health (noise): - Comments were received on the basis of the noise survey submitted with the accompanying application for the AC and condenser units and on the basis of measurements taken on two site visits. The environmental health officer was satisfied that the findings of the noise survey submitted by KR Associates that states the proposed plant will have a below marginal significance with the worst case showing a level during the day of 3dB below the existing background. The levels shown in the report comfortably meet the common criteria used to assess noise impacts. Suggestion that a condition be attached to ensure that the plant is installed as detailed in the report.

Highway Authority: - Any potential loss of parking spaces would need to be considered.

Representations

General:

There are 42 objections generally to the six current applications. 27 of these are from Year 5 at Avenue Primary School. 2 letters of support were received from Year 5

pupils at the same school. Some of the objections note that petitions of 2700+ signatures have been collected opposing the change of use itself. They also note that a survey carried out by Jon Ashworth MP showed that of 689 households within a 1 km radius of the site, 609 oppose the store. Many of the objections received recognise that the change of use does not require planning permission from the local planning authority but express a feeling that the law was unfair in this respect.

The concerns in the petitions and survey are largely highway concerns. A large amount of the general objections and objections to specific applications received also raise highway safety and highway capacity concerns. It is felt that the increase in traffic from shoppers and from delivery and servicing vehicles would result in traffic congestion and risk to the safety of highway users including young children. There are concerns that increased congestion could encourage poor driving through frustration and increase noise levels in the area. Safety concerns include hazards caused by traffic dropping customers off and particularly hazards caused by delivery and service vehicles accessing the service yard via Clarendon Park Road, especially if there is insufficient turning space in the service yard. Concerns with deliveries also relate to the use of Clarendon Park Road, with concerns that lorries here would park for long periods at points throughout the day and could block traffic. The potential for safety risks at the crossroads is also noted. Suggestions are made for greater highway controls if the applications were to be approved. Concerns are also raised over the loss of parking spaces at the rear, particularly the available disabled parking space.

Other generic concerns include that a national chain would have a detrimental impact on the viability of the independent small businesses that are characteristic of the Queens Road local centre. Objections express a belief that the local centre is well served by a wide range of shops and there is no need for the development. There is concern that the store will damage the localised economy in large part dependant on the local circulation of money and that it would limit choice for shoppers and create an uneven playing field. One objection questions Tesco's citing of a report by the University of Southampton observing that the findings of this report (that Tesco is not in competition with local traders) do not apply to Queens Road as Queens Road is not a high street, town centre or in need of regeneration. A number of objections state that there are already too many supermarkets in the area and that there is no need for another Tesco store in Leicester. One objection notes a concern that were the lease to be terminated Tesco would leave behind a local centre that has been badly affected.

A neighbour in the immediate vicinity of the building has reported that the ongoing work including the littering of the yard area is disruptive to residential amenity.

Concerns are noted that no transport or traffic assessment, no details on loading and unloading and no details on the management of waste and refuse have been submitted. The implications of any license to sell alcohol has also been raised as a concern.

Some objections also express a sense of disenfranchisement and a feeling that local residents are unable to influence planning decisions. There are concerns that the change of use can take place despite the wishes of the majority of local residents. Many objections feel that the store would not be in the interests of the local community and others state that it would change the unique and friendly atmosphere of Queens Road and disrupt the Victorian/Edwardian charm of the area.

Many objections state that the impacts of the store would be contrary to City Council objectives of delivering accessibility, safer road, better air quality, better road, footpath and cycling conditions and tackling congestion.

A handful of objections have been received opposing the Tesco brand but with no explicit reasoning. One objection states that it opposes any development that would allow a Tesco store to go ahead.

Specific to this application:

86 objections reference this application. Some objections raise concerns that the cumulative effect of the three applications for installations at the rear yard would result in noise pollution for neighbouring residential properties. One objection notes that the background noise levels at this position are probably quite low. There are also concerns that the proposal would result in an unattractive outlook for residents, that it would result in a loss of parking space including disabled parking, and that it would further restrict turning space within the yard to the detriment of highway safety. An inspectors decision of 2006 dismissing an appeal by Tesco against refusal of an application for similar plant is noted and attention drawn to the principle that the applicant was required to demonstrate that a chiller delivery unit could be brought safely up to the chiller unit. Reference was made to the condition attached to the 1976 reserved matters approval and it was felt that the proposal contravened this condition.

Consideration

Principle:

Core Strategy policy CS11 seeks to safeguard the retail character and function of local and district centres. Saved policy R03 also supports retail development in local and district shopping centres. Policy R03 adds that proposals for new retail development will be required to demonstrate that the scale and design is sympathetic to the character of the area and that arrangements for loading, unloading and servicing will not have a significant detrimental impact on parking and traffic problems and pedestrian and highway safety.

The proposal is acceptable in principle in that the development is ancillary to a retail use and for retail purposes.

Impact of the structure:

The scale of the proposal is small in nature with a footprint of approximately 15 metres² and will be obscured by the hit and miss timber wall. It will be placed at the rear property well obscured from the public realm. I do not consider that the proposal will have an unacceptable visual outlook for occupiers of neighbouring properties or an unacceptable visual impact on the neighbouring area.

Noise:

Saved policy PS10 states that in determining planning applications a number of factors concerning the amenity of existing or proposed residents will be taken into account including any potential nuisance (for example noise, light or smell), and the visual quality of the area. Policy PS11 states that proposals that have the potential to pollute including by reason of noise will not be permitted unless the health and amenity of users, neighbours and the wider environment can be assured.

Environmental health officers are satisfied that the findings of the noise survey demonstrate the chiller unit will not cause an unacceptable level of noise for occupiers of adjacent properties. I consider it appropriate to attach a condition ensuring that all plant is installed in accordance with the approved plans and as stated in the survey submitted by KR Associates.

I am satisfied that the proposal will not have a detrimental impact on the amenity of occupiers of properties nearby and the health and amenity of users, neighbours and the wider environment can be assured.

Highways:

The current space in the yard is approximately 220 metres². The proposed chiller unit and ramp taken with the canopy unit proposed under 20140329 and AC and condenser units proposed under 20140332 would result in the loss of approximately 50 metres² in the yard so that there would be approximately 170 metres² remaining. The flats above remain occupied and there is also a B1 use on the first floor. The loss of yard space could result in the loss of parking spaces for these uses. I do not consider it appropriate or practical for this space to be used for loading and unloading. The site remains adjacent to a number of residential properties and it is unlikely that any goods would be able to use the yard to turn and exit in a forward direction. I consider that it is appropriate to attach a condition ensuring the retention of three marked parking spaces and also that sufficient turning space is allowed so that cars can enter and leave the yard in a forward direction. This condition would ensure that the cumulative effect of these proposals will not have a detrimental impact on the residential amenity of neighbouring properties, the parking capacity of the local area or a detrimental impact on highway safety.

I therefore recommend APPROVAL subject to the following conditions:

CONDITIONS

1. START WITHIN THREE YEARS
2. The condenser and air conditioning units shall be installed and operated as detailed in the submissions accompanying the application. Plant noise emission levels shall not exceed 5dB below the currently prevailing lowest background (LA90) noise level (during the period that plant would be operational) at 1m from the external facade of the nearest noise sensitive receptor when assessed in accordance with BS 4142: 1997. (In the interests of residential amenity and in accordance with Policies PS10 and PS11 of the Local Plan.)
3. At the same time as the development three parking spaces shall be provided and marked out and shall be retained for vehicle parking. (To secure adequate off-street parking provision, and in accordance with policy AM12 of the City of Leicester Local Plan and Core Strategy policy CS3.)
4. A turning space, to enable vehicles always to enter and leave the site in a forward direction, shall be kept available within the site. (In the interests of highway safety, and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS3.)

5. This consent shall relate solely to the submitted plans received by the City Council as local planning authority on 11.03.14, unless otherwise submitted to and approved by the City Council as local planning authority. (For the avoidance of doubt.)

Policies relating to this recommendation

- 2006_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
- 2006_PS11 Control over proposals which have the potential to pollute, and over proposals which are sensitive to pollution near existing polluting uses; support for alternative fuels etc.
- 2006_R03 Retail development outside the Central Shopping Core will be confined to the existing and proposed shopping centres.
- 2010_CS03 The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.
- 2010_CS11 The Council supports a hierarchy of retail centres in Leicester. The policy sets out measures to protect and enhance retail centres as the most sustainable location for retail development.
- 2010_CS18 The Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.