

## COMMITTEE REPORT

<b>20210017</b>	<b>26 Southernhay Road</b>	
Proposal:	Installation of 4 x air conditioning units to side and rear of house (Class C3) (Amended plan received 12.3.2021)	
Applicant:	Skyline Architecture Ltd	
App type:	Operational development - full application	
Status:	Householder development	
Expiry Date:	28 May 2021	
SMC	TEAM: PE	WARD: Knighton



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### Summary

- Application reported to committee due to the number of objections received.
- 6 objections have been received on the grounds of impact of noise, implications for climate change and the siting of the units.
- The main issues are noise and the impact on the Stoneygate Conservation Area.
- The application is recommended for approval.

## **The Site**

The application relates to a detached house located within the Stoneygate Conservation Area. The site is also in a critical drainage area. The property is within a predominantly residential part of the City.

## **Background**

Previous recent planning applications are:

In July 2016 planning permission 20160942 was granted for the construction of two storey and single storey extension at rear. This has been implemented.

In March 2017 planning permission 20162051 was granted for the installation of replacement windows at front and at side of first floor level on southern elevation; demolition of and construction of 0.75 metre high boundary wall at front of house. This has been implemented.

In May 2018 planning application 20172655 for the installation of three air conditioning units at ground floor level and one air conditioning unit at first floor level to side of house was refused for the following reason.

*Proposed air conditioning units positioned close to the boundary with the adjacent house would be likely to cause detriment to occupiers by reason of noise contrary to policy PS10 of the City of Leicester Local Plan.*

In November 2018 a report was received that air conditioning units had been installed on the side of the property facing 24 Southernhay Road at first floor level. The air conditioning units were removed without formal enforcement action being required.

## **The Proposal**

The proposal is for the installation of four air conditioning units on the side elevation of the property facing 24 Southernhay Road. Three of the units will be at ground floor level and one unit is proposed at first floor level. The applicant has provided the manufacturers details of the units which indicate a maximum noise level of 56 dB(A).

The applicant has submitted further information to ensure adequate noise insulation and reductions in the maximum noise level through the implementation of acoustic enclosures.

## **Policy Considerations**

### National Planning Policy Framework (NPPF) 2019

Paragraph 2: applications for planning permission must be determined in accordance with development plans unless material considerations indicate otherwise.

Paragraph 11: A presumption in favour of sustainable development.

Chapter 12 of the NPPF stresses the importance of good design to achieve well-designed places.

Paragraph 124: the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 sets out criteria for assessing planning applications and requires decision makers to ensure that development proposals function well and add to the overall quality of the area, are visually attractive as a result of good architecture, are sympathetic to local character and history, establish or maintain a strong sense of place, optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and create places that are safe, inclusive and accessible and which promote health and well-being.

This paragraph, specifically 127(f), also requires development to afford a high standard of amenity for existing and future occupiers and is consistent with policy PS10 of the City of Leicester Local Plan

Paragraph 130 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 200 requires local planning authorities to look for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably

## **Consultations**

Noise Team:- Initially could not support the proposal due to the impact on the neighbours from the noise level generated. The applicant has since proposed that the units would be enclosed in acoustic boxes to reduce the noise level. The noise team withdrew their objection subject to the inclusion of acoustic boxes and recommend conditions.

## **Representations**

Neighbours were notified by letter. A site notice and press advertisement was also published as the development affected the character of the conservation area.

5 objections have been received from addresses in Leicester with one anonymous objection and one objection from Councillor Clarke. These were on the following grounds

- This application is identical to a previous application that was refused at Planning Committee
- Usage of Industrial Air-Conditioning Units
- Long Term Health Implications for immediate neighbours and nearby residents

- Conservation Area and effect on protected species of wildlife
- The title is imprecise and therefore incorrect
- The application fails because of the site chosen for installation of the 4 industrial units
- The installation of 4 air conditioning units is at variance with National Planning Policy
- The Acoustic Survey was incorrect
- If the Council approves the proposal would fail to protect children on the autistic spectrum and especially noise sensitive
- The proposal is contrary to climate change policy
- Global Warming Potential of Refrigerant in the air conditioning units chosen
- Human rights – article 1 and article 8.

The Stoneygate Conservation Area state that works have continued on this property for several years with little regard to the appearance of the conservation area and the current application is identical to the previous refusal except for the inclusion of baffles that purports to reduce noise but this is further evidence of un-neighbourliness and demand on planners time.

Cllr Clarke has objected to the proposal supporting the residents' grounds of objection.

The applicant has responded to the objections as follows:

- The application is not identical as it includes a noise report
- The company that carried out the noise report were independent
- The units are from the standard range and are not industrial
- There was a typographical error which does not affect the conclusion of the noise report
- All plant calculations are on an accumulative basis

## **Consideration**

### Principle of development

The proposal for alterations to a house in a residential area is acceptable in principle subject to design and amenity considerations.

### Residential amenity

The units will be installed on the side elevation facing 24 Southernhay Road. There will be a separation distance of approximately 1 metre from the side boundary. The main issue under consideration is the noise to the neighbouring properties.

The applicant has advised that acoustic enclosures would be provided which would contain the vibrations generated by the units under a level of 36 dB(a) during the day and 24 dB(a) during the night. I consider that this is acceptable as it is below the background noise level and recommend a condition ensuring that the units do not exceed this level.

The air-conditioning unit which is proposed to be at first floor level would be set back from the boundary by approximately 3.5 metres and I consider that there would be a minimal impact on the amenity of the occupiers of neighbouring properties.

As the units are on ground floor level with one unit at first floor level, I consider there to be a minimal impact to the visual amenity of number 24 additionally, as it would be further away there would not be a significant impact in terms of noise.

I conclude that the proposal has overcome the reason for refusal of application 20172655 and would be acceptable in terms of residential amenity in accordance with saved policy PS10 of the City of Leicester Local Plan and paragraph 127 of the NPPF.

### Conservation and Heritage

Core Strategy policy CS18 states that the Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.

The property is in Stoneygate conservation area, hence the visual impact on the area needs to be considered. The units are sited to the side elevation away from the principal elevation and I therefore consider that the proposal will have a minimal impact on the character and appearance of the conservation area and would be in accordance with policy CS18 of the Leicester Core Strategy and paragraph 200 of the NPPF.

### Other matters

A number of the objections relate to the environmental impacts of the air conditioning units. Policy CS02 of the Leicester Core Strategy states that all development must mitigate and adapt to climate change and reduce greenhouse gas emissions.

However, planning permission is only required for the installation of the units due to the property's location within the Stoneygate Conservation Area as the installation would be permitted development on a property not subject to the applicable Article 4 Direction here. I do not consider that there is sufficient policy justification available on environmental impact of such installations which could justify refusal of the application.

Articles 1 and 8 of the Human Rights Act has been considered in the assessment of the application and the attachment of conditions.

### Conclusion

I consider that the proposed air conditioning units at the side elevation of the ground and first floor on the boundary with 24 Southernhay Road would be unlikely to have a significant impact on the character and appearance of the house and the conservation area. Subject to the attached conditions the proposal will not compromise the amenity of nearby occupiers. The proposal would be in accordance with Policy PS10, Core Strategy policy CS18 and the NPPF.

I recommend that this application is APPROVED subject to the following conditions:

### CONDITIONS

1. START WITHIN THREE YEARS
2. The overall sound pressure from the air conditioning units measured at any point on the boundary of the property shall not exceed 35dB(A) between the hours of 0900-2200 and 24 dB(A) between the hours of 2200-0900 measured as L<sub>A</sub>max. (In

the interest of neighbouring occupiers and in accordance with policy PS10 of the City of Leicester Local Plan).

3. The air conditioning units “ ACU”) shall be enclosed in the acoustic boxes details of which are as set out in the e-mail from the applicant dated 20th March 2018 to limit the noise levels generated, and the acoustic boxes shall be retained thereafter. The ACU shall not be operational at any time unless the acoustic boxes are in place. (In the interest of neighbouring occupiers and in accordance with policy PS10 of the City of Leicester Local Plan).

4. The air conditioning units shall be installed operated and thereafter maintained in accordance with the manufacturers instructions . (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)

5. The development shall be carried out strictly in accordance with the amended plans ref. no. UBD-PL-186 received by the City Council as local planning authority on 12/03/2021. (For the avoidance of doubt.)

#### NOTES FOR APPLICANT

##### 1. APPROVAL - PRE-APP AND OR NEGOTIATION

#### **Policies relating to this recommendation**

2006_PS10	Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
2014_CS02	Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City.
2014_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'.
2014_CS18	The Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.