

APPLICATION NO.	P07/E1136/RET
APPLICATION TYPE	Minor
REGISTERED	23 August 2007
PARISH	Henley-on-Thames
WARD MEMBER(S)	Mr Terry Buckett
APPLICANT	Ms Roswitha Myer
SITE	Mr Y Rajmohan
PROPOSAL	Station News, 20 Station Road, Henley-on-Thames. Retention of one existing and replacement of one externally mounted refrigeration unit on rear wall including 2 m high enclosing fence.
AMENDMENTS	None
GRID REFERENCE	476342/182338
OFFICER	Susannah Mangion

1.0 INTRODUCTION

- 1.1 This application has been submitted following two planning enforcement investigations alleging the installation of air conditioning units at Station News without the benefit of planning permission.
- 1.2 The application is before Planning Committee because the officer recommendation conflicts with the view of the Town Council and at the request of the Ward Councillors.

2.0 PROPOSAL

- 2.1 This retrospective application seeks planning permission for the retention of one existing refrigeration unit and the replacement of another refrigeration unit. Both units are to be externally mounted to the rear of Station News and would run between the hours of 07:00 and 22:30 on any day. The units act as heat dumps for chiller units that are used to refrigerate drinks, sandwiches, chocolate and other goods.
- 2.2 The site frontage of Station News is on Station Road, Henley-on Thames. The rear of the site, which provides a rear access and yard to the business, is located behind the adjacent residential development, Hewgate Court. The application site is shown on the Ordnance Survey extract **attached** as Appendix 1.
- 2.3 The proposal involves a number of components:
 - the retention of one chiller unit to be sited approximately 2 metres above

- ground level
- the removal of a second chiller unit and its replacement with a new condensing unit to be sited approximately 1.1 metres above ground level.
- the removal of a redundant air-conditioning unit
- the erection of a 2 metre high vertical feather edged board fence.

The plans of the proposed development are **attached** as Appendix 2.

- 2.4 The application is accompanied by a noise impact assessment (BS4142). The report measures the prevailing background noise climate at the site and assesses the impact of the condenser units on noise sensitive receivers. The survey found that the existing, lower condenser unit was significantly louder than the higher condenser unit and that the lower unit exhibited a tonal sound at low frequencies. The noise from the lower unit was above that specified in the manufacturer's installation manual. The survey concluded that the operation of the chiller units as they currently stand is likely to give rise to complaints from nearby residents and therefore requires mitigation. A number of complaints concerning the noise generated by the existing units have been received by the Council's Environmental Health team.
- 2.5 The report considered a number of options in order to resolve the issue of the unacceptable noise levels currently generated. The noise consultants, have advised that the current proposal which involves the replacement of the existing lower unit with an alternative condenser unit, together with the erection of a screening fence of approximately 2 metres high should provide the required attenuation such that *'the likelihood of complaints arising is of marginal significance'*.

3.0 CONSULTATIONS & REPRESENTATIONS

3.1 Henley-on-Thames Town Council:

The application should be refused due to the noise level in certain areas from the refrigeration units

3.2

Neighbour Objectors (7):

Loss of visual amenity due to unsightly nature of the units. Noise disturbance generated by existing units prevents residents' enjoyment of communal garden area to the rear of Hewgate Court and the hum and vibration produced makes resting difficult, particularly at night, inside the nearby flats.

3.3

Henley Society:

No objection.
3.4

Environmental Health:

No objection. The current application is a positive development is addressing the noise problems which have arisen due to the operation of the current units. There is no information regarding the tonal quality of the proposed unit but the applicant is encouraged to ensure the replacement unit does not produce tonal noise. Recommend the imposition of three planning conditions.

- i. restrict operation of the units to between the hours of 07:00 and 22:30
- ii. the rated noise level produced by units not to exceed 45 dB(a), measurements and rating of noise in accordance with BS 4142 (1997) and measurement to be taken adjacent to nearest ground floor flat at Hewgate Court.
- iii. the proposed solid 2 metre high fence must be implemented and maintained.

4.0 RELEVANT PLANNING HISTORY

4.1 In 2004 and 2006 reports were received by the Council's planning enforcement team that air conditioning units had been installed to the rear of Station News without planning permission. Following the enforcement investigations the applicant submitted planning application reference P06/E1118/RET, which was withdrawn prior to determination, and subsequently submitted the current application.

5.0 POLICY & GUIDANCE

5.1 South Oxfordshire Local Plan 2011 policies:

- G2: Protection of the environment
- EP2: Noise and vibrations

5.2 Government guidance:

- Planning Policy Guidance 18: Enforcing Planning Control
- Planning Policy Guidance 24: Planning and Noise

6.0 PLANNING CONSIDERATIONS

6.1 The main issues in this case are:

- the impact of the noise generated by the development on the amenity of neighbouring residents
- the impact of the development on the character and appearance of the area.

Impact on the amenity of neighbouring residents

- 6.2 The main area of concern for neighbouring residents at Hewgate Court is to do with the noise hum and vibration from the existing refrigeration units. The existing lower unit, which is proposed to be removed, exhibits a very tonal sound at low frequencies. The noise is particularly disturbing to neighbours at night. As the units are currently unauthorised the hours of operation of the units have not been restricted through the imposition of a planning condition.
- 6.3 It is acknowledged that there can be problems of noise from commercial uses where they are in close proximity to residential properties. In this case the commercial and residential uses are in close proximity. The rear yard and access area for Station News is located at a distance of approximately 15 metres from the communal gardens of Hewgate Court and is immediately adjacent to a number of the flats at Hewgate Court.
- 6.4 The current proposal involves the removal of one existing, noisy refrigeration unit with a replacement unit that would give rise to a considerably lower noise level. The acoustic assessment submitted with the application indicates a rating level of 51 dB at the ground floor window and 45 dB at the first floor balcony window closest to the units would be achieved. This is considerably lower than the existing levels. The current proposal further mitigates the noise created by the units by the erection of a 2 metre high fence which would serve as a noise barrier. The proposal would also restrict the hours of operation of the units to between 07:00 and 22:30. This accords with guidance set out in Planning Policy Guidance 24, Planning and Noise, which indicates that noise sensitive development should not normally be permitted where high levels of noise will continue throughout the night, especially during the hours when people are normally sleeping (23:00 to 07:00). Therefore, in accordance with the advice from the Environmental Health team, the current proposal is not considered to be unacceptable in terms of the noise impact on neighbouring residents.

Impact of the development on the character and appearance of the area.

- 6.5 The rear of the site lies within an area where there is existing mixed business and residential use. The communal rear gardens and garages of Hewgate Court are situated adjacent to the rear access and yard of Station News. The rear wall of Station News is not visible beyond a distance of approximately ten metres due to its 'tucked-away' corner position behind the communal garages and the rear wall of flats 1-6 Hewgate Court. Given the existing mixed use nature of the area, the development is not out-of-keeping with the character and appearance of the area.

7.0 CONCLUSION

- 7.1 The retrospective proposal complies with the relevant development plan policies. Subject to planning conditions, the development would not have an unacceptable

impact on existing residents of Hewgate Court given the mitigation measures to be implemented. The development would not have an unacceptable effect on the character and appearance of the area which has an existing mixed commercial and residential use.

8.0 RECOMMENDATION

It is recommended that planning permission be granted subject to the following conditions:

- 1. The refrigeration units must not operate except between the hours of 07:00 and 22:30 on any day.**
- 2. The rated noise level produced by the units in total must not exceed 45 dB(a). The measurements and rating of the noise shall be in accordance with BS 4142 (1997), 'Method for rating industrial noise affecting mixed residential and industrial areas'. The measurements are to be taken adjacent to the nearest ground floor flat at Hewgate Court.**
- 3. The redundant air conditioning unit is to be removed within 1 month of the date of this permission.**
- 4. Refrigeration unit (model number JEH-0300-M-1) to be removed within 1 month of the date of this permission**
- 5. A two metre high wooden fence shall be erected in the position shown on the submitted plans within 1 month of the date of this permission and shall be retained as such and the fence shall be painted white and maintained as such so as to be in keeping with the character and appearance of the area.**

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