

# PLANNING COMMITTEE REPORT

Development Management Service  
Planning and Development Division  
Environment and Regeneration Department  
PO Box 3333  
222 Upper Street  
LONDON N1 1YA

<b>PLANNING SUB COMMITTEE B</b>		
<b>Date:</b>	8 <sup>th</sup> October 2015	<b>NON-EXEMPT</b>

Application number	P2015/2002/FUL
Application type	Full Planning Application
Ward	Junction
Listed building	Unlisted
Conservation area	Not in Conservation Area
Development Plan Context	Archway Town Centre, Secondary Shopping Frontage
Licensing Implications	None
Site Address	627 - 635 Holloway Road, London, N19 5SS
Proposal	Installation of air conditioning plant at the rear of the site

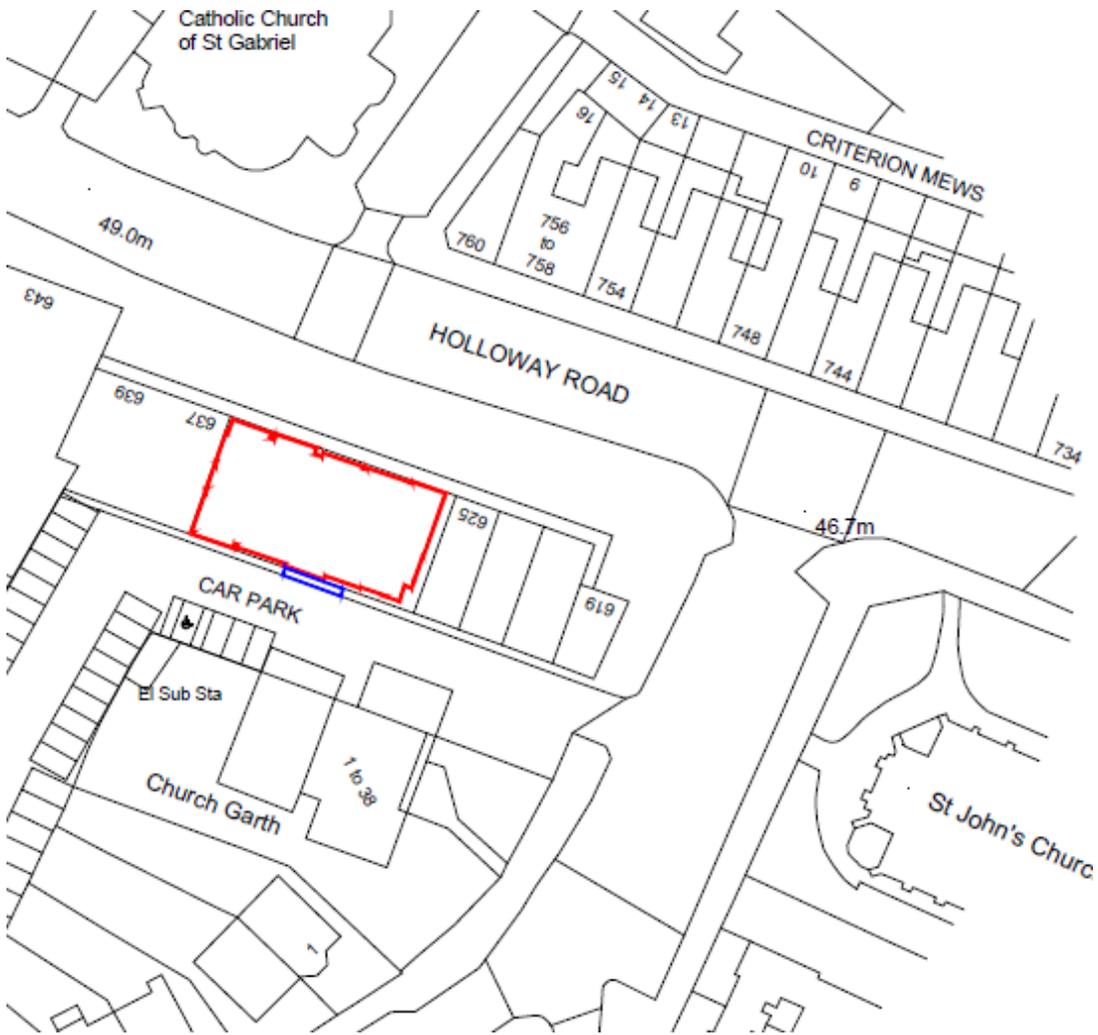
Case Officer	Duncan Ayles
Applicant	Tesco Stores Ltd
Agent	CGMS LTD

## 1. RECOMMENDATION

The Committee is asked to resolve to **GRANT** planning permission:

1. subject to the conditions set out in Appendix 1

2. SITE PLAN (site outlined in black)



3. PHOTOS OF SITE/STREET



**Image 1:** Photograph of the rear of the application site showing location of proposed plans



**Image 2:** Photograph Showing Rear of Church Gardens



**Image 3:** Aerial View of the Application Site

## **SUMMARY**

- 3.1 The application seeks approval for the erection of an external air conditioning plant to the rear of 627-635 Holloway Road, an existing retail unit (A1 use) which Tesco intend to occupy. The air conditioning units are located to the rear of the store within a car park and service area at ground floor level, and are in close proximity to residential dwellings at Church Gardens and Gresham Place. A number of objections have been received from neighbouring properties in relation to the potential for noise disturbance to occur, as a result of the installation of the proposed plant. Cllr Burgess has also objected to the proposed air conditioning units and plant.
- 3.2 The applicant has submitted an acoustic report in support of the application, which has been assessed by the Council's Acoustic Officer. It is confirmed that the proposal will not give rise to any adverse noise emissions to the detriment of neighbour amenity, provided that appropriate conditions are imposed. The proposal is therefore considered to be in compliance with policy DM 6.1.
- 3.3 The design of the air conditioning units is also considered to be acceptable, and is not considered to harm the character and appearance of the area. The units are also not considered to lead to any adverse impact on the amenity of neighbouring properties in respect of the loss of outlook, daylight and sunlight. The design and amenity impact is therefore considered to be acceptable, and in compliance with policy DM 2.1.

## **4. SITE AND SURROUNDING**

- 4.1 The application site is located to the rear of 627-635 Holloway Road. This retail unit (A1 use), which was previously occupied by Budgens, is proposed to be opened as a Tesco Store. To the rear of the property is Church Garth, a seven storey residential building. The site has been the subject of a significant number of noise complaints historically, in connection with early morning deliveries associated with the former occupant of the unit, Budgens (and the nearby Sainsbury's Supermarket). Holloway Road, which runs immediately to the north of the application site, is a busy arterial road and part of the A1 (red route).
- 4.2 The land use within the area is mixed. Holloway Road is largely comprised of commercial uses including retail and café uses at ground floor, and a combination of office and residential uses at upper floor level. The land use to the rear of the application site, on St John's Grove, is predominantly residential, with a mixture of single family dwelling houses and flats.

## **5. PROPOSAL (IN DETAIL)**

- 5.1 The application seeks approval for the erection of air conditioning and refrigeration plant to the rear of the application site at ground floor level within a fence enclosure. The proposed plant is comprised of Two Searle Fan Condenser Units, which will serve the refrigeration units within the store, and three Mitsubishi Air Conditioning units which will cool the sales floor and cash office. The condenser units will operate during the day and night time, although a night mode will be in operation. The air conditioning units will operate during the units opening hours.
- 5.2 The application also includes details of acoustic and visual barriers in the form of two 25 mm thick absorption panels, and 1.8 metre high timber ship lap cladding on the outside of the proposed air conditioning plant. This will surround the proposed plant on three sides. The fourth side is the rear elevation of the Tesco store (building).

## 6. RELEVANT HISTORY

### PLANNING APPLICATIONS:

- 6.1 **P2015/1814/FUL:** Installation of a new shopfront and access and extension of the existing entrance ramp: Approved 26/6/2015
- 6.2 **P2015/1816/S73:** Application for variation of condition 9 (hours of operation) of planning consent ref: P071360 dated 07/02/2008 to extend the hours of opening of the shop (A1 use) from 0700hrs and 2300hrs Monday-Saturday and between 09.00 and 17.00hrs on Sundays, to 07:00hrs to 23:00hr from Monday to Sunday: Approved 26/6/2015.
- 6.3 **P2015/1815/FUL:** Installation of an ATM in existing shopfront: Approved 26/6/2015

## 7. CONSULTATION

### Public Consultation

- 7.1 Letters were sent to occupants of 298 adjoining and nearby properties at St John's Grove, Hargrave Mansions and Holloway Road on the 27<sup>th</sup> May 2015. A site notice was displayed on the 11<sup>th</sup> June 2015 The public consultation of the application therefore expired on the 13<sup>th</sup> July 2015, however it is the Council's practice to continue to consider representations made up until the date of a decision.
- 7.2 At the time of the writing of this report a total of 18 responses had been received from the public with regard to the application. An objection was also received from Councillor Burgess. The issues raised can be summarised as follows (with the paragraph that provides responses to each issue indicated within brackets):
- Concerns about the Noise Emitted from the Proposed Plant (9.0- 9.14)
  - Inaccurate background level used within the Acoustic Report Baseline Assessment (9.8)
  - No consideration given to other potential locations (9.12)

### Internal Consultees

- 7.3 **Acoustic Officer:** This is a sensitive site and there is a history of complaints about noise from early morning deliveries to Budgens and plant noise from the neighbouring Sainsbury's and any new mechanical plant subject to scrutiny and potential complaints in the future. The applicants have compiled a report and ideally the consultant should have liaised with the Acoustic Officer on the methodology and use of a proxy measurement position prior to submission.
- 7.4 However the report as submitted has taken a background noise level of 51dB daytime and 39dB night time and this appears to be relatively representative of a typical background noise level of a rear commercial façade of a busy road. The report predicts noise ratings for the plant that will be 12dB below these background levels used. It is advised a condition is applied to any permission granted to protect nearby residential amenity.
- 7.5 As an informative, the applicant is advised that the plant will need to be regularly checked, maintained and serviced to ensure that noise levels do not rise and that the annoying tones, rattles, buzzes etc. do not develop and that the mitigation measures are still effective. The plant should be installed in line with the manufacturers' instructions on level ground with anti-vibration mounts. In addition to this a condition requiring a post installation report to demonstrate compliance with the noise criteria is recommended.

- 7.6 There is a lower night time noise rating for the plant quoted as the air conditioning units are reported to operate between 0700 and 2300 and the condenser is on a lower night time mode. To ensure that this is the case, a condition is also recommended.

## **8. RELEVANT POLICIES**

Details of all relevant policies and guidance notes are attached in Appendix 2. This report considers the proposal against the following development plan documents.

### **National Guidance**

- 8.1 The National Planning Policy Framework 2012 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

### **Development Plan**

- 8.2 The Development Plan is comprised of the London Plan 2015, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The policies of the Development Plan are considered relevant to this application and are listed at Appendix 2 to this report.

### **Supplementary Planning Guidance (SPG) / Document (SPD)**

- 8.3 The SPGs and/or SPDs which are considered relevant are listed in Appendix 2.

## **9. ASSESSMENT**

- 9.1 The main issues arising from this proposal relate to:

- Land Use
- Design and Conservation
- Impact on the Amenity of Neighbouring Properties, including in respect of noise

### **Land-use**

- 9.2 The unit at 627-635 Holloway Road has an established A1 retail use and has previously been occupied by Budgens. The planning application does not propose a change of use as the unit will re-open as an A1 retail unit. There are a number of relevant policies including DM 2.1 (Design) and DM 6.1 (Health Development) that are relevant to the determination of the application. The 2013 Development Management Policies provides specific criteria for noise emitting development within Appendix 10. Subject to the compliance with the above policies, specifically in relation to noise, there is no in principle objection to the development.

### **Design and Conservation**

- 9.3 The application site is located to the rear of retail units that fronts the Holloway Road. The air conditioning units will front onto the car park area located to the rear of the property. The proposed air conditioning units will be visible both from the pavement to the south of the application site at St John's Grove, and from the car park between Church Gardens and 627 Holloway Road.
- 9.4 The proposed air conditioning enclosure is located at ground floor level and will have a height of 1.8 metres above ground level and a depth of 1.9 metres. In respect of its

height, the enclosure will match the height of the top of the rear ground floor doors of the building. The enclosure is considered to be acceptable in terms of its mass and scale, as it is considered to be a relatively modest feature that is subordinate to the adjacent commercial building and seen against the rear elevation of the store building.

- 9.5 The proposed enclosure has a relatively simple design, with the enclosure formed from a combination of timber vertical cladding and timber mesh below. This is considered to accord with the utilitarian character of the rear elevation of the building, which contains features such as security doors and refuse storage.
- 9.6 For these reasons, the design of the proposed plant and enclosure is considered to be acceptable in terms of its impact on the character and appearance of the area. The proposal is therefore considered to be in compliance with policy 7.4 and 7.4 of the London Plan 2015 and policy DM 2.1 of the Development Management Policies 2013.

### **Impact on the Amenity of Neighbouring Properties**

- 9.7 The application is supported by an acoustic report prepared by KR Associates, and further information has been provided by the applicant's acoustic consultant following queries raised by the Council's Acoustic Officer. The Acoustic Officer has confirmed that while the site is sensitive, due to the close proximity of residential dwellings at Church Gardens, the acoustic report is sufficient to demonstrate that no adverse impact will occur on neighbouring properties.
- 9.8 The Acoustic Officer has confirmed that the background noise level of 51 dB daytime and 39dB night-time is relatively representative of a rear commercial façade on a busy commercial frontage. Objections have been received regarding the background noise level that has been used and while concerns were raised in respect of the failure of the applicant to agree the locations for the noise survey prior to it being conducted, it has been confirmed that the baseline assessment is a sound basis for the assessment of the impact of the proposed air conditioning units. Although the failure to agree the baseline testing prior to the application being submitted is unfortunate, it is not in itself a reason to refuse the application.
- 9.9 The proposal achieves 12dB below this background noise façade, which accords with the requirements of policy DM 6.1 and appendix 10 of the Development Management Policies 2013. The Acoustic officer has recommended a condition to secure this, and a condition that requires an acoustic report to be submitted after the erection of the equipment, to confirm that the guidelines are accorded with.
- 9.10 The applicant has stated that the proposed Mitsubishi air conditioning units will not operate during the night, and the condenser units for the refrigeration condensers will contain a night-mode. Conditions are recommended for the hours of operation of the air conditioning units and to secure that an automatic night switch is installed on the condenser units, as the operation of the units on day mode during the night would give rise to an adverse impact on neighbour amenity, when background noise levels are significantly lower.
- 9.11 The Council's acoustic officer has also recommended that a condition is imposed to require the submission of an acoustic report after the completion of the approved development, to demonstrate that the acoustic report has been complied with. This condition is set out within the recommendations within Appendix 1.
- 9.12 A number of objections to the application have queried whether the applicant has examined other potential locations for the air conditioning plant, which might have a lesser impact on neighbour amenity. The objections are not relevant to the determination of the application, as the application needs to be assessed on its merits against the

development plan and other material considerations. A noise report has been compiled and it is considered that the proposed location of the air conditioning and condenser units is acceptable subject to the recommended hours of operation and restrictions as set out in the recommended conditions.

- 9.13 Provided the recommended conditions are imposed, the proposal is not considered to lead to any adverse impact on the amenity of neighbouring properties through the emission of noise. The proposal is therefore in compliance with policy DM 6.1 of the Development Management Policies 2013.
- 9.14 Given the modest, single storey scale of the enclosure which is set against the rear elevation of the retail unit it is not considered that the enclosure structure will have a dominant appearance or overbearing impact when viewed from the residential properties to the rear of the site or from the public highway and views from St John's Grove. The proposed air conditioning units are not considered to lead to any material impact on the amenity of neighbouring properties in respect of the loss of outlook, daylight, sunlight or increased sense of enclosure. This is because the unit will be below the lowest residential units, and is situated directly adjacent to the rear elevation of the retail buildings. The proposal is therefore considered to be in compliance with policy DM 2.1.

## **10. SUMMARY AND CONCLUSION**

### **Summary**

- 10.1 The proposed air conditioning unit will accord with the limitations identified within Appendix 9 of the Development Management Policies 2013, and therefore will not lead to any adverse impact on the amenity of neighbouring properties through the emission of noise. Provided the proposed conditions are imposed on the consent, the proposal is considered to be in compliance with policy DM 6.1 of the Development Management Policies 2013. The proposed development is also considered to be in acceptable in terms of the impact on the outlook, daylight and sunlight received by neighbouring properties, and is in accordance with policy DM 2.1 of the Development Management Policies in this respect.
- 10.2 The design of the air conditioning units and enclosure is also considered to be acceptable, given the character of the rear elevation of the retail unit and car park area. The proposal is considered to be in compliance with policy DM 2.1 in this respect.

### **Conclusion**

- 10.3 It is recommended that planning permission be granted for the reasons and details as set out in Appendix 1 - RECOMMENDATIONS.

# APPENDIX 1 – RECOMMENDATIONS

## RECOMMENDATION A

That the grant of planning permission be subject to **conditions** to secure the following:

### List of Conditions:

	<b>Commencement (Compliance)</b>
1	<p>3 YEAR CONSENT PERIOD: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the provisions of Section 91(1) (a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).</p>
	<b>Approved Plans List: (Compliance)</b>
2	<p>DRAWING AND DOCUMENT NUMBERS: The development hereby approved shall be carried out in accordance with the following approved plans:</p> <p>[12429-400, 12429-410, 12429-302, 12429-305, 12429-415 rev A, 12429-411 rev A, Covering letter, KR Associates Environmental Acoustic Test April 2015 KR04472 v.1.1]</p> <p>REASON: To comply with Section 70(1)(a) of the Town and Country Act 1990 as amended and also for the avoidance of doubt and in the interest of proper planning.</p>
	<b>Noise (Compliance)</b>
3	<p>The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level <math>L_{Aeq Tr}</math> arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level <math>L_{AF90 Tbg}</math>. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014.”</p> <p>REASON: In the interests of neighbour amenity.</p>
	<b>Noise ( Compliance)</b>
4	<p>Within six months of the completion of the development hereby approved, a report is to be commissioned by the applicant, using an appropriately experienced &amp; competent person, to assess the noise from the proposed mechanical plant to demonstrate compliance with condition 3. The report shall be submitted to the Local Planning Authority for approval.</p> <p>REASON: In the interests of neighbour amenity.</p>
	<b>Noise (Compliance)</b>
5	<p>Prior to the hereby approved plant equipment being used, a timer shall be installed limiting the operation of the Mitsubishi air conditioning units to between the hours of 07:00 to 23:00 only. The timer shall be maintained as such thereafter.</p> <p>REASON: In the interests of neighbour amenity</p>

### List of Informatives:

	<b>Positive statement</b>
1.	<p>To assist applicants in a positive manner, the Local Planning Authority has produced policies and written guidance, all of which is available on the Council’s website.</p> <p>A pre-application advice service is also offered and encouraged. Whilst this wasn’t</p>

	<p>taken up by the applicant, and although the scheme did not comply with guidance on receipt, the LPA acted in a proactive manner offering suggested improvements to the scheme (during application processing) to secure compliance with policies and written guidance. These were incorporated into the scheme by the applicant.</p> <p>This resulted in a scheme that accords with policy and guidance as a result of positive, proactive and collaborative working between the applicant, and the LPA during the application stages, with the decision issued in a timely manner in accordance with the NPPF.</p>
	<b>Other legislation</b>
2.	You are reminded of the need to comply with other regulations/legislation outside the realms of the planning system - Building Regulations & Equalities Act
	<b>Part M Compliance</b>
3.	<p>You are advised that the scheme is required to comply with -</p> <ul style="list-style-type: none"> <li>• The Building Regulations 2000 Approved Document Part M 'Access to and use of buildings',</li> </ul> <p>For this proposal, this may include</p> <ul style="list-style-type: none"> <li>- colour contrast nosing to the external steps;</li> <li>- improvements to the handrail profile</li> <li>- glass marking manifestations</li> </ul> <p>For more information, you may wish to contact Islington Council's Building Control (0207 527 5999).</p>
	<b>Noise</b>
4.	You are advised that the plant will require regular checks, maintenance and servicing to ensure that the noise levels do not rise and that any annoying tones, rattles, buzzes etc. do not develop and that the mitigation measures are still effective.
	<b>Construction hours</b>
5.	<p>You are reminded of the need to comply with other regulations/legislation outside the realms of the planning system - Building Regulations as well as Environment Health Regulations.</p> <p>Any construction works should take place within normal working day. The Pollution Control department lists the normal operating times below.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Delivery and operating times - the usual arrangements for noisy works are</p> <ul style="list-style-type: none"> <li>○ 8am –6pm Monday to Friday,</li> <li>○ 8am – 1pm Saturdays;</li> <li>○ no noisy work on Sundays or Public Holidays (unless by prior agreement in special circumstances)</li> </ul> </div>

## **APPENDIX 2: RELEVANT POLICIES**

This appendix lists all relevant development plan policies and guidance notes pertinent to the determination of this planning application.

### **1 National Guidance**

The National Planning Policy Framework 2012 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

### **2. Development Plan**

The Development Plan is comprised of the London Plan 2015, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The following policies of the Development Plan are considered relevant to this application:

#### **A) The London Plan 2015 - Spatial Development Strategy for Greater London**

##### **1 Context and strategy**

Policy 1.1 (Delivering the strategic vision and objectives for London)

Policy 7.4 (Local character)

Policy 7.6 (Architecture)

Policy 7.8 (Heritage Assets and archaeology)

#### **B) Islington Core Strategy 2011**

##### **Spatial Strategy**

Policy CS8 (Enhancing Islington's Character)

##### **Strategic Policies**

Policy CS9 (Protecting and Enhancing Islington's Built and Historic Environment)

Policy CS17 (Sports and recreation provision)

#### **C) Development Management Policies June 2013**

##### **Design and Heritage**

Policy DM 2.1 (Design)

Policy DM 6.1 (Healthy Development)

### **4. Supplementary Planning Guidance (SPG) / Document (SPD)**

The following SPGs and/or SPDs are relevant:

- Urban Design Guide

