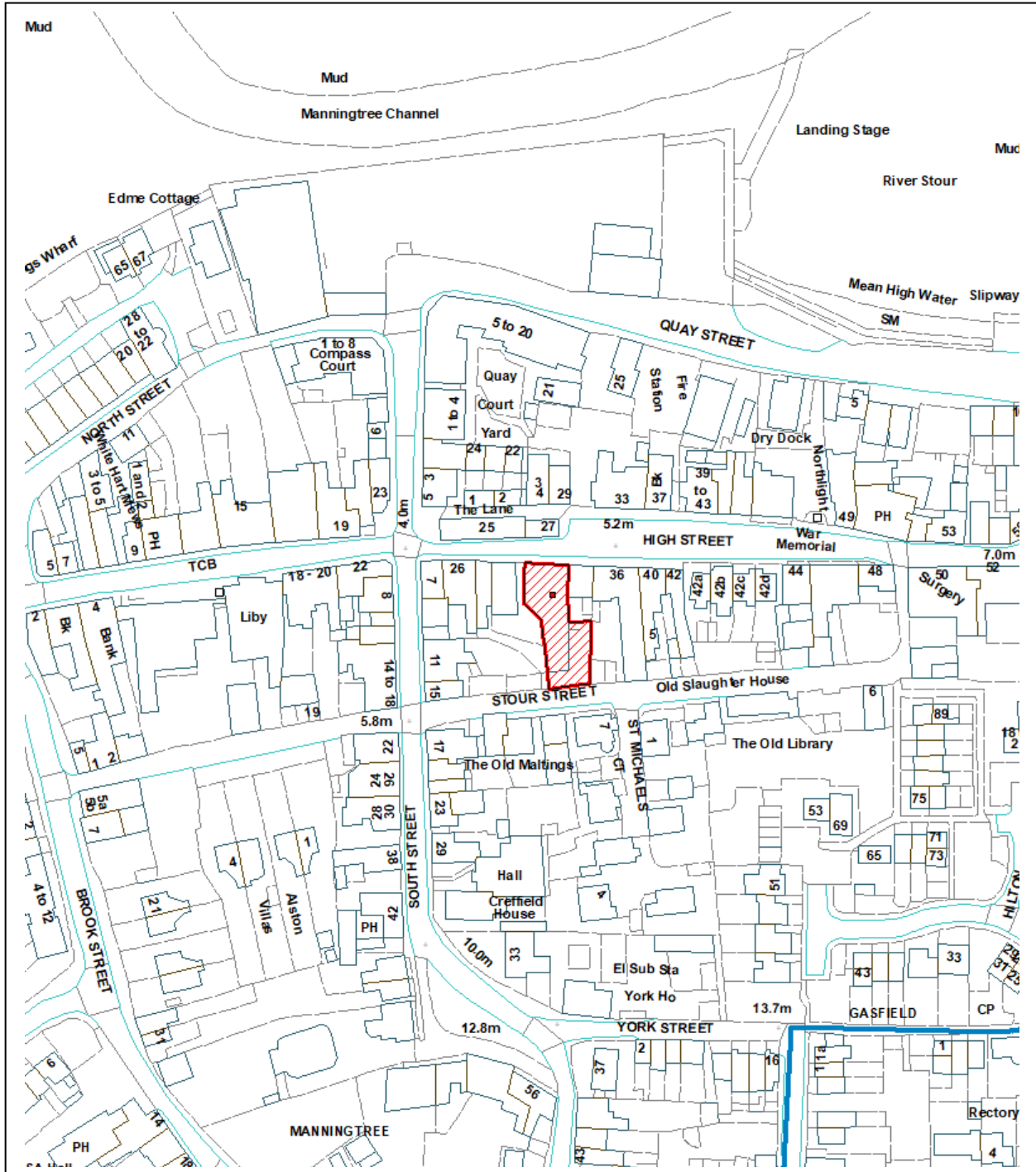


PLANNING COMMITTEE

2nd August 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 22/00633/FUL – 32 - 34 HIGH STREET MANNINGTREE CO11 1AJ



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Application: 22/00633/FUL

Town / Parish: Manningtree Town Council

Applicant: Tesco Stores Ltd

Address: 32 - 34 High Street Manningtree CO11 1AJ

Development: Retrospective application for the installation of a new CO2 gas cooler, acoustic panels, hit and miss fence and access gate.

1. **Executive Summary**

- 1.1 The application is referred to the Planning Committee using the powers delegated to the Assistant Director under the Constitution. The reason for referral follows the Planning Committee's decision to refuse planning permission reference 21/01270/FUL in January 2022 for retrospective planning permission for the CO2 gas cooler and timber enclosure.
- 1.2 Application 21/01270/FUL was referred to the Planning Committee by Councillor Giancarlo Guglielmi on grounds of the negative impact on the street scene and the Manningtree and Mistle Conservation as well as impact on amenity.
- 1.3 The application seeks retrospective planning permission for the CO2 gas cooler with proposed additional acoustic panels, hit and miss fence and access gate and is recommended for approval subject to the necessary conditions set out below.

Recommendation:

To grant planning permission for the development subject to:-

- a) Subject to the conditions stated in section 8.2

2. **Planning Policy**

The following Local and National Planning Policies are relevant to this planning application.

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL8 Conservation Areas

PPL9 Listed Buildings

PP5 Town Centre Uses

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

3. Relevant Planning History

00/01785/ADV	Shop sign and projecting sign	Refused	05.01.2001
01/01387/ADV	Shop Sign	Refused	15.11.2001
04/01740/ADV	3 No. illuminated fascia signs and 2 No. illuminated projecting signs	Approved	08.11.2004
04/01741/FUL	Conversion of a One Stop Store to a Tesco Express including the installation of an ATM.	Refused	01.11.2004
04/01773/FUL	To install a plant frogbox, located behind a licensed convenience store	Refused	04.11.2004
04/02405/FUL	To install a plant frogbox located behind a licensed convenience store	Refused	15.02.2005
05/00501/FUL	To install a plant condenser unit	Approved	13.05.2005
19/00863/FUL	Installation of perimeter steel balustrading around existing roof for health and safety (retrospective).	Approved	30.08.2019
19/00864/LBC	Installation of perimeter steel balustrading around existing roof for health and safety (retrospective).	Approved	
21/01270/FUL	Proposed installation of new 1x CO2 gas cooler.	Refused	19.01.2022

4. Consultations

Manningtree Town Council

No representation received

Essex County Council Heritage
10.06.2022

The application is for retrospective application for the installation of a new CO2 gas cooler, acoustic panels, hit and miss fence and access gate.

The site is located in a Conservation Area. Given the character of this space at the rear of the modern commercial building, and the fencing enclosure proposed, this proposal is not considered to cause harm to the character and appearance of the Conservation Area. This is on the basis that the acoustic screening is considered adequate by the local planning authority.

There is no objection to this application.

Environmental Protection
25.05.2022

Thank you for your consultation regarding the proposed development above.

I have reviewed the plant noise assessment carried out by NSL as revised on 4th March 2022 and confirm that Environmental Protection have no comments to make.

5. **Representations**

5.1 25 representations of objection have been received. The concerns raised are summarised below.

- Noise
 - Impact on nearby residents
 - Impact on wider community use venues – Tidal Arts and The Grand Theatre of Lemmings
 - Impact on garden use
 - Impact on health and well being
- Design, appearance and heritage impacts
- Impact on Area of Outstanding Natural Beauty
- Impact on local wildlife and the environment

6. **Assessment**

Site Context

6.1 The application site is located on the southern side of the High Street within the town centre and recognised Historic Town of Manningtree and associated Manningtree and Mistley Conservation Area. The building to which this application relates is part of a terrace of shops facing the High Street and currently accommodates a Tesco Express store. The façade of the building is of Georgian styling with casement windows at first floor and a parapet roof. The shop front at ground floor is of aluminium construction. The building has been extended to the rear to accommodate storage associated with the retail use and which access is gained from Stour Street. The extension to the store is of red brick construction for functional use only with no particular features of architectural interest. 32-34 High Street is not listed although many of the

surrounding buildings are and the application site also lies just outside of the recently extended designation of the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty.

Planning History

- 6.2 Application 21/01270/FUL for retrospective planning permission for the CO2 gas cooler and timber enclosure, also the subject of this current application, was refused by the Planning Committee in January 2022.
- 6.3 Applications 04/01773/FUL and 04/02405/FUL for plant located in a similar position to this application under consideration were refused. The submitted acoustic report on both occasions failed to provide details of where the background noise levels were carried out and therefore the report could not demonstrate that the development could be undertaken without causing noise and nuisance to surrounding properties.
- 6.4 Further to these applications a new application, reference 05/00501/FUL for a plant condenser unit, located on the flat roof of the Tesco Store, 5 metres from the front elevation was approved. The submitted acoustic report confirmed that the sound level attenuation was an acceptable level subject to a condition securing a suitable enclosure surrounding the plant.

Proposal

- 6.5 The application seeks retrospective planning permission for the CO2 gas cooler with proposed additional acoustic panels, hit and miss fence and access gate.
- 6.6 The changes compared to the previously submitted scheme are:
- Increase in height of 0.5 metres of the hit and miss fence enclosure and access gate to 3 metres
 - Two 3 metre high acoustic panels fixed to the inside of the northern and eastern hit and miss fence enclosure panels

Design, Appearance and Heritage

- 6.7 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surrounding.
- 6.8 Policy PPL8 seeks to ensure that any new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of: any important views into, out of, or within the Conservation Area.
- 6.9 Policy PPL9 states that 'Proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric'.
- 6.10 The CO2 gas cooler has been installed to the rear of the Tesco application site. The installation was completed in June 2021. The CO2 gas cooler is positioned 0.70 metres from the eastern elevation at ground level and measures 2.22 metres in height, 2.6 metres in width and 0.83 metres in depth. The CO2 gas cooler itself is of a beige metal construction, consistent with the appearance of retail plant. One panel of acoustic wall lining, grey in colour is in place, fixed to the eastern elevation behind the CO2 gas cooler. The appearance of the CO2 gas cooler in its current form is noticeable from Stour Street although it is also viewed alongside the bright blue

metal concertina doors of Tesco and the galvanised cable channelling which also stand out in this location on the already nondescript building. The applicant has proposed to screen the CO2 gas cooler with a 3 metre high timber enclosure which will assimilate the structure better in the street scene and appear more sympathetic to the surroundings which comprise mainly the rear of the buildings and garden boundaries of those buildings facing the High Street.

- 6.11 Essex County Council Place Services were consulted on the application and they confirmed that given the character of the space at the rear of the modern commercial building, and the fencing enclosure proposed, the proposal is not considered to cause harm to the character and appearance of the Conservation Area.
- 6.12 The CO2 gas cooler with a timber enclosure in this location is considered acceptable and will not significantly harm the character or appearance of the conservation area or have a significant impact on the settings of the listed buildings taking into account its scale, design and positioning in the service area at the rear of the Tesco store.
- 6.13 Should the application be recommended for approval a condition securing the erection of the proposed timber enclosure within three months of the date of the decision will be imposed.

Noise and Environmental Impacts

- 6.14 Policy SPL3 seeks to ensure that new development should be compatible with surrounding uses and minimise any adverse environmental impacts in terms of the amenities of occupiers of nearby properties, minimising the production of greenhouse gases and impact on climate change and unacceptable levels of pollution.
- 6.15 The use of the application site remains as retail, with other retail uses, residential properties and spaces for use by the wider community surrounding the application site there is the potential for existing amenities to be harmed.
- 6.16 As part of this planning application the applicant has commissioned a Plant Noise Impact Assessment. The Plant Noise Impact Assessment uses the original survey data from June 2021 which has been updated to reflect the proposed mitigation which forms part of this planning application. Paragraph 3.1 of the report clearly and correctly identifies the nearest properties and windows with the potential to be impacted by the proposal stating that the closest residential dwelling is approximately 5 metres from the proposal with an intervening boundary wall.
- 6.17 The Plant Noise Impact Assessment has been carried out in accordance with BS4142:2014 'Methods for Rating and Assessing Industrial and Commercial Sound'. Table 5 on page 8 of the Plant Noise Impact Assessment concludes that the noise levels associated with the proposed plant and equipment would be below the background noise level at existing properties. It is noted at paragraph 6.7 that the assessment is based on the plant operating at its maximum during the day and night although it is acknowledged that the plant will not operate at maximum design duty all of the time and therefore the assessment is considered to be representative of the worst case.
- 6.18 The Plant Noise Impact Assessment takes into account the proposed mitigation which provides two additional 3 metre high acoustic panels fixed to the inside of the northern and eastern hit and miss fence panels. The existing 2.5 metre high acoustic wall lining will remain in place.
- 6.19 Following consultation with the Council's Environmental Health team, they do not object to the proposal and confirmed that they have reviewed the revised plant noise assessment carried out by NSL and have no comments to make. As part of application 21/01270/FUL the Council's Environmental Health team confirmed that they accepted the findings of the plant noise assessment.

- 6.20 Should the application be recommended for approval a condition securing the implementation of the proposal which includes the additional acoustic panels within three months of the date of the decision will be imposed.
- 6.21 The new refrigeration plant significantly reduces the global warming impact of the store by:
- Using CO2 as a refrigerant rather than hydrofluorocarbon (HFC), and;
 - Improved technology reduces the overall energy usage of the store.
- 6.22 Thus, reducing the carbon footprint of the store and helping to tackle climate change.
- 6.23 The need for new development must be carefully balanced against the requirement to conserve and enhance the Natural Beauty of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty. In this case it is considered that there is no significant impact on local wildlife and the extension to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty due to the location of the minor development proposal contained within the busy town centre for an existing retail use surrounded by a mix of uses and town centre activity.

7. Conclusion

- 7.1 The revised scheme offers a marked improvement by offering further acoustic mitigation by way of two additional acoustic panels inside the raised height of the timber enclosure.
- 7.2 The proposal will not result in any adverse impact on the character and appearance of the Conservation Area, the settings of the surrounding listed buildings or the Suffolk Coast and Heaths Area of Outstanding Natural Beauty to warrant refusal. In addition, the proposal will result in reduced impacts upon the environment in terms of noise and climate change. On balance given the absence of material harm to warrant refusal, the application is recommended for approval.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions.

8.2 Conditions and Reasons

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

DRAWING NO.'s
03_5096_03B_R4
03_5096_03C_R3
02_5096_02D_R3
02_5096_02E_R3

Reason - For the avoidance of doubt and in the interests of proper planning.

- 2 The development hereby approved shall operate in full accordance with the Plant Noise Impact Assessment Report dated 2nd June 2021, revised on 4th March 2022 and submitted on 11th April 2022 at all times

Reason - To protect the character and amenities of neighbouring areas by ensuring that measures are implemented to avoid any noise nuisance.

- 3 The hit and miss fence and access gate hereby approved and shown on DRAWING NO.'s 03_5096_03B_R4, 03_5096_03C_R3, 02_5096_02D_R3 and 02_5096_02E_R3 must be

erected within 3 months of the date of this decision and thereafter maintained and retained in perpetuity.

Reason - In order to maintain the character of the conservation area in the interest of visual amenity and protect neighbouring amenities.

8.3 Informatives

None

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is

considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

10. Background Papers

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.