

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	ER	22/01/2025
EIA Development - Notify Planning Casework Unit of Decision	N/A	
Team Leader authorisation / sign off:	MP	23/01/2025
Assistant Planner final checks and despatch:	ER	23/01/2025

Application: 24/01748/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Carly Soffe - Cook Trading Ltd

Address: 139 - 141 Connaught Avenue Frinton On Sea Essex

Development: Planning Application - Installation of two air conditioning condensers with timber enclosures.

1. Town / Parish Council

FRINTON AND WALTON
TOWN COUNCIL

RECOMMEND REFUSAL. The air conditions units should be relocated on to the flat roof with a fascia to hide them from direct view which will send the sound and heat up rather than out. The Town Council are concerned that this is a retrospective application.

2. Consultation Responses

Essex County Council
Heritage
21.01.2025

Built Heritage Advice pertaining to an application for a Full Planning Application to install two air conditioning condensers with timber enclosures. It is proposed to mount the air conditioning units upon the northwest facing side elevation of the commercial premises at high level (2.5m above ground level).

The commercial premises that this proposal relates to occupy the ground floor of Nos. 139 - 141 Connaught Avenue, an unlisted late-twentieth century building that is located within Frinton Character Area Two - Commercial Centre of the Frinton and Walton Conservation Area. The building appears prominent in the street scene situated adjacent to a small parcel of public amenity space at the junction with Old Road, and the commercial premises is addressing the corner with a glazed shopfront at the side of the building facing onto public amenity space to the northwest. The public amenity space is landscaped with raised flowerbeds and bench seating as per the design of application 95/00296/FUL. It contributes positively to the character and appearance of this part of the Conservation Area combining with the continuous tree planting along Connaught Avenue to create a verdant and pleasant steetscape and marks the start of the commercial centre to the site's south.

Further north from the Site at the junction of Connaught Avenue and Fourth Avenue are a group of notable buildings, including the former Cooper Estate Office on the corner designed in the Arts and Crafts style, and the Church of the Sacred Heart and St Francis opposite. Due to the generous width of the street and straight trajectory of Connaught Avenue, the Site appears in the views of these notable buildings, albeit in the distance. Therefore, changes to the appearance of the premises at Nos. 139 - 141 has the potential to impact the character and appearance of the Conservation Area.

This proposal is not supported due to the mounting arrangement that is proposed. The high position on the wall has a negative visual impact upon the neighbouring area of landscaped public amenity space and the streetscene, including detracting from views of Cooper Estate Office looking southeast along Connaught Avenue. This would result in less than substantial harm to the character and appearance of the Conservation Area. The proposed timber enclosures do not mitigate the visual impact of the air conditioning units due to their high position on the side wall.

Therefore, it is recommended that the proposal be amended to lessen the visual impact of the externally mounted air conditioning units upon this part of the Conservation Area. To do this it is suggested that the air conditioning units be re-located to the commercial premises rear elevation; or are mounted at a much lower level upon the commercial premises side elevation, at a height that would be screened well by the brick walling of the landscaped public amenity space.

The proposal does not preserve or enhance the character or appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The harm to the significance of the Conservation Area is 'less than substantial' and as such Paragraph 215 of the National Planning Policy Framework (NPPF) is relevant. The Local Planning Authority should weigh this harm against any public benefits that flow from the proposal. Whilst the scale of harm may be 'less than substantial' great weight should be given to the designated heritage asset's conservation in line with Paragraph 212, and Paragraph 213 requires that clear and convincing justification provided for any level of harm to the heritage asset.

It is also noted that the applicant has not provided a Heritage Statement regarding the significance of the affected heritage asset. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal upon its significance, a requirement set out in Paragraph 207 of the NPPF.

Environmental Protection
15.01.2025

The Environmental Protection team have reviewed the submitted noise impact assessment and are satisfied with the findings of the report.
The two condenser units shall be installed as specified within the application and, all plant and ductwork should be fitted with anti-vibration mounts in accordance with the manufacturer guidelines.

3. **Planning History**

93/00423/ADV	(139-141 Connaught Avenue, Frinton on Sea) Internally illuminated projecting sign	Approved	18.05.1993
95/00296/FUL	(Land adjacent to 139 Connaught Avenue, Frinton on Sea) New landscaping and paving works	Approved	09.06.1995
98/01526/FUL	Change of use from dental surgery to offices	Approved	05.01.1999

4. 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 Local Plan 2013-33 and Beyond (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any Neighbourhood Plans that have been made and the Minerals and Waste Local Plans adopted by Essex County Council.

5. Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

At the time of writing, there are no draft or adopted neighbourhood plans relevant to this site.

6. Relevant Policies / Government Guidance

National:

National Planning Policy Framework December 2024 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

Local:

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

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PPL8 Conservation Areas

Supplementary Planning Documents

[Essex Design Guide](#)

Frinton and Walton Conservation Area Character Appraisal and Management Plan 2023

7. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site comprises of a commercial premises located within the ground floor of Nos. 139 - 141 Connaught Avenue, an unlisted late-twentieth century building. The property occupies a prominent position situated adjacent to a small parcel of public amenity space at the junction with Old Road. The premises has two plain glazed shopfronts that front onto Connaught Avenue, and a third plain glazed shopfront at the side facing onto public amenity space to the north.

The public amenity space is landscaped with raised flowerbeds and bench seating as per the design of application 95/00296/FUL. It contributes positively to the character and appearance of this part of the Conservation Area, together with the tree planting and traditional styled lampposts along Connaught Avenue. These features make for an attractive and pleasant streetscape that marks the start of the commercial centre to the site's south.

The site is located within Frinton Character Area Two - Commercial Centre of the Frinton and Walton Conservation Area. The conservation area appraisal depicts the site as follows *"Further south, the start of the commercial centre is marked by the junction of Old Road and Queen's Road. There is an area of public realm with planted flower beds, benches and bike racks; views towards the south are dominated by two modern buildings (one of which falls outside of the Conservation Area) flanking the road with prominent gable ends to the north."*

Proposal

This application seeks planning permission for the installation of two air conditioning condensers within timber enclosures to the side of the existing building.

The enclosures will be raised 2.49m from the ground and will measure 1.05m by 1.281m and will protrude 0.55m from the side wall. The enclosures will be constructed from stained slats and will host metal bodied air condensing units.

A noise impact assessment has been submitted with the application.

Assessment

Visual and Heritage Impact

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

Paragraph 135 of the NPPF (2024) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

Paragraph 210 requests that when determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 212 of the NPPF (2024) confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 213 requests that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 215 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs.

Policy PPL8 of the Tendring District Local Plan 2013-2033 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.

The proposal will be sited on the side wall of the of the existing building serving the junction of Connaught Avenue and Fourth Avenue. The layout of the immediate area provides access to a number of residential streets allowing for this section of Connaught Avenue to be fairly open with the building being part of a gateway into the more built up section of Connaught Avenue. This arrangement results in the side wall of the building appearing as a prominent and significant feature within the established Conservation Area. The small area of public amenity space to the north provides a pleasant break from the built form and screens parts of the application building, however large elements are largely exposed and other than an existing sign for the premises are absent from any structures/additions.

The proposed air conditioning units will be sited high upon the existing wall and above the existing planting to the north, allowing for clear views from Connaught Avenue and other nearby streets. Given the buildings significant setting the high position of the units within their enclosures is considered to result in a prominent and negative visual impact upon the building and upon the neighbouring area of landscaped public amenity space and the street scene. Whilst the proposed units have been enclosed within timber units, this does not mitigate or reduce their visual impact.

Furthermore, as per the requirements of paragraph 213 from the NPPF a Heritage Statement providing information on the significance of the affected heritage asset and the impact of the proposal has not been provided with the application.

The ECC Heritage Team have raised significant concerns over its impact to the conservation area in this instance confirming that their installation would result in less than substantial harm to the character and appearance of the Conservation Area. As the air conditioning units will be for the sole use of the business within the building, there are little public benefits which would outweigh this identified level of harm.

Impact to Neighbours

Paragraph 135 of the National Planning Policy Framework (2024) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well being, with a high standard of amenity for existing and future users.

Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The proposal will be sited sufficiently away from shared boundaries, therefore preventing a significant impact to neighbouring sites. A Noise Impact Assessment has been provided to which the Councils Environmental Protection team, following consultation, have confirmed they are satisfied with the findings of, and area also assured that the proposal would not result in a significant increase in noise to the surrounding premises. The Environmental Protection Team have, however, requested that the two condenser units be installed as specified within the application, and all plant and ductwork should be fitted with anti-vibration mounts in accordance with the manufacturer guidelines, should the application receive approval.

Ecology and Biodiversity

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined above. Should the application be approved then a informative will be imposed strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests.

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as hedgerow). This proposal will be positioned high off the ground and would not result in the loss of any floor space and is therefore not applicable for Biodiversity Net Gain.

In accordance with Natural England's standing advice the proposed development site and surrounding habitat have been assessed for potential impacts on protected species. It is considered that the proposal is unlikely to adversely impact upon protected species or habitats.

In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

Other considerations

Frinton and Walton Town Council recommend the LPA refuse the application. They have stated that the air condition units should be relocated on to the flat roof with a fascia to hide them from direct view which will send the sound and heat up rather than out. The Town Council are concerned that this is a retrospective application.

Two letters of objection have been received raising concerns over the visual impact and harm to the character/ appearance of the conservation area resulting from the proposal.

Conclusion

The proposed new units will be sited away from shared boundaries and, upon receipt of a suitable Noise Impact Assessment, would not result in a significant disruption to the amenities of neighbouring sites.

Notwithstanding this the proposed air conditioning units will be sited along the side wall of the building which forms a significant feature within the conservation area, and therefore resulting in a prominent and negative impact upon the visual amenity of the building and local area. The use of timber enclosures are not considered sufficient enough to mitigate this impact and would only contribute to their harmful impact upon the appearance of the building and character of the conservation area. Furthermore, the application has not been accompanied by a Heritage Impact Assessment detailing the significance of the asset and impact of the proposal will have.

The proposal is therefore considered to result in an incongruous addition to the existing building which would be detrimental to the surrounding conservation area. This impact has been considered to be less than substantial, and there are limited public benefits that outweigh this level of harm. The proposal therefore fails the above national and local policies and is recommended for refusal.

8. Recommendation

Refuse.

9. Reason for Refusal

- 1 The proposed air conditioning units will be sited along the side wall of the building which forms a significant and prominent feature within the Frinton and Walton Conservation Area, and the works will result in a negative impact upon both the visual amenity of the building and the character and appearance of the Frinton and Walton Conservation Area. This level

of harm is considered to be less than substantial, with only minor public benefits provided that do not outweigh this identified harm.

Furthermore, the application has not been accompanied by a Heritage Impact Assessment detailing the significance of the asset and impact of the proposal will have in line with the requirements of the NPPF.

The proposal is therefore contrary to paragraphs 135, 210, 212, 213 and 215 of the National Planning Policy Framework and policies SP7, SPL3 and PPL8 of the Adopted Local Plan 2013-2033 and Beyond.

10. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

SITE PLAN - REC'D 26.11.24
BLOCK PLAN - REC'D 02.12.24
EXISTING FRONT ELEVATION - REC'D 02.12.24
EXISTING SIDE ELEVATION - REC'D 02.12.24
PROPOSED FRONT ELEVATION - REC'D 02.12.24
PROPOSED SIDE ELEVATION - REC'D 02.12.24
NOISE IMPACT ASSESSMENT - REC'D 26.11.24
SITE PHOTO - CLAD - REC'D 26.11.24
SITE PHOTO - CLAD - REC'D 26.11.24
SITE PHOTO - NO CLAD - REC'D 26.11.24
SITE PHOTO - REC'D 26.11.24

11. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (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 that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected

characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

12. Notification of Decision

Are there any letters to be sent to applicant / agent with the decision? If so please specify:		NO
Are there any third parties to be informed of the decision? If so, please specify:		NO
Has there been a declaration of interest made on this application?		NO