

ITEM NO:	<u>Location:</u>	1A Church View, Portmill Lane, Hitchin, SG5 1EU
11	<u>Applicant:</u>	Mr Pinchin
	<u>Proposal:</u>	Installation of 3 wall mounted air conditioning units on north (car park) elevation (as amended by plan nos. 010 Rev F and 011 Rev D received 02/11/17 and 14/11/17)
	<u>Ref. No:</u>	17/01858/ 1
	<u>Officer:</u>	Tom Rea

Date of expiry of statutory period: 14 September 2017

Reason for Delay

N/A

Reason for Referral to Committee

Councillor Clark has requested that this application be considered by Committee in the wider public interest, if issues remain unresolved between the applicants and residents of Church View.

1.0 Relevant History

- 1.1 13/02151/1:
Demolition of all existing structures at the Former Royal Mail Delivery Office and Post Office site and redevelopment of the site to provide: 20 x 2 bedroom flats; 4 x 1 bedroom flats; flexible permission for 390 sqm of Class A1/A2/A3 use along the Hermitage Road frontage; flexible permission for Class A1/A3 (cafe only) use at the corner of Portmill Lane and River Hiz Walkway; 2295 sqm for Class C1 use comprising a 60-bedroom hotel incorporating a restaurant; two vehicular entrances to the site and a new loading bay along the Portmill Lane frontage; with enhancement of the River Hiz and the adjacent River Hiz Walkway (as amended by site plan no. 3001 39 Revision A received 10th October 2013)

Granted planning permission 30th January 2014. The development was completed by October 2016.

2.0 Policies

- 2.1 **North Hertfordshire District Local Plan No.2 with Alterations (Saved Policies)**
Policy 43 - Shopping Areas in Town Centres
Policy 57 - Residential Guidelines and Standards.

Supplementary Planning Documents.

Design SPD
Vehicle Parking Provision at New Development SPD.

- 2.2 **National Planning Policy Framework**
Section 1 - Building a strong, competitive economy.
Section 7 - Requiring good design.
Section 12 - Conserving and enhancing the historic environment

2.3 North Hertfordshire District Local Plan 2011-2031 Proposed Submission

Policy SP1 'Sustainable Development in North Hertfordshire'

Policy SP3 'Employment'

Policy SP4 'Town and Local Centres'

Policy SP9 'Design and Sustainability'

Policy D1 Sustainable Design'

Policy D3 'Protecting Living Conditions'

The Examination in Public (EiP) in connection with the Submission Local Plan commenced on 13th November 2017.

2.4 National Planning Practice Guidance

Provides a range of guidance on planning matters including flood risk, viability, design and planning obligations.

3.0 Representations

3.1 NHDC Environmental Health officer:

Considers that the proposed air conditioning units and extract fan would not have an adverse impact on residents and considers the proposed mitigation measures satisfactory. Recommends a condition requiring the air conditioning units and extract fan to be installed in accordance with the submitted noise report.

3.2 Site Notice / Adjoining residents:

A number of letters have been received from the occupiers of flats within Church View. Several concerns are raised including the following matters:

- A breach of the lease / tenant covenants
- Noise / vibrations / damage and disturbance to flats
- Inconvenience and danger to pedestrians
- Breach of right to comfort / enjoyment of residential properties
- Echoed sound in car park area and pollution
- Poor visual impact and would create a precedent
- Concern over location of extractor grill / lack of detail
- Concern at unpleasant cooking smells
- Request consideration be given to small multi-split unit to reduce noise/ vibration/ smells nuisance
- Concern at possible use of premises as a restaurant and bar contrary to the planning permission for the building
- Concern at impact on future values of the apartments
- Application should be delayed under change of ownership completed
- Fire risk
- Would impact on bike storage area
- No specifications / dimensions on drawings
- A/C units would not fit within the space

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 No. 1A Church View is a ground floor unit within the Church View development located on the north side of Portmill Lane. The unit was granted permission for an A1 (retail) or A3 (Cafe only) use as part of a larger mixed use development for residential apartments, a hotel, an enhanced riverside walkway and retail units approved by the Local Planning Authority in January 2014. The development was fully completed by October 2016.

No. 1A has an L-shaped floor plan comprising approximately 170 sqm and has a frontage onto both Portmill Lane and the riverside walk. It is currently vacant and yet to be fitted out.

The site is within the Hitchin Conservation Area.

4.2 **Proposal**

4.2.1 The proposal, as amended, is for the siting of three air conditioning units to be located on an external wall which faces into an undercroft parking area at the rear of the building. The units would be each 700mm wide, 300mm deep and 500mm in height. They are grouped together and are to be covered with an acoustic louvre. All associated pipework from the A/C units is to be routed into the A1 / A3 unit through trunking at low level which is to be colour coded to match the existing brickwork.

4.2.2 The application is supported by a manufacturers specifications document on the A/C units and an acoustic report in respect of mechanical services plant to serve the proposed unit which is to be a cafe / delicatessen.

4.2.3 The proposed location of the A/C units has been revised since the submission of the application from the external wall of the building facing the riverside walk to the rear undercroft car park wall.

4.3 **Key Issues**

4.3.1 The key issues are design and impact on the character and appearance of the area and the impact on the residential amenity of the adjacent residential occupiers.

4.3.2 **Design and character and appearance**

The original location of the A/C units was not considered acceptable due to their generally utilitarian and unattractive appearance on what is a very publically visible part of the Church View development i.e. the ground floor eastern elevation facing the riverside walk. The revised location as now proposed on the undercroft car park wall is far less prominent and a more secure elevation. Glimpses of the units may be possible through the secure metal fencing of the car park however in my opinion their impact on the character and appearance of the building and the area generally is far less intrusive than the original location. The additional louvered screening also provides further visual mitigation. The trunking containing the associated cabling is at a low level (less than 1 metre above ground level). Overall I consider that the development would have no significant visual impact and would not be harmful to the character and appearance of the area.

4.3.3 **Impact on residential amenity**

It is acknowledged that residents within Church View have raised a number of concerns with regard to this proposal and a meeting has taken place on site with the residents and applicant present so that these concerns could be understood and addressed.

This application is for the siting of air conditioning units only. The use of the ground floor premises at No. 1 A Church View is not a material consideration with this application. Concerns that the use of the premises may turn out not to be in accordance with the authorised use of the premises as set out in the original planning permission are recognised however this can only be assessed and monitored as and when the use of the premises commences.

The submitted drawings show a very small extract grill (200mm square) on the east elevation which, it is understood from information provided by the agent, to form part of a fresh air supply and extract system located internally within the unit. The extract grill as shown on the external wall is considered to be De Minimis in my opinion - that is, because of its relatively small scale and size it constitutes minor works which do not have a material effect on the appearance of the building and by any reasonable definition is development which does not require planning permission. Nevertheless the grill has been shown on the submitted plans for information, its purpose and internal use has been explained by the applicant and shown on detailed drawings and its operation has been considered by the Environmental Health officer.

- 4.3.4 Noise and vibration from A/C units can be disruptive to residential amenity in certain circumstances and in this case, because of the flats above the unit, a noise survey was requested and has been submitted. The noise survey has been assessed by the Council's Environmental Health officer (EHO) as being 'very robust and thorough' and that all relevant noise sources have been identified and assessed. The officer has also noted that the extract fan, although part of a light duty general ventilation system, is fitted with a silencer internally. Overall, the Environmental Health officer is satisfied that the proposed development should not have an adverse impact on residents. A suitable worded condition, restricting the installation of the A/C equipment to be in accordance with the noise survey and the mitigation measures set out therein, is recommended.
- 4.3.5 In view of the alternative car park location of the A/C units, the mitigation measures proposed and the comments of the Environmental Health officer, I consider that the proposed development will not have a significantly adverse impact on adjoining residents amenity so as to raise a sustainable planning objection.

4.4 **Conclusion**

- 4.4.1 It is considered that the proposed development is acceptable in planning and environmental terms.

5.0 Legal Implications

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

- 6.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. The installation and maintenance of the proposed air conditioning units hereby permitted shall be in accordance with the manufacturers specifications and the proposed mitigation measures set out in the submitted acoustic report by Philip Acoustics Ltd, reference 17213-002 dated October 2017. The mitigation measures therein shall be implemented prior to the plant becoming operational.

Reason: To protect the amenities of existing residential occupiers.

Proactive Statement

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.